



**LEBANON PLANNING DEVELOPMENT
REGULATIONS SUBCOMMITTEE
MONDAY, JANUARY 05, 2026 - 5:00 PM
MEETING ROOM 3, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

**TO PARTICIPATE IN THIS MEETING, PLEASE JOIN LIVE VIA
MICROSOFT TEAMS OR CALL 929-229-9356 (ACCESS CODE:
720 414 316#). IF YOU HAVE TROUBLE ACCESSING THIS
MEETING, PLEASE [EMAIL TIM CORWIN](mailto:tim.corwin@lebanonnh.gov).**

1. Call to Order

- A. Review of meeting procedures and NH RSA 91-A "Right-to-Know" requirements.

2. Approval of Minutes

- A. December 1, 2025
B. December 3, 2020

3. Study Items

- A. Minor Site Plan Review: Site Plan Review Regulations, Section 3.2
B. Landscaping of Parking Areas: Site Plan Review Regulations, Section 6.2.E
C. Phased Developments, Plan Expiration, and Exemption Periods: Site Plan Review Regulations, Sections 4.8, 4.9, 4.10, 4.11 (new), 5.1, and 8.4
D. Exemptions from Subdivision Review — Condominium Conversions and Cottage Developments: Subdivision Regulations, Section 6.
E. Site Plan Review of Agricultural Uses
F. Legal Fees: Site Plan Review Regulations, Section 4.7.E.2 and Subdivision Regulations, Section 7.7.E.2
G. Site Plan Review of Cottage Developments
H. Site Plan Review of Redevelopments: Site Plan Review Regulations Article V and Article VI

4. Future Agenda Items

5. Adjournment

The order of agenda items is subject to change.

Meetings are open for in-person and remote attendance. Members of the public who wish to attend remotely may do so by going to [LebanonNH.gov/Live](https://lebanonnh.gov/live) where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupt virtual or phone connection(s), the meeting will continue without remote access capabilities.

Any person with a disability who wishes to attend this public meeting and needs additional accommodation, please contact the ADA coordinator at City Hall by calling 603-448-4220 at least 72 hours in advance so that the City can make any necessary arrangements.

DRAFT

**LEBANON PLANNING BOARD DEVELOPMENT REGULATIONS SUBCOMMITTEE
MEETNG ROOM 3, CITY HALL OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, DECEMBER 1, 2025 5:30PM**

MEMBERS PRESENT: Andrew Faunce, Richard Ford Burley, Patrick Kennelly, Kellen Appleton

MEMBERS ABSENT: None

STAFF PRESENT: Tim Corwin, Deputy Planning & Development Director

1. CALL TO ORDER

Chair Faunce called the meeting to order at 5:35 pm with Members Ford Burley and Appleton in attendance.

2. APPROVAL OF MINUTES – July 7, 2025

A MOTION was made by Richard Ford Burley to approve the July 7, 2025 Meeting Minutes as presented. The MOTION was seconded by Kellen Appleton.

** The vote on the MOTION was approved (3-0).*

3. STUDY ITEMS

A. Minor Site Plan Review: Site Plan Review Regulations, Section 3.2

The Subcommittee requested Planning & Development Department staff research whether the Planning Board can authorize the Minor Site Plan Subcommittee to grant waivers from applicable requirements of the Site Plan Review Regulations and to continue discussion at its next meeting.

Member Kennelly arrived at 6:00 pm.

B. Landscaping of Parking Areas: Site Plan Review Regulations, Section 6.2.E

The Subcommittee discussed the purpose of the parking lot shading requirements and shared various ideas to improve the current regulations. Member Appleton agreed to prepare draft regulations for the Subcommittee's consideration at its next meeting.

C. Pattern Zones Overlay District Shading and Buffers: Zoning Ord., Section 411.7

The Subcommittee discussed the purpose of the parking lot shading requirements as it relates to pattern zoning and expressed a desire to align the pattern zoning shading requirements as closely as possible with the Site Plan Review shading requirements. The Subcommittee agreed to revisit

1 Section 411.7 once the pattern zoning regulations have been utilized by applicants so that, based
2 on staff's actual experience in administering the regulations, deficiencies and potential solutions
3 can be more specifically identified.

4
5 **D. Maximum Off-Street Parking Requirement: Zoning Ordinance, Section 607.3**

6
7 The Subcommittee agreed to recommend to the City Council that the criteria for obtaining a
8 Conditional Use Permit per Section 607.3.B.2 of the Zoning Ordinance, allowing construction of
9 parking in excess of the maximum permitted, should be amended to remove criteria 'b' ("The
10 proposed development demonstrates that its design and intended uses will continue to support high
11 levels of existing or planned transit and pedestrian activity"), and to amend criteria 'c'.

12
13 Member Ford Burley departed at 6:30 pm.

14
15 **E. Phased Developments, Plan Expiration, and Exemption Periods: Site Plan Review**
16 **Regulations, Sections 4.8, 4.9, 4.10, 4.11 (new), 5.1, and 8.4**

17
18 The Subcommittee agreed to discuss agenda item 3.E at its next meeting.

19
20 **F. Electric Vehicles: Zoning Ordinance, Section 607.8 and Site Plan Review**
21 **Regulations, Article VI**

22
23 Mr. Corwin confirmed that the proposed electric vehicle (EV) Zoning Ordinance and Site Plan
24 Review amendments that have been recommended by the EV Regulations Task Force for adoption
25 by the City Council and by the Planning Board, respectively, will be placed on the Planning
26 Board's December 8, 2025, meeting agenda for presentation and discussion.

27
28 Member Appleton suggested that Section 607.2 of the Zoning Ordinance - allowing the Planning
29 Board to approve up to a 30% reduction in required parking - may need to be adjusted to take into
30 account the Section 607.8 EV regulations.

31
32 **G. Exemptions from Subdivision Review — Condominium Conversions and Cottage**
33 **Developments: Subdivision Regulations, Section 6**

34
35 The Subcommittee agreed to discuss agenda item 3.E at its next meeting. Mr. Corwin will attempt
36 to draft a specific proposal for the Subcommittee's consideration at its next meeting.

