

Zoning Bylaws of the Town of Otis

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Town of Otis

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SECTION 1.0 PURPOSE AND AUTHORITY

1.1 PURPOSE. These regulations are enacted to promote the general welfare of the Town of Otis, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the town, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808 and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.2 AUTHORITY. This Zoning By-Law is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.3 SCOPE. For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.4 APPLICABILITY. All buildings or structures hereafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Zoning By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Zoning By-Law shall control.

1.5 AMENDMENTS. This Zoning By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

1.6 SEPARABILITY. The invalidity of any section or provision of this Zoning By-Law shall not invalidate any other section or provision herein.

1.7 SPECIFIC PROVISIONS PREVAIL. To the extent that any specific provision of this Zoning By-Law, as amended from time to time, shall conflict with any provision expressed herein in general terms, the specific provision shall apply.

SECTION 2.0 DISTRICTS

2.1 ESTABLISHMENT. For the purpose of this By-Law, the Town shall be comprised of the following two (2) zoning districts:

R-40 Residential District

V-1 Village District

2.2 OVERLAY DISTRICTS. In addition, the following overlay districts are also hereby established in Section 8.0:

FPOD -Flood Plain Overlay District

2.3 LOCATION OF DISTRICTS. The location and boundaries of these districts are hereby established as shown on a map entitled "Zoning Map of the Town of Otis dated June 30, 1998," with all explanatory matter thereon, is declared to be a part of this By-Law.

2.4 DISTRICT BOUNDARY LINES. For purposes of interpretation of district boundaries as shown on the Zoning Map, the following rules shall apply:

2.4.1 Centerlines. Boundaries that appear to follow the centerlines of streets, railroads, or streams shall be construed to follow such lines.

2.4.2 Shorelines. Boundaries indicated as following shorelines of lakes or ponds shall be construed to follow such lines.

2.4.3 Watercourse. Where a boundary is shown following a stream or other watercourse, the boundary shall coincide with the centerline thereof as said line existed at the date of zoning map.

2.4.4 Property Line. Where not otherwise indicated as above, a district boundary shall be deemed to coincide with a property line, as such line existed at the time the ordinance or amendment thereto was adopted.

2.4.5 Zoning Enforcement Officer. In cases of uncertainty or disagreement concerning the exact locations of a district boundary line or where physical features existing on the ground are at variance with those shown on the Zoning Map or in other circumstances not covered herein, the district boundary shall be determined by the Zoning Enforcement Officer.

SECTION 3.0 USE REGULATIONS

3.1 PRINCIPAL USES. Except as provided by law or in this Zoning By-Law, no building or structure shall be erected, and no building, structure or land or part thereof shall be used for any purpose or in any manner other than one or more of the uses hereinafter set forth as permitted by right or as permissible by special permit and so authorized. Any use not specifically permitted is specifically prohibited.

3.1. Symbols. Symbols employed in the Table of Use Regulations shall mean the following:

Y	Permitted as of right
N	Prohibited
BA	Special permit Board of Appeals
PB	Special Permit Planning Board
SB	Special Permit/ Select board

3.1.2 If Classified Under More Than One Use. Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

3.1.3 Table of Use Regulations.

See Appendix A

3.2 ACCESSORY USES

3.2.1 Permitted Accessory Uses in All Districts. The following accessory uses are specifically permitted as indicated by right or by special permit on the same premises as the principal use, as specified in Appendix A, the Table of Use Regulations:

1. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.

2. Family Day Care Homes. Small family day care homes are allowed as an accessory use as of right in all districts. Large family day care homes are allowed in all districts only upon the issuance of a special permit by the Board of Appeals.

3. Adult Day Care Facility.

4. Home Occupation and Cottage Industry, as limited by Section 7.2.
5. The display and sale by a resident of the premises at a roadside stand or otherwise of natural products which are produced on the premises.
6. Display of sign or signs as regulated in Section 5.2 of this By-Law.
7. Mobile home or travel trailer, as regulated in Section 6.2 of this By-Law.
8. Homestay.
9. Accessory Apartments. See Section 7.1.

3.3 NONCONFORMING USES AND STRUCTURES

3.3.1 Applicability. This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

3.3.2 Nonconforming Uses. The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, less detrimental, nonconforming use.

3.3.3 Nonconforming Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

1. Reconstructed, extended or structurally changed;
2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

3.3.4 Variance Required. Except as provided in subsection 3.3.5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

3.3.5 Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure.

The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

1. New construction, alteration or renovation of, but not limited to, a deck, porch, patio, entryway, addition, attached garage, garden shed or accessory building provided the proposed work provides the minimum front setback of twenty-five (25') feet, and the side and rear setbacks not less than fifteen (15') feet from the lot line. Front setback is to be measured from the street right-of-way line where a plan of the way is on file with the Registry of Deeds, or in absence of such plan from a line which begins twenty-five (25') feet from and parallel with the center line of the right-of-way.

2. Reconstruction, replacement or renovation of existing non-conforming structures within the exact same footprints and building height.

In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood

3.3.6 Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law.

3.3.7 Reconstruction after Catastrophe or Demolition. A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

1. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.

2. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure, and shall meet all applicable requirements for yards, setback, and height.

3. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located

other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

3.3.8 Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

3.4 TEMPORARY USES. All temporary uses shall require the issuance of a permit from the Board of Selectmen and shall not be authorized for more than six (6) consecutive months; provided, however, that a tag sale shall obtain a permit only from the Town Clerk. An appropriate fee may be required.

SECTION 4.0 DIMENSIONAL REQUIREMENTS

4.1 GENERAL. Any building or structure used for dwelling purposes or housing a principal permitted use shall be so located on a lot as to meet the following requirements:

4.1.1 Residential District

1. The lot area shall not be less than one (1) acre and the frontage not less than one hundred fifty (150) feet.
2. The minimum front setback for any structure or building shall be thirty-five (35) feet, and the side and rear setbacks not less than twenty-five (25) feet from the lot line. Front setback is to be measured from the street right-of-way line where a plan of the way is on file with the Registry of Deeds, or in the absence of such plan from a line twenty-five (25) feet from and parallel with the center line of the travel way.
3. An accessory building may be constructed in the minimum side or rear setback area but not within ten (10) feet of a property line.
4. No more than one principal building shall be located on a lot.
5. No business use in the R-40 District shall have more than 5,000 square feet of gross floor area.

