

CITY OF NEWBURYPORT



IN CITY COUNCIL

January 30, 2023

ORDERED:

A ZONING ORDINANCE AMENDMENT TO ADDRESS THE PLANNING BOARD WHEN ACTING AS SPECIAL PERMIT GRANTING AUTHORITY (SPGA)

Be it ordained by the City Council of the City of Newburyport as follows:

Amend the title of Section X-H as follows, with deletions ~~double-stricken and italicized~~, and additions double-underlined and italicized:

X-H - Board of ~~Appeals~~ and Planning Board.

Amend Section X-H.7.B.(9) as follows, with deletions ~~double-stricken and italicized~~, and additions double-underlined and italicized:

(9) The ~~zoning board~~ SPGA shall state in its conditions whether the special permit which has been granted runs with the land or the owner of the property.

Amend the second paragraph of Section X-H.8 as follows, with deletions ~~double-stricken and italicized~~, and additions double-underlined and italicized:

Within ninety (90) days following the date of the public hearing, the SPGA shall take final action on the special permit application or petition. Issuance of a special permit shall require a positive vote of the number of no less than four (4) members of the SPGA ~~zoning board of appeals~~ required pursuant to MGL c. 40A §9. If the SPGA fails to act within ninety (90) days, the petition or application for a special permit shall be deemed granted.

Amend Section X-I as follows, with deletions ~~double-stricken and italicized~~, and additions double-underlined and italicized:

No appeal, application or petition which has been unfavorably and finally acted upon by the SPGA or permit granting authority ~~zoning board of appeals~~ shall be acted favorably upon within two (2) years after the date of final unfavorable action unless said SPGA or permit granting authority

~~the zoning board of appeals~~ finds, by a vote of four (4) members **of a board of five members or two-thirds vote of a board of more than five members**, specific and material changes in the conditions upon which previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one of the members of the planning board consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

Any petition for a variance or application for a special permit which has been transmitted to the **SPGA or permit granting authority** ~~zoning board of appeals~~ may be withdrawn, without prejudice by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the **SPGA or permit granting authority** ~~zoning board of appeals~~.

Insert the following new Section X-K as follows:

X-K Planning Board as Special Permit Granting Authority (SPGA)

1. *Associate members.* The planning board shall have two (2) associate members who shall be appointed by the mayor and confirmed by the city council for terms of three (3) years.
2. *Designation by the chair.* The chair of the planning board may designate an associate member to sit on the board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the planning board or in the event of a vacancy on the board.

Councillor Edward C. Cameron, Jr.