37
38 **4. ADJOURNMENT**

39
40 *A MOTION was made by Kellen Appleton to adjourn the meeting. The MOTION was seconded*
41 *by Andrew Faunce.*

42
43 **The MOTION was approved unanimously.*

44
45 Chair Faunce adjourned the meeting at 6:55pm.

46
47 Respectfully submitted,

48
49 Tim Corwin

1 **DRAFT**

2
3 **MINUTES**
4 **PLANNING BOARD DEVELOPMENT REGULATIONS SUBCOMMITTEE**
5 **Thursday, December 3, 2020 – 12:30pm**
6 **REMOTE VIA MICROSOFT TEAMS**
7 **LebanonNH.gov/Live**
8

9 Members Present: Matthew Hall (Chair), Kathie Romano, Joan Monroe, Jerry Rutter

10
11 Staff present: Rebecca Owens (Associate Planner), David Brooks (Planning Director),
12 Tim Corwin (Senior Planner)
13

14
15 **1. CALL TO ORDER:**

16
17 Chair Hall called the meeting to order at 12:31 pm.

18
19 **A. Review of meeting procedures and NH RSA 91-A “Right-to-Know” requirements.**

20
21 Ms. Owens reviewed the State directive and participation details for the online meeting in
22 Microsoft Teams. All members identified themselves.
23

24 **2. APPROVAL OF MINUTES:**

25
26 **A. November 13, 2020**

27
28 P.3, L.5 – add ‘on’ after working.
29

30 ***A Motion by Mr. Rutter to approve the November 13, 2020 minutes as amended.***
31 ***Seconded by Ms. Monroe.***

32
33 ***Roll Call Vote:***

34 ***Members voting in favor included: Mr. Hall, Ms. Romano, Ms. Monroe, Mr. Rutter***
35 ***The vote on the Motion was unanimous (4-0).***
36

37 **3. STUDY ITEMS:**

38
39 Agenda items were taken out of order.
40

41 **B. Proposed amendments to the Subdivision Regulations relative to jurisdiction**
42 **thresholds - Second Review**
43

44 Mr. Corwin reviewed the intent of the proposed subdivision amendments, which include
45 cleaning up the definitions of major and minor subdivisions. One goal of the amendments is
46 to allow multi-building developments of rental housing units under single ownership, such as
47 apartment complexes, to no longer be subject to subdivision review. Another proposed
48 change is to no longer automatically require condominium conversions of existing buildings
49 to go through subdivision review. Instead, Planning Board review would only be required if
50 the Planning Director determines that the nature of the use will be materially altered by the
51 conversion.
52

53 Mr. Rutter asked why the proposed amendment to Section 6.2.A does not specify particular
54 zoning districts. Mr. Corwin indicated the section relates to individual subdivision uses,

1 which are allowed in a variety of different zoning districts. Ms. Romano asked for clarification
2 of the impacts of the proposed amendment and whether certain projects would have been
3 allowed to bypass subdivision review. Mr. Corwin confirmed that a project such as 401 Mt.
4 Support Road would no longer be subject to subdivision review. However, he noted that the
5 corresponding amendments proposed in the Site Plan Regulations (see agenda item 3C)
6 would ensure that a project such as 401 Mt. Support Road would now be required to provide
7 the impact statements and other information that are currently only called for in the
8 Subdivision Regulations.

9
10 Mr. Rutter asked about the term “reasonable time” in Section 6.3 and whether it needs a
11 definition. Mr. Corwin suggested that a definition or clarifying language would be
12 appropriate. Mr. Hall suggested the staff work on clarifying language and bring it back to the
13 full Board.

14
15 Mr. Rutter asked about the wording of the definitions of Major and Minor Subdivision in
16 Section 5. He suggested that the final clauses of each definition be reworded for clarity. Ms.
17 Monroe supported changes to avoid or remove vagueness and confusion. She also
18 expressed concern about the growing ‘wordiness’ of the City’s regulations and felt the
19 regulations should be clear and capable of being interpreted by anyone, not just lawyers and
20 experienced developers.

21
22 Ms. Romano expressed concern that owners of larger properties might be subject to a less
23 rigorous review. Mr. Hall suggested that the subcommittee consider the site plan
24 amendments in agenda item 3C concurrently with the subdivision amendments since they
25 are so interrelated.

26
27 **C. Proposed amendments to the Site Plan Review Regulations relative to multi-family**
28 **residential developments - Second Review**

29
30 Mr. Corwin explained the intent of the proposed amendments is to add requirements for
31 additional information into the Site Plan Regulations to ensure a thorough review for projects
32 that would no longer be subject to subdivision review. Mr. Hall noted that the subcommittee
33 previously questioned where to set the threshold that triggers the additional information.

34
35 Mr. Brooks noted that the current proposal sets a threshold of 50 units, which is based on
36 the fact that the City currently has more than 7000 housing units. Ms. Monroe noted that any
37 given threshold might be appropriate in certain areas of the City, but not in others, and the
38 Board needs the flexibility to make those determinations.

39
40 Mr. Rutter offered clarifications to the proposed language of Section 5.2.D to minimize
41 vagueness. He also recommended using consistent terminology relative to ‘scattered or
42 premature’ development throughout the regulations. Ms. Monroe noted that Section 5.2.D
43 provides the Board with the flexibility she feels is essential.

44
45 Ms. Romano expressed concern that a threshold of 50 units was too high in Section 5.1.G.4.
46 She felt there could be smaller projects that should still be thoroughly reviewed. Mr. Hall
47 noted that requiring developments to provide this additional information adds costs that
48 usually get added to the cost of housing, which is a community-wide concern. Ms. Romano
49 noted that even a 20-unit development represents a substantial change to any given
50 neighborhood.