4.1.2 Village District

1. The lot area shall not be less than 20,000 square feet and the frontage shall not be less than one hundred (100) feet for residential uses, and sixty (60) feet for non-residential uses.
2. The minimum front setback for any residential structure or building shall be thirty five (35) feet, and the side and rear setbacks not less than twenty five (25) feet from the lot line. Front setback is to be measured from the street right-of-way line where a plan of the way is on file with the Registry of Deeds, or in the absence of such plan from a line twenty five (25) feet from and parallel with the center line of the travel way.
3. The minimum front setback for any non-residential structure or building shall be ten (10) feet, and the side and rear setbacks not less than ten (10) feet from the lot line.
4. No more than one (1) principal building shall be located on a lot, except as otherwise authorized herein.
5. Minimum lot size may be reduced by a maximum of fifty (50) percent if the lot is serviced by the Town of Otis Sewer District.
6. No business use in the V-I District shall have more than 10,000 square feet of gross floor area.
7. In the event a premises is being used both for residential and non-residential purposes, the restrictions pertinent to the Principal Use of the premises shall govern.

4.1.3 Special Rules

1. Lot frontage may be reduced to fifty (50) feet by grant of a special permit from the Planning Board where such lot is located on a Residential Compound Definitive Subdivision Plan.
2. Minimum Lot Area. When the distance between any two points on lot lines is less than fifty (50) feet measured in a straight line, the smaller portion of the lot which is bounded by such straight line and such lot lines shall not be used to compute lot area unless the distance along such lot lines between the two points is less than one hundred fifty feet. See Appendix B, Diagrams.
3. Minimum Lot Width. Each lot shall have a width of not less than eighty percent (80%) of the required frontage at all points between the sidelines and the front line of the principal building on the lot. See Appendix B, Diagrams.

4.2 ACCESSORY STRUCTURES

4.2.1 General

1. No accessory building or structure shall be located within the required front yard area.
2. No accessory building shall be located in any side yard nearer to the side lot line than ten (10) feet, or in a rear yard nearer to the rear lot line than ten (10) feet. Lots located on the corner of the street, road or public way will require that no accessory building be located in any side yard nearer to the side line than twenty-five (25) feet.
3. Prior to the construction of an accessory building or structure, a building permit shall be obtained from the Building Inspector.
4. Within the V-1 Village District, Site Plan Approval will also be required from the Planning Board.

4.2.2 Special Rules

1. An accessory building attached to its principal building or within ten (10) feet of it shall be considered an integral part thereof and as such shall be subject to the front, side, and rear yard requirements applicable to the principal building.
2. Accessory structures and buildings shall be located on the same lot as the principal structure on the premises.
3. Accessory building not more than 20 feet in height above the average grade level around the structure shall be permitted by right. Barns for agricultural use shall not be subject to this requirement.

4. Accessory building more than 20 feet but less than 35 feet in height above the average grade level around the structure shall be permitted by special permit of the Planning Board. Barns for agricultural use shall not be subject to this requirement.

5. Flag poles of a height not to exceed 35 feet are permitted and shall be exempt from the setback requirements of this Section.

6. Swimming pools, game courts, and the like are accessory structures and shall comply with the State Building Code and all applicable setback requirements of this Zoning ByLaw.

4.2.3 Fences. A property owner may erect directly on the boundary lines(s) a solid type fence (including, but not limited to stockade, board and batten, brick, masonry) in excess of 48" (4') in height, providing the following requirements are met prior to construction. This regulation does not apply to fences other than solid types or to any type offence less than 48" (4') in height (including, but not limited to split rail, picket, farm, wire, chain link, metal mesh, brick, masonry). No building permit is required for any fences less than 48" (4') in height.

1. A building permit is obtained from the Building Inspector;

2. A plot plan identifying the boundary line(s) with applicable measurements is submitted with application. Acceptable are a plot plan drawn to scale or a professionally surveyed plot plan.

3. Under no circumstances may a fence of any height be constructed on an abutter(s)' property without written consent of the owner(s).

4. Construction of any fence in excess of 72" (6') in height must be approved by the Zoning Board of Appeals by Special Permit. Maximum height of any type of fence to be allowed is 8'.

5. Repair and replacement offences in existence prior to the date of this By-Law is allowed providing the fence is placed in the same location and constructed of the same type material.

6. Privacy fences not to exceed 8' (including but not limited to fences around decks or patios and storage areas) may be allowed providing minimum set backs from all boundary lines and roads are the same as set forth herein.

7. The Building Inspector shall serve as Fence Viewer to resolve disputes and enforce this By-Law.

8. Applicants are advised that certain fences in wetlands or stream buffer areas may require approval from the Conservation Commission.

4.2.4 Prohibited Accessory Structures. In the Residential Districts, the following accessory structures are prohibited, unless, in the case of a lawful business use, a special permit is granted from the Board of Appeals:

1. Convex box;
2. Steel storage unit.

4.3 RETAIL BUSINESSES. Retail business or consumer service establishment, including but not limited to food store, barber or beauty shop, antique shop, tavern, restaurant, eating establishment, automotive repair shop, gasoline service station, bank or other office use, is subject to the following special requirements:

4.3.1 Parking. The lot shall be sufficient in size so as to provide suitable off-street parking area with adequate disposal of storm water, capable of accommodating parked vehicles as required by Section 5.1 of this By-Law.

4.3.2 Setback from Residential Lot. No commercial building, structure, parking area or driveway providing access to or from a public way for such use shall be located within fifty (50) feet of any side or rear property line, if a residential use is located on the immediately adjacent property.

4.3.3 Setback from Nonresidential Lot. If a non-residential use is located on the immediately adjacent property, or parking area or driveway providing access to or from a public way for such use shall be located closer than 10 feet from any side or rear property line.

4.4 MULTIFAMILY DWELLINGS. Not more than one multifamily dwelling shall be located or constructed on a lot or set of contiguous lots held in common ownership as of the effective date of this by-law.

SECTION 5.0 GENERAL REGULATIONS

5.1 PARKING REQUIREMENTS

5.1.1 Parking Spaces Required. Off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, and the development of a new use or any change in an existing use, in accordance with the following schedule:

PRINCIPAL USE	REQUIRED SPACES
Hotel or Bed and Breakfast	One (1) parking space for each sleeping room
Home Occupation, Office or Roadside Stand	One (1) space for each non-resident employee plus adequate off-street parking for clients or customers
V-1 Village District	One (1) parking space for each 500 feet of gross floor area plus adequate space for employees, service and supply vehicles
Multiple-Family Dwelling	One and a half (1 1/2) parking spaces for each dwelling unit and adequate space for service and supply vehicles
Eating Establishment	One (1) space for each three (3) seats based on the legal capacity of the facility plus adequate space for employees

5.1.2 Special Permit. The minimum number of required off-street parking spaces may be reduced by special permit from the Zoning Board of Appeals upon determination that special circumstances render a lesser provision adequate for the parking needs in any particular case.

5.1.3 Standard Parking Space. An area often (10) feet by twenty (20) square feet, exclusive of drives or aisles, shall be considered as one (1) standard off-street parking space.

5.1.4 Access. All required parking spaces shall be provided with unobstructed access to and from a street and shall be properly maintained in such a manner as to permit them to be used at all times.

