HOUSE DOCKET, NO. 2582 FILED ON: 1/16/2025

# HOUSE . . . . . No. 2350

## The Commonwealth of Massachusetts

PRESENTED BY:

***David T. Vieira***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act facilitating site plan review.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *David T. Vieira* | *3rd Barnstable* | *1/16/2025* |

HOUSE DOCKET, NO. 2582 FILED ON: 1/16/2025

# HOUSE . . . . . No. 2350

By Representative Vieira of Falmouth, a petition (accompanied by bill, House, No. 2350) of David T. Vieira relative to site plan zoning review. Municipalities and Regional Government.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court**
**(2025-2026)**

An Act facilitating site plan review.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 40A of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by adding the following section:–

Section 7A

(a) As used in this section, "site plan review" shall mean review and approval under a municipality's zoning ordinance or by-law, by an authority other than the zoning administrator, of a proposed use of land or structures to determine whether a proposed use of land or structures is in compliance with sound site utilization principles relative to traffic circulation and safety, pedestrian safety and access, off-street parking and loading, emergency vehicle access, storm water drainage, screening, signage and exterior lighting, visual impact of parking, storage or other outdoor service areas, and consistency with character and scale of surrounding buildings.

(b) In addition to the home rule authority of cities and towns to require site plan review, a municipality may adopt a local ordinance or by-law under this section requiring site plan review

and approval by a designated authority before a building permit is granted for the use of land or structures governed by a zoning ordinance or by-law. The approving authority may adopt, and from time to time amend, rules and regulations to implement the local site plan review ordinance or by-law, including provisions for the imposition of reasonable fees for the employment of outside consultants in the same manner as set forth in section 53G of chapter 44.

(c) An ordinance or by-law requiring site plan review, whether adopted under this section or under the municipality's home rule authority, shall comply with the provisions of this and all following subsections of section 7A. The ordinance or by-law shall establish the submission, review, and approval process for applications. Approval of a site plan for a use allowed by right shall require a simple majority vote of the designated authority and shall be made within the time limits prescribed by ordinance or by-law, not to exceed 90 days from the date of filing of the application. If no decision is issued within the time limit prescribed, the site plan shall be deemed constructively approved as provided in section 9, paragraph 11 of this chapter. The submission and review process for a site plan required in connection with the issuance of a special permit or variance shall be conducted with the review of the application for the special permit or variance in a coordinated process and shall require the same quantum of vote required for approval of a special permit or a variance.

(d) Site plan review for a use allowed by right may impose only those conditions that are necessary to ensure substantial compliance of the proposed use of land or structures with the other requirements of the zoning ordinance or by-law provided, however, that any off-site conditions shall address solely any extraordinary direct adverse impacts of the project on adjacent properties or adjacent roadways. A site plan application for a use allowed by right may be denied only on the grounds that: (i) the proposed use of land or structures project does not

meet the requirements set forth in the zoning ordinance or by-law; (ii) the applicant failed to submit the information and fees required by the zoning ordinance or by-law necessary for an adequate and timely review of the design of the proposed land or structures; or (iii) it is not feasible to adequately mitigate any extraordinary direct adverse project impacts on adjacent properties or adjacent roadways by means of suitable site design conditions.

(e) Zoning ordinances or by-laws shall provide that a site plan approval granted under this section shall lapse within a specified period of time, not less than three years from the date of the filing of such approval with the city or town clerk, if substantial use or construction has not yet begun, except as extended for good cause by the approving authority. Such specified period shall not include time required to pursue or await the determination of an appeal under subsection (f) or section 17 or to pursue or await the appeal of any other permit, license, determination or approval. The aforesaid minimum period of three years may, by ordinance or by-law, be increased to a longer period.

(f) Except where site plan review is required in connection with the issuance of a special permit or variance, decisions made under site plan review, whether made pursuant to statutory or home rule authority, may be appealed by a civil action in the nature of certiorari pursuant to section 4 of chapter 249, and not otherwise. Such civil action may be brought by a person aggrieved by the decision in the superior court for the county where the land is located or in the land court within twenty days after the filing of the decision of the site plan review approving authority with the city or town clerk. The issuance or denial of a building permit shall not be a prerequisite to the filing of such civil action under this section. All issues in any proceeding under this section shall have precedence over all other civil actions and proceedings. A complaint by a plaintiff challenging a site plan approval under this section shall allege the

specific reasons why the project fails to satisfy the requirements of this section, the zoning ordinance or by-law, or other applicable law and shall allege specific facts establishing how the plaintiff is aggrieved by such decision. The approving authority's decision in such a case shall be affirmed unless the court concludes that the approving authority abused its discretion under subsection (d) in approving the project.

(g) In municipalities that adopted a zoning ordinance or by-law requiring some form of site plan review prior to the effective date of this act, the provisions of this section shall not be effective with respect to such zoning ordinance or by-law until the date one year after the effective date of this act.