51
52 Mr. Hall suggested that the proposed language should next be reviewed by the full Board.
53 Ms. Romano asked for past examples of smaller development projects for comparison to the

1 proposed threshold. Mr. Brooks confirmed that applications that fall below the threshold
2 would not be entirely exempt from Site Plan Review, they would only be exempt from
3 providing the additional impact statements. Mr. Rutter agreed that the impact statements
4 generally apply to very large projects and he is comfortable with having the full Board review
5 and decide the threshold issue. Ms. Monroe noted that the Board still has flexibility to
6 require any study or information necessary for an adequate review. Ms. Romano suggested
7 that the staff be prepared to describe how the proposed amendments would have impacted
8 several recent applications.
9

10 **A. Proposed amendments to the Site Plan Review Regulations relative to Minor Site**
11 **Plans - First Review**
12

13 Mr. Hall provided an overview of the intended purpose of creating a minor site plan review
14 process. He noted that many communities around the state have a simpler, more flexible
15 process for smaller projects, but all of them are different. He summarized his conversations
16 with planners in other communities about their regulations and their experiences with the
17 process. He noted one of the benefits was to give an indication to property owners or
18 developers that the community is trying to streamline the process for smaller and simpler
19 projects. One potential downside is that it might not be utilized very often. In any case, all
20 applicants still need to comply with all applicable requirements.
21

22 Mr. Corwin began to review some of the proposed amendments needed to effectuate a
23 minor site plan process. He noted the City could actually end up reviewing more
24 developments, by capturing projects that fall below the current thresholds for site plan
25 review. The proposal includes raising the threshold for triggering full Board review, but
26 lowering the threshold for triggering review by a new minor site plan review committee.
27

28 Ms. Romano asked about reconstruction of principal buildings versus substantial renovation
29 of existing structures. Mr. Brooks gave examples of the McDonalds and Burger King sites on
30 Route 12A that were completely torn down and redeveloped as projects that triggered
31 Planning Board review. He noted that a complete rehabilitation of an existing structure
32 would not necessarily trigger site plan review.
33

34 Mr. Hall recommended that the minor site plan regulations of some other communities be
35 provided to the subcommittee prior to the next meeting for comparison.
36

37 **4. FUTURE AGENDA ITEMS:**
38

39 **A. None**
40

41 **5. ADJOURNMENT:**
42

43 The Committee agreed to hold its next meeting at 12:30 pm on Friday, December 18, 2020.
44

45 ***A Motion by Ms. Monroe to adjourn the meeting.***
46 ***Seconded by Ms. Romano.***
47

48 ***Roll Call Vote:***

49 ***Members voting in favor included: Mr. Hall, Ms. Romano, Ms. Monroe, Mr. Rutter***
50 ***The vote on the Motion was unanimous (4-0).***
51

52 The meeting was adjourned at 1:57 pm

From 12/1/2025 Meeting:

Current shade and landscape requirements per site plan review regulations 6.2

"Site Plan Review Regulations Section 6.2 – Landscaping Standards

6.A.5.

Purpose

...

5. To mitigate increased temperatures caused by large expanses of unshaded asphalt

6.2.E/6.2.E.1/6.2.E.2/6.2.E.3/6.2.E.6.a

E. Landscaping of Parking Areas

To moderate summer temperatures due to heated pavement, minimize the visual effects of parking areas, provide separated space for pedestrians to walk through parking lots, and support

on-site stormwater management, parking lots shall be dispersed by landscaped beds and integrated with pedestrian access, as follows:

1. Those areas containing one or two rows of parking spaces shall be planted with deciduous trees along the perimeter, so placed to shade 30% of the total parking area, and supplemented with shrubs, perennials, or understory trees to visually screen the parking area.
2. The end of each row of parking shall have a landscape bed to protect any vehicle parked next to a travel lane. End beds shall be at least 8 feet in width, except for corner radii, shall be long enough to protect tree roots and vehicles parked in the adjacent parking spaces, and shall be planted with deciduous trees for shade.
3. Any parking area containing three or more rows of parking shall be planted along the perimeter as stated above, and also shall have landscape islands placed between each double row of parking spaces, exclusive of aisles. These landscape islands shall have a minimum width of 8 feet, shall extend the length of the row of parking spaces, shall be planted with deciduous trees for shade, and shall terminate on each end with a landscape bed. If linear landscape islands are not practicable, then other interior landscape islands of equivalent size and evenly distributed throughout the parking lot may be allowed.

...

6. a. The number of trees required to meet the 30% shading requirement for parking areas shall be calculated on a minimum crown diameter of 30 feet, which each tree shall have attained within 10 years from planting."

Issues:

1. Trees don't often make the heights required for their calculated shade in parking lots.
2. Calculations for Shade are unclear and lead to confusion.
3. Single regulation trying to both encourage planting of trees and the shading of pavement.

Draft Proposals:

6.2. Shading and Landscaping Standards

Make sure shading diagram is shown.

A. Shading

To moderate the effects of solar heating on pavement (and its associated environmental and health risks), sites shall be designed so as to reduce the amount of direct sunlight on paved areas as follows:

1. At least 30% of the total paved area on the site shall be shaded from direct sunlight as defined below.
2. No area of pavement shall be more than 40 feet from a shaded area as defined below.
3. An area is considered shaded if it is in the shadow of a tree or permanent structure located on the property OR in the shadow of a topographic feature at solar noon on the summer solstice in Lebanon (i.e., when the sun is 70 degrees above the horizon and has an azimuth of due south/180 degrees).
4. Trees planted as part of site development may be counted in shading calculations, using their expected canopy area and height after ten years to calculate their shadow

Commented [1]: I say "pavement and paved area" to avoid ambiguity like we had with the Nissan dealership. However, the landscape requirements seem to be specific to parking lots, which we might define somewhere in the site plan review as "an open area designed for the parking, storage, or display of vehicles"

Commented [2]: want to avoid canvas style canopies etc.

Commented [3]: Define in some way.