5.1.5 Screening. Within the V-I Village District parking shall be screened from adjacent residential properties and should be located in an unobtrusive location on the side and rear of the property where possible.

5.2 SIGNS

5.2.1 General Regulations.

1. No sign shall use moving parts, noise making devices, or blinking, rotating, or flashing lights, or lights changing in light intensity, and no sign shall be placed on the roof of any building or structure, or extend above the parapet or eave line.
2. No sign or light shall be placed so as to constitute a traffic hazard or nuisance.
3. A free-standing sign may not exceed twenty (20) feet in height above grade or be closer to the front property line than twenty (20) feet, except with a special permit from the Zoning Board of Appeals where the Board finds that requirements of the particular location dictate greater height or smaller setback.
4. No sign shall be located off the premises to which it applies, except that directional, informational or identification signs may be allowed by special permit by the Zoning Board of Appeals where such signs will serve the public convenience and not be detrimental to the neighborhood with respect to size, location or design. Such signs shall not exceed three (3) square feet.

5.2.2 Temporary Signs. Temporary signs which do not comply with this By-Law may be authorized by the Zoning Enforcement Officer for special events. The Zoning Board of Appeals may, at their discretion, require the posting of a bond or cash deposit large enough to cover the cost of removal of temporary signs if such signs are not removed promptly after termination of the advertised event by the sponsors.

5.2.3 Grandfathered Signs. Signs legally erected before the adoption of this By-Law which do not conform to the provisions of this By-Law may continue to be maintained without a permit, provided, however, that no such sign shall be permitted if, after the adoption of this By-Law, it is enlarged, redesigned or altered in any substantial way, except to conform to the requirements of this By-Law.

5.2.4 Abandoned Signs. Any sign, which has been abandoned or advertises any product or activity, which is no longer, sold or carried on must be removed within thirty (30) days by the owner of the premises after notice to that effect from the Zoning Board of Appeals.

5.2.5 Permitted Signs. The following signs may be displayed in any district subject to regulations contained in the By-Law:

1. At a residential use, one sign not over two (2) square feet in area, showing the name of the occupants.
2. At religious, educational or philanthropic institutions, library, museum, art gallery, or building or area for municipal or government use or service one sign each entrance.
3. A temporary, unlighted sign not over four (4) square feet in area pertaining to lease or sale of the property on which it is displayed.

4. At each entrance to a farm orchard, commercial greenhouse, nursery, truck garden, woodlot, or roadside farm stand permitted or authorized under this By-Law, one sign, one sign, not to exceed six (6) square feet in area.

5. For a use on a residential property, one sign not over three (3) square feet in area.

5.2.6 Signs Authorized by Special Permit. The following signs may be displayed with a Special Permit from the Zoning Board of Appeals:

1. On property in R-40 Residential devoted to use authorized by Special Permit, one sign not exceeding six (6) square feet in total area.

2. Off-premises signage.

3. Within the V-I Village District each business is permitted two (2) signs not to exceed twenty-four (24) square feet in total combined area. Signs may be freestanding or attached flat against the wall of the building. Freestanding signs may not exceed four (4) square feet.

4. On multiple business use lots there is permitted one (1) directory sign per lot not exceeding twenty-four (24) square feet in area for all business establishments or uses on the lot, and not exceeding twelve (12) square feet for anyone business establishment or use on the lot.

Billboards are prohibited.

5.3 DRIVEWAY REGULATIONS

5.3.1 All Driveways. For the purpose of promoting the safety of the residents of the Town, an application for a building permit for a residential structure shall include the following information:

1. A plan, at a scale of 1" = 100 ft., showing the driveway serving the premises and showing approximate grade and distance.

2. A description of the proposed construction as far as it encroaches upon or affects the way and its shoulders, banks, ditches, drainage and other features.

3. Proposed measures to reduce, disperse and delay the runoff or otherwise protect the traveled way.

The building permit shall only be issued if the proposed driveway shows due consideration of traffic hazards and drainage problems which might result. The building permit shall be issued or denied within 30 days of application. All driveways shall be constructed in a manner ensuring reasonable and safe access from the public way serving the premises to within a distance of 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles. The Building Inspector shall not issue a building permit for the principal structure on the premises unless all of the following

conditions have been met.

5.3.2 All Driveways; Conditions.

1. **Maximum Distance.** The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of five hundred (500) feet; provided, however, the Planning Board may grant a special permit for a longer driveway after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.
2. **Grade.** The grade of each driveway where it intersects with the public way shall not exceed six percent (6%) for a distance of 20 feet from the travel surface of the public way, or ten percent (10%) at any other location; provided, however, the Planning Board may grant a special permit for a driveway with grade in excess of these requirements after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.
3. **Access.** Driveways serving the premises shall provide access through the required frontage of the serviced lot, except in the case of a "common driveway" under Section 6, herein.
4. **Entrances on state highways** shall conform to Massachusetts Department of Public Works Standards and Regulations.
5. Any adjacent disturbed areas shall be stabilized and planted with ground cover returned to a useable state after construction is completed.
6. No driveway shall be approved within 100 feet of an intersection because of potential safety hazards, except by grant of a special permit.
7. A clear sight distance of at least sixty-five (65) feet should be maintained on either side of the driveway at its point of intersection with the public way with Highway Superintendent approval.
8. Driveways shall be so constructed that water from the driveway shall not drain onto the road.
9. In no instance shall the edges of the driveway entering into the road conflict with the flow of the surface water runoff.
10. Culverts taking the place of roadside ditches shall have as a diameter per Highway Department requirements.

5.3.3 Common Driveways. Common driveways serving not more than three (3) lots may be allowed on special permit by the Planning Board. A common driveway must satisfy all of the conditions of Section 5.3.2 and all of the following conditions:

1. Common driveways can never be used to satisfy subdivision requirements. Each lot served shall have frontage on a way which serves to satisfy frontage requirements under this By-Law.
2. Common driveways shall provide access to the lots from the way on which the lots served have their frontage.

3. No common driveway shall be located within 100 feet of an intersection
4. Driveways shall be located to the best advantage with regard to alignments with the way, profile, sight distance conditions and the like.
5. The elevation of driveways at the point of entry into the public right of way should be not more than the elevation of the shoulder of the road
6. Any curb at the entrance shall be rounded off with a radius of three (3) feet.
7. Wherever possible, driveways should be pitched downward from the roadway. However, where topography prevents the driveway from being pitched downward in its entirety, the driveway must be constructed on a downgrade from the road surface to the sideline of the town right of way with a pitch of at least one-quarter ($1/4$) inch per foot. From the sideline the driveway may be pitched toward the roadway; however, in no instance shall a driveway have a pitch toward the roadway of greater than one (1) inch per foot, unless adequate provisions have been made and approved by the Highway Superintendent for the diversion of driveway surface runoff away from the roadway. The Highway Superintendent may require methods of diversions for driveways having a pitch of less than one (1) inch per foot if the proposed driveway construction will result in an excess accumulation of surface water in the way.
8. Driveways should be located to the best advantage to alignment with the way, profile, sight distance conditions and the like. In no instance shall the driveway intersect the way at less than a sixty (60) degree angle. Unless there is no other alternative, a driveway should not be located within a required side yard
9. A minimum cleared width of 16 feet shall be maintained over its entire length.
10. A roadway surface of a minimum of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed.
11. Proposed documents shall be submitted to the Planning Board demonstrating that, through easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.
12. Any person aggrieved by a decision of the Planning Board pursuant to this Section may appeal said Decision to the Zoning Board of Appeals within twenty (20) days from the date of the order or decision being appealed, by filing an application for appeal on an official form of the Town of Otis, specifying the grounds for the appeal therein. Said application for appeal shall be filed with the town clerk, who shall forthwith transmit copies thereof to the members of the board of appeals.