B. Landscaping of parking areas

To support pedestrian access to buildings, reduce the visual effects of parking areas, and support on-site stormwater management, parking areas shall be dispersed with landscaped beds and pedestrian infrastructure as follows:
~~To moderate summer temperatures due to heated pavement, minimize the visual effects of parking areas, provide separated space for pedestrians to walk through parking lots, and support on-site stormwater management, parking lots shall be dispersed by landscaped beds and integrated with pedestrian access, as follows:~~

1. ~~Parking areas~~ These areas containing one or two rows of parking spaces shall be planted with deciduous trees along the perimeter ~~so placed to shade 30% of the total parking area spaced no more than 40 feet on center~~, and supplemented with shrubs, perennials, or **understory trees** to visually screen the parking area.
2. The end of each row of parking shall have a landscape bed to protect any vehicle parked next to a travel lane. End beds shall be at least 158 feet in width, except for corner radii, shall be long enough to protect tree roots and vehicles parked in the adjacent parking spaces, and shall be planted with ~~deciduous trees for shade~~.
3. Any parking area containing three or more rows of parking shall in addition to above, shall be planted along the perimeter as stated above, and also shall have landscape islands placed between each double row of parking spaces, exclusive of aisles. These landscape islands shall have a minimum width of 158 feet, shall extend the length of the row of parking spaces, shall be planted with deciduous trees for shade, and shall terminate on each end with a landscape bed as described above. If linear landscape islands are not practicable, then other interior landscape islands of equivalent size and evenly distributed throughout the parking lot may be allowed.

Commented [4]: what does this mean?

4. Any single or double row of parking longer than 100 feet shall be dispersed every 100 feet or less by a landscaped bed that is at least 158 feet by 158 feet, exclusive of curbing. The Planning Board may exclude from this requirement any row of parking that abuts a landscaped area along the full- length of the row.
5. The perimeter of the parking area shall be delineated by the curbing, pavement edge, and fencing that encircles the parking area

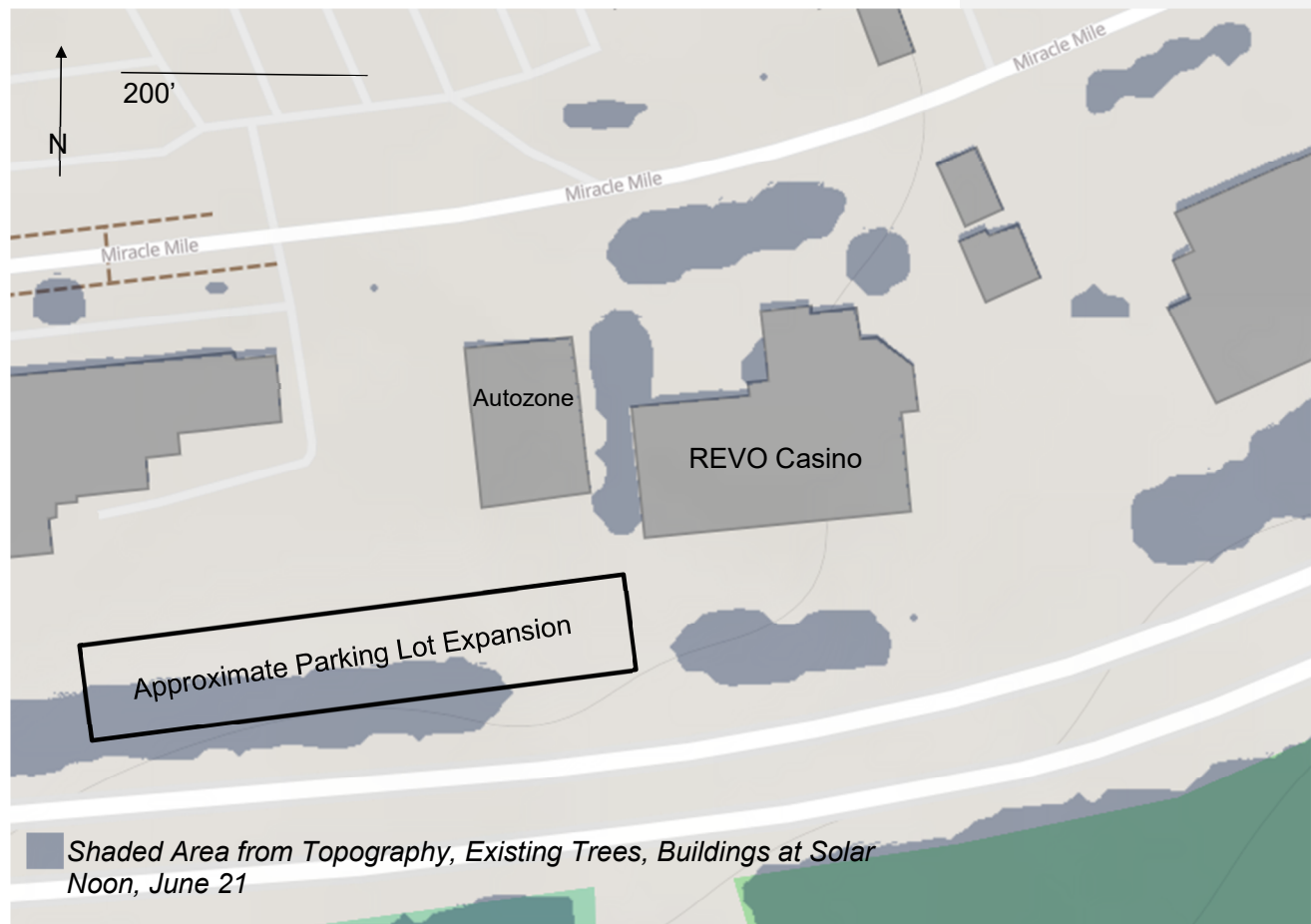
~~6.~~

~~a. The number of trees required to meet the 30% shading requirement for parking areas shall be calculated on a minimum crown diameter of 30 feet, which each tree shall have attained within 10 years from planting.~~

~~b.a. Trees at maturity must have a trunk diameter of at least 12 inches, measured 4 feet above the ground surface.~~

- 7-6. Required landscaped islands and beds, particularly in areas related to traffic, access, and parking, shall, to the maximum extent practicable, be designed to concurrently fulfill other site plan regulation requirements, such as for shading, pedestrian facilities, lighting, snow storage and drainage, utilities, open space/recreation, and stormwater management (e.g., LID) features, so as to maximize land use efficiency.

Example: Revo Casino



Evaluation using **proposed** regulations:

- Assume site plan review only applies to the new parking expansion, not full site (Requires waiver).
- Shading Requirements:
 - 1) "At least 30% of the total paved area on the site shall be shaded from direct sunlight as defined below."
 - ☒ Existing Topography shades at least 30% of the parking lot
 - 2) "No area of pavement shall be more than 40 feet from a shaded area as defined below."