The Zoning Board of Appeals shall hold a hearing on said Application for appeal within sixty (60) days from the filing thereof, and shall uphold the decision of the Planning Board unless the Applicant establishes by clear and convincing evidence that said decision of the Planning Board was based upon an error of law, was arbitrary and capricious, was unsupported by substantial evidence, or was otherwise not in accordance with law. Any person aggrieved by a decision of the Zoning Board of Appeals pursuant to this Section may appeal said Decision to a court of competent jurisdiction within twenty (20) days from the date of the order or decision being appealed, in accordance with G.L. c. 40A, § 17.

SECTION 6.0 SPECIAL REGULATIONS

6.1 BED AND BREAKFAST REQUIREMENTS

6.1.1 Purpose. This By-Law regulates bed and breakfast uses to achieve the following purposes:

1. To encourage the utilization of over-sized homes which because of their size or functional obsolescence are costly and/or difficult to maintain as private residences. To further provide an economic incentive to maintain and to rehabilitate older, larger, uneconomic or obsolete structures.
2. To maintain and preserve the rural residential character, integrity and neighborhood attributes of the Town of Otis.
3. To regulate Bed and Breakfast uses to ensure sensitivity and compatibility with the surrounding neighborhoods in residentially zoned districts through minimizing adverse impacts on neighboring residential uses.
4. To strengthen the economic base of the Town of Otis by allowing Bed & Breakfast Establishments and Bed & Breakfast Inns and reinforce residential neighborhood viability without reducing residential characteristics.

6.1.2 Applicability

1. Within the V-I Village District, the conversion of an existing residence into or construction of a Homestay or Bed and Breakfast Establishment shall require site plan approval for the Planning Board. Construction of a Bed and Breakfast Inn or Bed and Breakfast Country Inn shall require a special permit from the Zoning Board of Appeals.
2. Within the R-40 District, the construction or conversion of an existing residential structure to a Bed and Breakfast Inn and Bed and Breakfast Country Inn shall require a special permit from the Zoning Board of Appeals. The construction of a Homestay or Bed or Breakfast Establishment shall not require site plan approval or a special permit.

6.1.3 Conditions. All establishments shall meet the following conditions:

1. Any Bed and Breakfast use shall require one off street parking space for each guest room available for rent, and one for the resident owner. The size, location and screening of such parking spaces shall be approved during the permitting process giving due consideration to the residential neighborhood characteristic, emphasizing the need to concentrate parking in as unobtrusive location on the property as possible.

2. Parking areas and exterior recreational facilities such as swimming pools and tennis courts if not located so as to be unobtrusive shall be screened from view by planting, fences or other suitable method.
3. To the extent practicable fire escapes or other outside stairways shall be located on the rear or side and shall not be located on the side of the building that faces a street.
4. Kitchen facilities will be permitted only in a single central unit to serve both the resident owners and the guests.
5. Exterior lighting shall be so directed or shaded as to prevent direct illumination of off premises property. All external lighting except for demonstrated security needs shall be extinguished by 10:00 PM.
6. Applicants shall provide such sketches, drawings or plans necessary to illustrate conformance to the requirements of this By-Law. It may be necessary, at the discretion of the reviewing board, to have the required plans prepared by registered land surveyors, architects or engineers.
7. New Bed and Breakfast operations served by an existing septic system or existing Bed and Breakfast establishments proposing to expand facilities shall not be granted approval for operation until the Board of Health confirms compliance with inspection and/or design requirements under State Environmental Code Title 5 Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

6.2 TRAILERS AND MOBILE HOMES

6.2.1 Special Permit. The Zoning Board of Appeals may grant a special permit for a travel trailer or mobile home provided the following conditions are met.

6.2.2 Conditions

1. Said permit shall not extend longer than one (1) year.
2. The travel trailer or mobile home is to be used as temporary living quarters by the owner of the premises.
3. The owner is in the process of constructing a dwelling as a separate structure on the lot.
4. The owner shall comply with all provisions of the State Environmental Code, Title 5 and with regulations of the Board of Health.
5. Said travel trailer or mobile home is not injurious, offensive, or noxious.

6.2.3 Exemption. Notwithstanding these provisions, nothing shall prevent a travel, camping or boat trailer, or self-contained motor home or mobile home from being parked on the owner's premises, provided that the wheels remain intact on the vehicle and mobility is maintained; and provided that said trailers, motor homes or mobile homes are not occupied as dwellings units or used commercially for any other purpose at any time.

6.2.4 Replacement. Nothing herein shall prevent an existing mobile home, currently being used for residential purposes from being replaced with another unit, provided that residency has not been discontinued for a period of two years. If the footprint of the replacement mobile home has a footprint more than 25% larger than the existing mobile home, a Special Permit shall be required.

6.3 NON-MUNICIPAL EDUCATIONAL AND RELIGIOUS USE

6.3.1 General. Any non-municipal educational use or any religious use is subject to the following regulations.

6.3.2 Screening. Parking area shall be screened from roads and adjoining properties by one of the following methods:

1. Plant materials, at least three (3) feet in height at the time of planting, which are of a type that may be expected to form a year-round dense screen and will reach a height in maturity of at least five (5) feet.
2. A masonry wall or wooden or fabricated fence from five to six feet in height at least 50% solid design in an attractive manner to obscure any view.
3. Any existing growth of trees and shrubs if in the judgment of the Building Inspector, such growth provides equivalent screening.

6.3.3 Parking Requirements

1. Parking areas shall be within three hundred (300) feet of the building to be served.
2. Parking areas shall have the following number of required spaces:
Places of assembly: One (1) space for every three (3) seats.
Classrooms and/or dormitories:

Grades 1-10: one (1) space for each staff member Grades 10-12: one (1) space for each staff member plus one (1) space for every two (2) students College: one (1) space for each staff member plus two (2) spaces for every three (3) students.

6.4 JUNK CARS. No unregistered and dilapidated motor vehicle or part thereof shall be permitted to stand for more than thirty (30) days on any premises unlicensed under Massachusetts General Laws, Chapter 140 Section 57 unless said vehicle or part is not visible from any adjoining property or way. It is the Zoning Enforcement Officer, whose judgment shall be final, who will determine whether such unregistered motor vehicle is dilapidated for the purposes of this By-Law.

6.5 WIRELESS COMMUNICATION FACILITIES

6.5.1 Purpose. The purpose of this By-Law is to establish guidelines and the special permitting process for the siting of wireless communications facilities, towers and antennas and to

1. Minimize adverse impacts of wireless communication facilities, satellite dishes and antennas on abutting properties, residential neighborhoods, traveled ways and area of historic or high scenic value;
2. Encourage the location of towers and antennas, to the extent possible, in areas where adverse impact on the community is minimal;
3. Encourage strongly the shared use of new and existing tower sites and to minimize the overall number and height of such facilities to only what is essential;
4. Encourage users of towers and antenna; and
5. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

6.5.2 Definitions. The following terms shall be as defined:

ALTERNATIVE TOWER STRUCTURE: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ACT: The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communications Act of 1934 and 1996.

ANTENNA: Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas, such as whips by not including satellite earth stations.

ANTENNA HEIGHT: The vertical distance measured from the base of the support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ANTENNA SUPPORT STRUCTURE: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

CAMOUFLAGED ANTENNA: An antenna and support structure that is manufactured as to be modeled after and mimic a tree. The support pole would look like "bark" and the antennas would be concealed as "branches".

DISH ANTENNA: A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

DISTANCE: shall be measured on a horizontal plane. **EFFECTIVE RADIATED POWER (ERP):** The product of the antenna power input and the numerically equal antenna power gain.

FAA: the Federal Aviation Administration.

FCC: the Federal Communications Commission.

GROUND STRUCTURE: a wireless communications structure anchored to the ground.

GOVERNING AUTHORITY: the governing authority of the Town of Otis.

HEIGHT: the distance measured from ground level to the highest point on the structure.

LATTICE TOWER: A guyed or self-supporting three or four sided, open, steel frame structure, used to support telecommunications equipment.

LICENSE: The rights and obligations extended by the Town to an operator to own, construct, maintain, and operate its system within the boundaries of the Town.

MONOPOLE TOWER: A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

NON-RESIDENTIAL STRUCTURE: Such structures as, but not limited to, buildings, grain silos, and water towers, but does not include houses, or apartments.

ROOF STRUCTURE: A wireless communication structure mounted on a foot of a building or the top of a water tower.

SELF SUPPORT TOWER: A communication tower that is constructed without guy wires and ground anchors.

TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting, lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative towers structures, and the like.

WIRELESS COMMUNICATION BUILDING: Any building or shelter used to house equipment primarily for the installation and operation of equipment for generating and erecting electromagnetic radiation, and is an accessory to a wireless communication structure.

WIRELESS COMMUNICATION DEVICE: Any antenna, appurtenance, wiring or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

WIRELESS COMMUNICATION FACILITY: Term to include wireless communication building, wireless communication device, and wireless communication structure.

WIRELESS COMMUNICATION STRUCTURE: Any structure or tower intended to support equipment used for the transmission and reception of electromagnetic radiation, including the antennas, wiring or other devices attached to or mounted on a structure.

6.5.3 Exemptions. The following shall be exempt from this By-Law:

1. Wireless communication facilities used for Town or State emergency services.
2. Amateur radio towers in compliance with the terms of any amateur radio service licensed by the FCC and used solely for that purpose.
3. Wireless communication structures and devices used expressly for home television and radio reception.

6.5.4 General Guidelines

1. No wireless communication facility shall be erected, constructed, or installed without a special permit from the Zoning Board of Appeals.
2. Only free-standing monopoles with associated antenna are allowed. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.
3. Alternative Town Structures and Camouflage Antennas shall be preferred over all other types of wireless communication structure and antennas as to minimize adverse impacts on abutting properties, residential neighborhoods, village centers, traveled ways and areas of historic or scenic value.

4. Wherever feasible, wireless communication devices shall be located on existing towers or other non-residential structures, minimizing proliferation of new towers.
5. Wireless communication structures shall be built so that the structural integrity of the facility is able to accommodate devices operated by another carrier with little or no modification.
6. Wireless communication buildings shall be no larger than 500 square feet and 12 feet high, shall be designed to match other accessory buildings on the site, and shall be used only for the housing of equipment related to this particular site.

6.5.5 Siting and Height Requirements

1. Setbacks

- A. The minimum distance from the base of the wireless communication structure to any property line or road right-of-way shall be at least 1.5 times the height of the structure to ensure adequate fall zone.
- B. The setbacks for the wireless communication building shall comply with the setback requirements for the zoning district.
- C. The wireless communication structure shall be a minimum distance of three times the height from school buildings, playgrounds, athletics fields, and abutting residences to prevent the structure from appearing to "tower" over, adversely affecting property values.
- D. No tower shall be situated within 600 feet of any residential structure.

2. The height shall be the minimum height necessary to accommodate anticipated and future use.

3. Wireless communication structures are encouraged on State or Town owned lands, provided that said lands are not subject to the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts. If facilities predating this By-Law exist on such lands, the shared use of such facilities is encouraged.

4. The wireless communication structure shall, when possible, be sited off ridgelines and where their visual impact is the least detrimental to the general character of the community, or valuable historic and or scenic resources.

6.5.6 Relation to Existing Facilities. No new wireless communication structure shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Zoning Board of Appeals that no existing wireless communication structure can accommodate the Applicant's proposed wireless communication device. Evidence submitted to demonstrate that no existing structure can accommodate the applicant's proposed device may consist of any of the following:

1. No existing wireless communication structures or non-residential structures are located within the geographic area required to meet the applicant's engineering requirements.
2. Existing wireless communication structures or non-residential structures are not of sufficient height to meet the applicant's requirements.
3. Existing wireless communication structures or non-residential structures do not have sufficient structural strength or cannot be brought up to appropriate strength to support the proposed wireless communication device.
4. The proposed wireless communication device would cause electromagnetic interference with the existing devices on the site, or the existing devices would cause interference with the proposed wireless communication device.
5. The fee, costs, or contractual provisions required by the owner in order to share an existing wireless communication structure or to adapt an existing structure for use are unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing structures unreasonable.