- **✗** The eastern area of the parking lot is more than 40 feet from shaded area. This will require planting/construction of additional shade to meet the requirement.
- Planting Requirements
 - "Parking areas shall be planted with deciduous trees along the perimeter spaced no more than 40 feet on center, and supplemented with shrubs, perennials, or **understory trees** to visually screen the parking area.
 - Assuming no waivers, approximately 10 trees on the north edge, 10 trees on the south edge, and 1 on the western edge will be required.
 - *Because of the orientation of the proposed pavement expansion, it is unlikely that trees on the northern or western edge will contribute appreciably to shading calculations.*
 - "Any single or double row of parking longer than 100 feet shall be dispersed every 100 feet or less by a landscaped bed that is at least 15 feet by 15 feet, exclusive of curbing. The Planning Board may exclude from this requirement any row of parking that abuts a landscaped area along the full- length of the row."
 - Requires two 'bump out' landscape beds per row of parking.
 - Could be excluded because of perimeter landscaping.
 - *'Bump out' beds will contribute to shading calculation if tree canopy is wider than 15' in diameter. Trees planted on the southern edge will contribute more.*

Differences from current regulations:

- Little difference in final experience/construction of the parking lot with either regulation.
- Allows the landscaping and shading conversations to be mostly separate
- Prevents shadow-overlap arguments for trees/landscaping.

*Lebanon Planning Board
Development Regulations Subcommittee
Revision Targets: December 2025*

Site Plan Review Regulations Section 4.9 – Phased Developments

4.9.F. If the applicant anticipates being unable to meet any time deadline(s) set forth in the approved phasing schedule with respect to any phase, he or she may apply to the Planning Board for an extension of up to two years for the particular phase, pursuant to Section 4.10 of these Regulations. The request for an extension shall be submitted to the Planning and Development Department prior to the expiration of the deadline(s) involved.

If the applicant fails to meet any such deadline, or extension thereof, then the approval of that phase and all subsequent phases shall be considered void, and such phase(s) shall no longer be presumed “vested.” However, the applicant may resubmit the application for such phase(s) to the Board for further review and re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the City of Lebanon since the original approval.

Discussion. The question was raised as to whether phased developments are held to the same standard as non-phased developments regarding time to completion and timeline extensions, i.e., are phased developments held to the single, two-year extension request available in section 4.10? The underlined section in the first paragraph suggests so, but is not explicit, and the underlined section in the second paragraph is vague and may allow more leeway than the present Board would prefer.

Planning & Development Department Staff Notes:

In response to the above and in light of recently adopted amendments to NH RSA 674:39 made pursuant to [HB413](#), staff has prepared draft amendments to the Site Plan Review Regulations with respect to the inter-related topics of phased developments, expiration of site plan approvals, and the exemption periods during which an approved plan is exempt from changes to the land use regulations (and following which the project is permanently vested against any future changes to the land use regulations).

Attached hereto are the following:

- A PowerPoint slide on HB413, prepared by Tim Corwin, taken from a NH Department of Business & Economic Affairs webinar presentation given on September 18, 2025
- A copy of HB413, as enacted
- Draft amendments to Sections 4.8, 4.9, 4.10, 4.11 (new), 5.1, and 8.4 of the Site Plan Review Regulations

HB 413 - relative to subdivision regulations on the completion of improvements and the regulation of building permits.

- 674:39 exemption period for approved subdivision plats and site plans:
 - ▶ Previously, an approved development was exempt from changes to local land use regulations for a period of 2 years
 - ▶ If “active and substantial development” was achieved within 2 years, the project was exempt for an additional 3 years
 - ▶ If “substantial completion” was achieved within 5 years of approval, the project was vested forevermore, except for impact fees
- HB 413 amends 674:39,I – IV:
 - ▶ Extends time to achieve “active and substantial development” from 2 yrs to 3 yrs
 - ▶ Extends time to achieve “substantial completion” from 5 yrs to 7 yrs
- New paragraph V: *“The 7-year period and 3-year exemption in this section shall apply to any approval granted on or after July 1, 2023.”*
 - ▶ With the addition of paragraph V, it is not clear how 674:39 applies to projects that were (a) approved prior to July 1, 2023, and (b) have not yet achieved substantial completion.
- **Effective Date:** July 1, 2025 (signed July 15, 2025)



CHAPTER 186
HB 413 - FINAL VERSION

2025 SESSION

25-0145
06/05

HOUSE BILL **413**

AN ACT relative to subdivision regulations on the completion of improvements and the regulation of building permits.

SPONSORS: Rep. Pauer, Hills. 36; Rep. Alexander Jr., Hills. 29; Rep. J. Aron, Sull. 4; Rep. Cole, Hills. 26; Rep. Damon, Sull. 8; Rep. Gibbs, Merr. 23; Rep. M. Aron, Sull. 8; Sen. Murphy, Dist 16

COMMITTEE: Municipal and County Government

ANALYSIS

This bill:

- I. Extends the existing 5-year exemption for subdivision plats to 7 years and increases the preliminary step from 2 years to 3 years.
- II. Changes the building code and fire code appeals process, limiting the jurisdiction of the local building code board of appeals to hearing decisions made under local amendments to those codes.
- III. Provides that decisions of the building code review board regarding decisions of the fire marshal and local building code board of appeals may be appealed to superior court or the housing appeals board.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to subdivision regulations on the completion of improvements and the regulation of building permits.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 186:1 Regulation of Subdivision of Land; Exemption. Amend RSA 674:39 to read as follows:

2 674:39 ~~[Five]~~ **Seven**-Year Exemption.

3 I. Every subdivision plat approved by the planning board and properly recorded in the registry of
4 deeds and every site plan approved by the planning board and properly recorded in the registry of deeds,
5 if recording of site plans is required by the planning board or by local regulation, shall be exempt from all
6 subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and
7 zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns
8 or unorganized places, except those regulations and ordinances which expressly protect public health
9 standards, such as water quality and sewage treatment requirements, for a period of ~~[5]~~ **7** years after the
10 date of approval; provided that:

11 (a) Active and substantial development or building has begun on the site by the owner or the
12 owner's successor in interest in accordance with the approved subdivision plat within ~~[24 months]~~ **3 years**
13 after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security
14 to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or
15 other security is posted with the city, town, or county in which there are located unincorporated towns or
16 unorganized places, at the time of commencement of such development;

17 (b) Development remains in full compliance with the public health regulations and ordinances
18 specified in this section; and

19 (c) At the time of approval and recording, the subdivision plat or site plan conforms to the
20 subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location
21 of such subdivision plat or site plan.

22 II. Once substantial completion of the improvements as shown on the subdivision plat or site plan
23 has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or
24 unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in
25 interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning
26 ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such
27 improvements.

28 III. The planning board may, as part of its subdivision and site plan regulations or as a condition
29 of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the
30 following terms, with due regard to the scope and details of a particular project:

31 (a) "Substantial completion of the improvements as shown on the subdivision plat or site
32 plan," for purposes of fulfilling paragraph II; and

CHAPTER 186
HB 413 - FINAL VERSION
- Page 2 -

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the ~~[5-year]~~ **7-year** exemption described in paragraph I. The planning board may, for good cause, extend the ~~[24-month]~~ **3-year** period set forth in subparagraph I(a).

V. The 7-year period and 3-year exemption in this section shall apply to any approval granted on or after July 1, 2023.

186:2 Powers of Building Code Board of Appeals. Amend RSA 674:34, I to read as follows:

I. The building code board of appeals shall hear and decide appeals of orders, decisions, or determinations made by the building official or fire official relative to the application and interpretation of the state building code or state fire code as defined in RSA 155-A:1. ***If the zoning board of adjustment or board of selectmen is acting as the building code board of appeals under either RSA 673:1, V, or RSA 673:3, IV, its jurisdiction shall be limited to hearing appeals of local amendments to the state building code or state fire code, and all other appeals shall be made to the building code review board under RSA 155-A:11-b.*** An application for appeal shall be based on a claim that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the state building code or the state fire code.

186:3 New Hampshire Building Code; Appeal of Decisions of Local Building Code Board of Appeals. Amend RSA 155-A:11-b, I to read as follows:

I. The board ***shall hear and decide appeals of orders, decisions, or determinations made by the local building official relative to the application and interpretation of the state building code and state fire code as defined in RSA 155-A:1, and*** shall hear appeals of final decisions of any local building code board of appeals established under RSA 674.

186:4 New Paragraph; Register of Deeds; Site Plans. Amend RSA 478:1-a by inserting after paragraph XIII the following new paragraph:

XIV. The register of deeds shall not refuse to record a plat under this section for failure to comply with a law, regulation, or ordinance adopted after the date the site plan or plat was approved by the municipal planning board.

186:5 Housing Appeals Board; Authority and Duties; Appeals of Decisions by the Building Code Review Board. Amend RSA 679:5, IV to read as follows:

IV. After local remedies have been exhausted, appeals may be brought before the board by an applicant to the municipal board, committee, or commission, or by any other aggrieved or injured party who can demonstrate legal standing to appeal pursuant to RSA 677:4 or RSA 677:15. The municipality shall be a party to the action. If the applicant is not the party initiating the action before the board, then the applicant shall automatically be an intervenor. The board shall grant intervenor status to abutters and to any other aggrieved or injured party who can demonstrate legal standing to appeal pursuant to RSA 677:4 or RSA 677:15. ***Decisions of the state fire marshal that may be appealed under RSA 155-A:11, I,***

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1 *and final decisions of a local building code board of appeals that may be appealed under RSA 155-A:11-b*
2 *shall first be appealed to the building code review board pursuant to those sections. Decisions of the*
3 *building code review board on such appeals may then be appealed either to superior court pursuant to*
4 *RSA 155-A:12 or the board under this chapter.*

5 186:6 Zoning Board of Adjustment and Building Code Board of Appeals. Amend RSA 673:3, IV to
6 read as follows:

7 IV. The building code board of appeals shall consist of 3 or 5 members who shall be appointed in
8 a manner prescribed by the local legislative body; provided, however, that [an-elected] *a* zoning board of
9 adjustment may act as the building code board of appeals pursuant to RSA 673:1, V. Each member of the
10 board shall be a resident of the municipality in order to be appointed.

186:7 Effective Date. This act shall take effect July 1, 2025.

Approved: July 15, 2025
Effective Date: July 01, 2025

SITE PLAN REVIEW REGULATIONS
PHASED DEVELOPMENT, PLAN EXPIRATION, AND EXEMPTION PERIODS
DRAFT AMENDMENTS

ARTICLE IV – PROCEDURE

[...]

Section 4.8 – Procedure for Site Plan Review

[...]

D. Notice of Action

[...]

The Notice of Action shall set forth the following:

[...]

7. A reminder of the time limits set forth in Section 4.10 ~~of these Regulations~~, and where appropriate, any additional time parameters, such as deadlines within which particular conditions must be fulfilled, the threshold levels of work which shall constitute “active and substantial development” or “substantial completion” for purposes of RSA 674:39, or a phased development phasing schedule timetable pursuant to Section 4.9, which shall be referenced and attached as an exhibit of these Regulations.

[...]

Section 4.9 – Phased Developments

The review and approval procedure for phased developments shall be as follows:

- A. ~~For purposes of these Regulations, “P~~phased development” shall mean a project which the applicant intends to construct in phases over a total period of time which may be in excess of the time limits set forth in Sections 4.10, 8.43.AB, or 8.43.BG ~~of these Regulations~~ or those in RSA 674:39. ~~Phased development may also include a project for which the Planning Board has imposed a phasing requirement pursuant to Sections 501.1(D) or 502.2(D) of the Zoning Ordinance, or otherwise, in order to mitigate the impact of a development on community facilities, services, or utilities.~~

[...]