6.5.7 Design Requirements.

1. Wireless communication structures shall be designed to accommodate the maximum numbers of users as technologically possible.
2. There shall be no signs or advertisements, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.
3. All wireless communication devices shall be colored, molded, and/or installed to blend into the structure and/or the landscape.
4. The facility shall be fenced to control access to the tower structure, and accessory buildings. Fencing shall be between six (6') and eight feet (8') high. Fencing may be protective in nature, but shall not include a spun barbed wire design. A landscape buffer of evergreen shrubs or tree planting shall be provided on the outside of the fenced area. The shrub or tree planting shall mature to a minimum height to the fence height and be planted at a height of at least four feet (4').
5. Night lighting of the facility shall be prohibited unless required by the FAA. If required by the FAA, a copy of the FAA permit requiring lighting shall be submitted with the application.
6. There shall be a minimum of one parking space for each facility to be used in connection with maintenance of the site and not to be used for the storage of vehicles or other equipment.
7. Existing on-site vegetation shall be preserved to the maximum extent possible.

8. Vegetative screening shall be used to screen the facility from abutting residential properties and roadways. Plants that fit in with the surrounding natural vegetation shall be used.

6.5.8 Application Process. Application for a special permit for siting wireless communication facilities shall be filed in accordance with the rules and regulations already established in the Town's By-Laws and with the Zoning Board of Appeals. In the case of a proposal for siting a new wireless communication structure, the Zoning Board of Appeals shall hold a public hearing within sixty-five days of filing of an application and shall issue a decision within ninety days following the date of the public hearing.

A. TO SITE A NEW WIRELESS COMMUNICATION STRUCTURE, the Applicant shall submit:

1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1" = 40' or 1" = 200' where appropriate, on as many sheets as necessary, which show the following:

- a. North arrow, date, scale, seal(s) of the licensed professional(s) who prepared plans and space for reviewing licensed engineer's seal;
- b. Name and address of landowner and name and address of abutters;
- c. Property lines and location of permanent structures or buildings, within 600-foot radius of proposed wireless communication structure;
- d. Existing (from a topographical survey completed within two (2) years of application submittal date by a professional surveyor licensed to practice in Massachusetts) and proposed contour lines at a maximum of 2-foot intervals and spot elevations at base of all the proposed and existing structures;
- e. Vegetation to be removed or altered;
- f. Plans for drainage of surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;
- g. Delineation of wetlands, if any;
- h. Location of wireless communication structure, including supports or guy wires, if any;
- j. Plans for anchoring and supporting the structure, including specifications of hardware and all other building material;
- j. Plans for accessory buildings; and
- k. Layout and details of surfacing for access road and parking;
- l. Amenities such as lighting, fencing, and landscaping;

- m. Four view lines in a one to three-mile radius of the site, beginning at True North and continuing clockwise at ninety-degree intervals, plus additional view lines from any historic, scenic, or other prominent area of Town determined by the Zoning Board of Appeals;
 - n. Plans for a well or other water source, if any;
 - o. Plans for septic system, if any;
 - p. Plans for maintenance of roads necessary to access and maintain the property.
2. A map showing the areas covered/served by the proposed wireless communication structure and device of different signal strengths, and the interface with adjacent service areas.
3. A locus map at a scale 1" =1000' or larger if necessary, to show where in town the proposed tower is sited, which shall show streets, buildings, and landscape feature.
4. A description of the soil and surficial geology at the proposed site.
5. A narrative report written by the carrier and licensed professional engineer which shall:
- a. Describe the justification of proposed site;
 - b. Describe the structure and the technical, economic, and other reasons for the facility design;
 - c. Describe the capacity of the structure, including the number and type of additional facilities it can accommodate;
 - d. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC and/or the Act;
 - e. Describe the projected future needs of the carrier, and how the proposed wireless communications facilities fit with future projections to serve the Town and adjacent towns;
 - f. Describe leasing agreement should another carrier desire to co-locate;
 - g. Describe special design features to minimize the visual impact of the proposed wireless communication facility; and
 - h. Describe other carriers' purpose should they co-locate.
6. Proof of approval of all other necessary permits needed for construction and operation, other than the building permit, as the special permit granted by the Zoning Board of Appeals is required before the issue of the building permit.
7. Written authorization or copy of contract from property owner of the proposed tower site.

8. After the application is submitted, and not less than 14 days or more than 21 days before the public hearing, the applicant shall arrange to fly a four-foot-diameter balloon at the site of the proposed wireless communication structure at the maximum height of the proposed installation, to photograph from various locations the balloon and then superimpose a tower at that height for visualization purposes. The date and location of the flight shall be advertised at least 14 days, but not more than 21 days before the flights, and again in the public hearing advertisement in a newspaper with a general circulation in the town.

B. TO SITE A WIRELESS COMMUNICATION DEVICE ON EXISTING WIRELESS COMMUNICATION STRUCTURES OR NON-RESIDENTIAL STRUCTURES, such as buildings, grain silos, steeples, water towers or other non-residential structures, including co-location with another carrier, provided that the new use does not add to the height of the structure, the Applicant shall submit:

1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1" = 40' or 1" = 200' on as many sheets as necessary which shows the following:

- a. North arrow, date, scale, the seal of the licensed professionals who prepared the plans and a space for the reviewing licensed engineer's seal;
- b. Plans for supporting and attaching the device including specifications of hardware and all other building material;
- c. Building plans for accessory buildings, if any;
- d. Layout and details of surfacing for access road and parking, if it is to be altered from existing condition.

2. A map showing the areas covered by proposed device(s) of different signal strengths and the interference with adjacent service areas.

3. A locus map at a scale of 1" = 1000' or larger if necessary, to show where in town the proposed device is sited, which shall show streets, buildings, and landscape features.

4. A narrative report written by the carrier and licensed professional engineer which shall:

- a. Include a copy of the contract between the structure / building owner (whichever appropriate) and the Applicant;
- b. Demonstrate that the wireless communication structure or non-residential structure to which the device will be mounted has the structural integrity to support such device;
- c. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC and/or Act;
- d. Describe the projected future needs of the carrier, and how the proposed facility fits with future projections.

5. Proof of approval of all other necessary permits needed for construction and operation, other than the building permit, as the special permit granted by the Zoning Board of Appeals is required before the issue of the building permit.

6. If the proposed facility adds more than five feet to the height of the structure at the effective date of this By-Law, the Zoning Board of Appeals may require a balloon test as described above.

6.5.9 Inventory of Existing Sites. Each applicant shall provide to the Zoning Board of Appeals an inventory of its existing tower facilities that are either within the jurisdiction of the governing authority or within one mile of the border thereof, including specifying information about the location, height and design of each tower facility. The Planning Board and Zoning Board of Appeals may share such information with other applicants applying for administrative approvals or special permits under this By-Law or other organizations seeking to locate facilities within the jurisdiction of the governing authority, provided however, that the Planning and Zoning Board of Appeals are not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

6.5.10 Review by Other Boards. The above information shall be submitted along with the regular application form to the following: 1 copy to the Building Inspector, 1 copy to the Fire Chief, 2 copies to the Planning Board, and 5 copies to the Zoning Board.

6.5.11 Third Party Review. In certain instances, there may be need for expert review by a third party of the technical data submitted by an applicant. The Zoning Board of Appeals or Governing Authority may require such technical, to be paid for by the applicant as set forth in G.L. c. 4, s. 53G. Review is intended to report on technical aspects of the proposed location but not to provide a subjective review of the site requested. Review will address accuracy, completeness, applicability, and validity of the data submitted.

6.5.12 Approval. In granting a special permit for wireless communication facilities, in addition to the findings required by the Town's Zoning By-Law for Special Permits, the Zoning Board of Appeals shall determine:

1. That the Applicant has demonstrated to its satisfaction that the requirements of this By-Law have been met.
2. That the size and height of the structure is the minimum necessary.
3. That the proposed wireless communication facilities will not adversely impact historic structures or scenic views.
4. That there are no feasible alternatives to the location of the proposed wireless communication facilities, including co-location, that would minimize their impact, and the applicant has exercised good faith in permitting future co-location of facilities at the site.
5. That due to its proximity to residential dwellings, there will be minimum detriment to

such residences.

6.5.13 Modification. Any extension, or construction of new or replacement towers or transmitters shall be subject to an amendment to the Special Permit, following the same procedure as siting a new wireless communication device on an existing structure.

6.5.14 Review. Any special permit for wireless communications facilities will be reviewed every five (5) years. If after review, all conditions regulating said permit are in compliance, then the Special Permit will be renewed for an additional five (5) years.

6.5.15 Conditions of Use

1. The applicant shall post an initial bond or other security to cover construction costs and an annual maintenance bond to cover maintenance for the access road, site, and structure(s) and to cover the removal of facility in the event of non-operation in an amount approved by the Zoning Board of Appeals. An access road may include existing town roads not designed for heavy traffic.

2. Regulatory Compliance: All towers, antennas and transmitters must meet or exceed current standards and regulations of the FAA, the FCC, the Environmental Protection Agency, the American National Standards Institute, the Institute of Electrical and Electronics Engineers, the National Council on Radiation protection and Measurements, and any other agency of the federal government with the authority to regulate towers, antennas, and transmitters.

3. Inspections will be conducted at least every 24 months, or earlier if a more stringent compliance schedule is mandated by another agency, to assure continuing compliance. The tower shall be inspected by an expert-structural engineer who is regularly involved in the maintenance, inspection and/or erection of communication towers, demonstrating structural integrity and continuing compliance with current standards. At a minimum, this inspection shall be conducted in accordance with the tower inspection check list

provided in the Electronics Industries Association (EIA) Standard 222, "Structural Standard for Steel Antenna Towers and Antenna Support Structures".

4. Transmitters shall be inspected by an expert engineer who is regularly involved in the maintenance and inspection of such facilities. An engineers certification that levels of electromagnetic radiation (EMR), radio frequency (RF) emissions, to be generated by the facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the maximum permissible exposure (MPE) limits for the electric and magnetic field strength and power flux density for transmitters and facilities within the guidelines established by the FCC and as required by Section 704 of the Telecommunications Act of 1996 and its amendments. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antennas.

5. A copy of such inspection records shall be filed with the Building Inspector and the Planning Board by the Special Permit Holder, and may be reviewed by a licensed professional engineer hired by the town and paid for by the Special Permit Holder.

6. If the FCC, the FAA or other agency regulations are changed, the owner or operator shall bring the facilities into compliance within six months or earlier if a more stringent compliance schedule is included in the regulation.

7. Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings, devices at the owner's expense.

6.5.16 Removal and Repair

1. An applicant must execute a covenant with the Zoning board of Appeals agreeing to remove, within 90 days of notice from the town, the wireless communication facility not in operation.
2. If the facility is not removed within 90 days, the Town will remove said facility at the owner's expense.
3. In the event of major damage, repair must begin within 30 days of damage. Major damage shall mean damage to the facility caused by no fault of the owner operator
4. If the device is lowered on the tower as the customer base increases and the top of the tower is no longer needed, then the non-operational part of the tower shall be taken down within 120 days.

6.5.17 Fee Structure

1. An application fee of \$120.00 (used for legal publishing and notification requirements).
2. Any additional fees as needed pertaining to special consultants specific to the Governing Authority or Zoning Board of Appeals need in reviewing information provided by the applicant (as outlined in VILE).

6.6 DUMPING OF GARBAGE, RUBBISH OR OTHER REFUSE. No person shall dump or store garbage, rubbish, junk or other refuse in any place or maintain as a dumping ground for storage, rubbish or other refuse any place, unless such place has been approved with a special permit by the Zoning Board of Appeals, and unless such place complies with all applicable health regulations. This shall not apply to those persons who wish to scientifically maintain compost for his or her own use.

SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 ACCESSORY APARTMENTS

7.1.1 Purpose. For the purposes of (a) providing small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town, (b) providing alternative housing options, and (c) enabling owners of single family dwellings larger than required for their present needs to share space and the burdens of home ownership, an accessory apartment may be allowed by special permit from the Zoning Board of Appeals, provided that each of the following conditions is met:

7.1.2 Conditions.

1. A plot plan of the existing dwelling unit and proposed accessory apartment shall be submitted to the Building Inspector, showing the location of the building on the lot, the proposed accessory apartment, location of any septic system and required parking. A mortgage inspection survey may be used to meet this requirement;
2. An affidavit shall be provided stating that one of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence;
3. The accessory apartment or the principal dwelling unit on the subject property must be occupied by the owner of the property;
4. Not more than one accessory apartment may be established on a lot. The accessory apartment shall not exceed 800 sq. ft. in gross floor space and shall be located in the principal residential structure on the premises or in a preexisting accessory structure;
5. The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure;
6. Sufficient and appropriate space for at least one (1) additional parking space shall be constructed by the owner to serve the accessory apartment. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway;
7. No permit shall be granted unless the accessory apartment conforms to the provisions of Title V of the State Sanitary Code, 310CMR 15.00.

7.1.3 Decision. Special permits for an accessory apartment may be granted by the Special Permit Granting Authority (SPGA) upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the subject property is located and after consideration of the factors set forth in Section 9.3 of this Zoning By-Law. The special permit shall expire after two (2) years; provided, however, that the special permit may be renewed by the SPGA without a public hearing if the permittee submits an affidavit to the SPGA prior to such expiration indicating that there has been no change in circumstances with regard to the accessory apartment.

7.2 HOME-BASED BUSINESSES

7.2.1 Purpose. The purpose of this section is to:

1. Permit the residents of the Town of Otis a broad choice in the use of their homes as places of livelihood and the production or supplementing of personal and family income;
2. Protect residential property values;
3. Protect residential areas from any adverse impacts associated with home-based business;
4. Ensure that the rights of neighbors and other townspeople are not compromised by intrusive, hazardous, or environmentally degrading business activities; and
5. Establish performance criteria and standards for home-based businesses that will provide fair and equitable administration and enforcement of this section.