C. The applicant shall submit with the application a proposed phasing schedule, which, if approved by the Board, shall be included as part of any approval. The phasing schedule shall include the following information, for each phase:

1. A ~~written~~ specification of all improvements, on-site or off-site, to be installed as part of that phase.
2. ~~A~~The deadline for the posting of any ~~required~~ security for that phase ~~that may be required pursuant to Sections 8.3.B or C;~~
- ~~3. A deadline for the completion of such improvements subsequent to the posting of such security, and;~~
43. ~~A~~The date by which a Building Permit ~~or, if a Building Permit is not required for the phase, a Zoning Permit,~~ must be obtained to prevent the approval for that phase from being considered void pursuant to Section 4.10.A.1 ~~of these Regulations. The deadline for obtaining a Building Permit for the first phase shall be no later than two (2) years from the date of the Planning Board's approval. The deadline for obtaining Building Permits for each subsequent phase may be no later than two (2) years following the substantial completion deadline for the prior phase.~~
- ~~4. The deadline for achieving active and substantial development or building of that phase pursuant to RSA 674:39 and Section 8.4.A. The deadline for achieving active and substantial development or building of the first phase shall be three (3) years from the date of the Planning Board's approval. The deadlines for achieving active and substantial development or building of each subsequent phase may be no later than three (3) years following the substantial completion deadline for the prior phase.~~
5. ~~The deadline for achieving substantial completion of that phase pursuant to RSA 674:39 and Section 8.4.B. The deadline for achieving substantial completion of the first phase shall be seven (7) years from the date of the Planning Board's approval. The deadlines for achieving substantial completion of each subsequent phase may be no later than seven (7) years following the substantial completion deadline for the prior phase.~~

~~A phasing plan sheet graphically depicting the boundaries of each phase shall be included as part of the plan set per Section 5.1.E.25. The phasing schedule may be included on the phasing plan sheet or, if a separate document, shall reference the phasing plan sheet and shall be attached to the Notice of Action as an exhibit.~~

~~The phasing schedule may also specify threshold levels of work and time lines which must be completed, in order for the project, as a whole, or particular phase(s) of the project, to be considered "vested" pursuant to RSA 674:39, or the New Hampshire common law of vested rights.~~

~~The approval for a particular phase shall not be considered "final" under RSA 676:4, I(i), nor shall any plan of that phase be recorded in the Grafton County Registry of Deeds, until the security for the improvements which are part of that~~

~~phase has been properly posted with the City or until such required improvements have been completed, inspected, and approved by the City.~~

[...]

- E. Prior to obtaining a Building Permit for each later phase, the applicant shall submit to the Planning Director a copy of the Building Permit application. The Planning Director shall then determine whether the application is in accordance with the approved phasing schedule, and whether any required security for that phase has been provided to the City.

~~If the development is proceeding in accordance with the approved phasing schedule, the later phase(s) shall normally be presumed to be “vested” against changes in City land use ordinances and regulations, except as otherwise specified by the Board as part of its approval. However, the Planning Director may determine that, due to specific circumstances, including but not limited to non-compliance with applicable regulations or conditions of approval, a later phase or phases should not be considered “vested” under RSA 674:39 or the New Hampshire common law of vested rights. In such a case, the Planning Director may forward to the Planning Board a recommendation to initiate proceedings, using the procedures of RSA 676:4 as applicable, to revoke approval of an unbuilt phase or phases.~~

- F. Expiration of Phasing Schedule.

1. If the applicant fails to meet any such deadline set forth in the phasing schedule, or any extension thereof or as may be amended, then the approval of that phase and all subsequent phases shall be considered void, and such phase(s) shall no longer be presumed “vested.”

2. **Phasing Schedule Amendment.** If the applicant anticipates being unable to meet any time deadline(s) set forth in the approved phasing schedule with respect to any phase, the applicant may apply to the Planning Board to amend the phasing schedule if the requested changes could have been approved by the Planning Board pursuant to the requirements of Sections 4.9.C.3, 4, and 5 at the time the phasing schedule was originally approved.

Requests for amendments received after the date proposed to be amended will not be considered by the Board. A phasing schedule amendment may be granted only after a public hearing with notice as provided in Section 4.8.

In determining whether to grant such an amendment, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant, rather than to the Applicant’s neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision. The Board shall grant no more than one phasing schedule amendment unless it

determines, based on legal advice, that such amendment is required in order to prevent a violation of constitutional rights.

3. Phasing Extensions.

- a. If the applicant anticipates being unable to meet any Building Permit deadline with respect to any phase, the he or she applicant may apply to the Planning Board for a ~~two (2) year~~ extension of up to two years for the particular phase, pursuant to Sections 4.10.A.2 and A.3 of these Regulations. In accordance with Section 4.10.A.3, the Board shall grant no more than one such extension for each phase. The request for an extension shall be submitted to the Planning and Development Department prior to the expiration of the deadline(s) involved.
- b. If the applicant anticipates being unable to meet any deadline for achieving active and substantial development or building with respect to any phase, the applicant may apply to the Planning Board for an extension of up to two (2) years for the particular phase, pursuant to Sections 8.4.A.3 and 4. In accordance with Section 8.4.A.4, the Board shall grant no more than one such extension for each phase.

~~If the applicant fails to meet any such deadline, or extension thereof, then the approval of that phase and all subsequent phases shall be considered void, and such phase(s) shall no longer be presumed "vested." However, the applicant may resubmit the application for such phase(s) to the Board for further review and re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the City of Lebanon since the original approval.~~

Section 4.10 – Expiration of Site Plan Approval

A. Building Permit.

1. Any approved site plan for which a Building Permit ~~or, if a Building Permit is not required for the project, a Zoning Permit,~~ has not been obtained within two (2) years of the date of the ~~original Planning Board's~~ approval shall be considered void; however, the Board may, for good cause, specify in the original Notice of Action some alternative time limit for obtaining a Building Permit. ~~The voiding of an approval under this paragraph shall terminate the vesting of the application against changes in regulations, as set forth in RSA 676:12, VI and RSA 674:39.~~
- 2B. Notwithstanding paragraph A above, the Board may grant an extension of up to two (2) additional years beyond the original expiration date. ~~A request for such an extension must be submitted by the Applicant to the Planning and Development Department prior to such expiration date, and R~~requests for extension of the site plan approval received after the expiration date will not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section 4.8 ~~of these Regulations.~~

- 3C. In determining whether to grant such an extension, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions-precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant, rather than to the Applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision ~~on an extension request under this Section.~~ The Board shall grant no more than one (1) extension ~~for any site plan~~, unless it determines, based on legal advice, that such extension is required in order to prevent a violation of constitutional rights.
- 4D. For applications subject to both Site Plan and Subdivision review, expiration of Board approvals shall occur as set forth in the Subdivision Regulations.
- 5E. For approved phased developments, the deadlines for obtaining a Building Permit for each phase, as stated in the approved phasing schedule in accordance with Section 4.9.C. ~~(43) of these Regulations~~, shall be substituted for the time limitation set forth in Section 4.10. ~~(A.1).~~ Any request for an extension of time for a particular phase, as described in Section 4.9.F. ~~3.a of these Regulations~~, shall only apply to the particular phase, and such extension shall not automatically apply to any later phases of the development.

B. Active and Substantial Development or Building.

Any approved site plan for which active and substantial development or building per Section 8.4.A.1 has not been achieved within three (3) years of the date of the Planning Board's approval shall be considered void, unless extended pursuant to Section 8.4.A.3, in which case the approved site plan shall be considered void if active and substantial development or building per Section 8.4.A.1 has not been achieved within five (5) years of the date of the Planning Board's approval.

C. Substantial Development Completion.

Any approved site plan for which substantial completion per Section 8.4.B has not been achieved within seven (7) years of the date of the Planning Board's approval shall be considered void.

Section 4.11 – Reapproval of Expired Site Plan Approval

For any site plan approval that has expired pursuant to Section 4.10, the applicant may resubmit the application to the Board for re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the City of Lebanon since the original approval.

*[**TBD - Submission requirements for a "reapproval"**]*

Section 4.11-12 – Permission to Visit Property

[...]

ARTICLE V – SUBMISSION REQUIREMENTS

Section 5.1 – Drawings and Other Submittals

[...]

An application for Site Plan Review shall include the following information:

[...]

- E. Paper copies of the proposed Site Plan drawing (the number to be determined by the Planning and Development Department on an as-needed basis).

[...]

Site Plan drawings shall include the following information (NOTE: The submission requirements described in paragraphs E.1 through E.4 below shall not be waivable under the procedures set forth in Article VII - “Waiver Procedure” ~~of these Regulations~~):

[...]

25. A phasing plan sheet shall be provided for any phased development per Section 4.9.C.

[...]

ARTICLE VIII – CONSTRUCTION, COMPLETION, AND BONDING

[...]

Section 8.4 – Active and Substantial Development and Substantial Completion

As provided for in RSA 674:39, III, the Board may specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

A. Active and Substantial Development or Building

1. ~~UFor purposes of these Regulations, u~~ unless modified by the Board at the time of approval of a specific application, the completion of all of the following shall imply “Active and Substantial Development or Building” when inspected and approved by the Reviewing Engineer:
 - a. Construction of and/or installation of basic infrastructure to support the development (including all of the following: roadways, access ways, parking lots, etc. to a minimum gravel base; and water and wastewater lines and other utilities placed in underground conduit ready for connection to proposed buildings/structures) in accordance with the approved plans; and,

- b. Construction and completion of drainage improvements to service the development (including all of the following: detention/retention basins, treatment swales, pipes, underdrains, catch basins, etc.) in accordance with the approved plans; and,
- c. Placement and maintenance of all erosion control measures on the site as specified on the approved plans.

Movement of earth, excavation, or logging of a site without completion of items a, b, and c above, shall not be considered "Active and Substantial Development or Building." Plans approved in phases shall be subject to this definition for the phase or phases currently being developed.

- 2. Unless otherwise specified by the Board, Active and Substantial Development or Building shall be achieved within ~~two~~three (23) years from the date of the Planning Board's approval.
- 3. The Planning Board may extend the time for completion of Active and Substantial Development or Building by an additional two (2) years ~~may be extended for upon demonstration of~~ good cause by the ~~Planning Board~~. Requests received after the expiration date will not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section 4.8.
- 4. In determining whether to grant such an extension, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant, rather than to the Applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision. The Board shall grant no more than one extension, unless it determines, based on legal advice, that such extension is required in order to prevent a violation of constitutional rights. A request for an extension of time within which to complete such Active and Substantial Development or Building shall be submitted by the Applicant to the Planning and Development Department prior to such expiration date for review in accordance with the provisions of Section 4.10 of these Regulations. Requests for extension of time to complete Active and Substantial Development or Building received after the expiration date shall not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section 4.8 of these Regulations.

~~In no event shall the time for completion of Active and Substantial Development or Building be extended to more than five (5) years from the date of the Planning Board's approval, unless the development has been approved for completion in phases in accordance with Section 4.9 of these Regulations.~~

5. For approved phased developments, the deadlines for achieving Active and Substantial Development or Building for each phase shall be as set forth in the approved phasing schedule in accordance with Section 4.9.C.5. Any request for an extension of time for a particular phase, as described in Section 4.9.F.3.b, shall only apply to the particular phase, and such extension shall not automatically apply to any later phases of the development.
6. In the event the Planning Board approves an extension request, the Applicant shall be required to update any Security Agreements or other documents, as necessary, to reflect the dates of the extended approval.

B. Substantial Completion

1. ~~UFor purposes of these Regulations, unless~~ modified by the Board at the time of approval of a specific application, Substantial Completion shall be deemed to have occurred when all on-site and off-site improvements specified in the Site Plan approval have been constructed or installed by the Applicant and inspected and approved by the Reviewing Engineer, except for those improvements which are explicitly deferred by vote of the Board.

In the event that the City calls a performance security for such improvements and the funds are paid to the City, Substantial Completion of the improvements ~~in the subdivision~~ shall be deemed to have occurred.

2. Unless the Site Plan has been approved for completion in phases in accordance with Section 4.9 ~~of these Regulations~~, or as otherwise specified by the Board, Substantial Completion shall be achieved within ~~five~~ seven (57) years from the date of the Planning Board's approval. [...]