7.2.2 Standards for All Home-Based Businesses. The following standards shall be used as requirements for all Home-based Business, whether they are Home Occupations or Cottage Industries

1. Residency Requirements. The principal residence of the owner / operator of every home-based business shall be the dwelling unit on the premises in which the business operates.
2. Parking Standards. Off-street parking for any home-based business must be provided on the premises and should be located at the side or rear of the principal building. While adequate off-street parking must be provided for all regular employees, visitors, and clients, the property owner shall avoid providing excessive parking.
3. Landscaping. Landscaping may be required to screen parking areas from the road and adjacent landowners. See the definition of screening materials below.
4. Storage of Heavy Equipment and Commercial Vehicles. All heavy equipment, such as tractor trailers, semi-trailers, or construction equipment, must be either garaged or screened with plantings or fencing of at least the height of the equipment. See the definition of screening materials below.
5. Screening Materials. Screening materials include natural vegetation, landscaping, fencing and earthen berms. All screening materials shall be in keeping with the rural and residential character of the Town of Otis.

6. Signs. See Section 5.2 for sign standards.

7. Lighting Standards. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries. All outdoor lighting must be placed in such a fashion as not to have an adverse effect on neighboring properties or passersby.

8. Hours of Operation. In no case shall a home-based business be open to the public, including non-resident employees, clients, visitors, and deliveries, at times earlier than 7:00 a.m. no later than 10:00 p.m.

9. General Nuisances. Any activity that might result in excessive noise, electrical interference, smoke, dust, odors, heat, or glare beyond that which is common to the residential character of the district is prohibited. The Zoning Board of Appeals may require an applicant to provide tests demonstrating such conformance.

10. Hazardous Materials. No highly toxic, explosive, flammable, combustible, corrosive, radioactive or similar hazardous materials shall be used, stored, or manufactured on the premises in amounts exceeding those which are typically found in normal residential use.

11. Traffic. Traffic associated with a home-based business, such as deliveries or visits by clients, shall not place an unreasonable burden on the town, the roads, or the neighborhood of the home-based business because of safety concerns, excessive noise, or aesthetics. Traffic concerns will be reviewed as part of the permitting process for all home-based businesses.

7.2.3 Additional Standards for Home Occupations

1. Employees. No more than two (2) employees, not residing on the premises, shall be permitted to work on the premises at one time for a home occupation.

2. Retail Sales. There shall be no sales of services or products, which are not produced on the premises. A home-based business is permitted to hold occasional events, such as craft fairs or open houses, up to three times per year.

7.2.4 Additional Standards for Cottage Industries. For all cottage industries the home-based business owner must maintain the use of the parcel as primarily residential, with the business as an incidental, accessory use.

1. Employees. No more than seven (7) employees, not residing on the premises, shall be permitted to work on the premises at one time for a Cottage Industry use.

2. Increased Setback Requirements. Required zoning setbacks may be increased for a cottage industry subject to the review of the Zoning Board of Appeals for any activity that could potentially detract from the surrounding neighborhood. Potentially detracting activities include, but are not limited to: employee parking areas, loading zones, and storage sheds. Additional screening may also be required by the Zoning Board of Appeals to shield these accessory uses from adjoining residential lots.

3. Retail Sales. There shall be no sales of services or products on the premises, which

are not produced on the premises. A home-based business is permitted to hold occasional events, such as craft fairs or open houses, up to three times per year.

7.3 TOWNHOUSE DEVELOPMENT

7.3.1 Purpose. The purpose of this Section 7.3, Townhouse Development, is to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of varied housing opportunities.

7.3.2 Applicability. Any parcel of larger than twenty (20) acres and located entirely within the Town may proceed under this Section 7.3, Townhouse Development, pursuant to the issuance of a special permit by the Planning Board, as indicated in Table of Use Regulations. Such special permits shall be acted upon in accordance with the following provisions.

7.3.3 Procedures. Applicants for Town House Development shall file with the Planning Board ten (10) copies of a Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plan shall also indicate:

1. Existing and proposed topography;
2. Wetland areas; where wetland delineation is in doubt or dispute, the Planning Board shall require the applicant to submit to the Conservation Commission a request for determination of applicability pursuant to G.L. c. 131, s4O and 310 CMR 10.05(3), the Wetlands Protection Act.
3. The results of deep soil test pits and percolation tests. The Planning Board shall refer data on proposed wastewater disposal to the Board of Health for their review and recommendation.
4. Specifications demonstrating that access roads and drainage facilities shall meet the functional requirements of the Planning Board's rules and regulations.
5. Any additional information necessary to make the determinations and assessments cited herein.

7.3.4 Number of Dwelling Units. The maximum number of bedrooms allowed in a Townhouse Development shall be equal to two and one half (2.5) times the number of lots which could reasonably be expected to be developed as of right upon that parcel under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

1. No individual structure within a Townhouse Development shall contain more than five (5) dwelling units.

7.3.5 Open Space Requirements. A minimum of 30% of the parcel shown on the Development Plan shall be contiguous open space, excluding required yards and buffer areas. Such open space

may be separated by the road(s) constructed within the Townhouse Development. Not more than 25% of such open space shall be wetlands, as defined pursuant to G.L. c.B1, s. 40. The required open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes. The required open space shall remain unbuilt upon, provided that ten percent (10%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths, and agriculture. Underground utilities to serve the Townhouse Development site may be located within the required open space.

7.3.6 Buffer Areas. All dwellings and structures shall be located a minimum of 50 feet from adjacent properties, and 100 feet from adjacent surface waters or wetlands. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, except where adjacent to agriculturally used property. This provision may be waived where the Planning Board finds reasonable buffer areas already exist or may be established by alternative means.

7.3.7 Decision. The Planning Board may approve, approve with conditions, or deny an application for a Townhouse Development, after assessing whether the Townhouse Development better promotes the objectives of Section 7.3, herein, than would orthodox development.

7.3.8 Relation to Other Requirements. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law. Where the provisions of this Section 7 conflict with any other provisions of the Subdivision Control Law or Zoning By-Law (including without limitation, Sections 4.1.1 and 4.1.2), the provisions of this Section 7 shall prevail.

7.3.9 Appeal. Any person aggrieved by a decision of the Planning Board pursuant to this section may appeal said decision in accordance with G.L. c. 40A, section 17.

SECTION 8.0 SPECIAL DISTRICTS

8.1 FLOOD PLAIN OVERLAY DISTRICT (FPOD)

8.1.1 Purpose. The purpose of the Flood Plain Overlay District is to:

1. Ensure public safety through reducing the threat to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility network and impact regions of the community beyond the site of flooding;
5. Eliminate the costs associated with the response and cleanup of flooding conditions; and
6. Reduce damage to public and private property resulting from flooding waters.

8.1.2 Conformance with Other Regulations. The Flood Plain District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with the following regulations. All development in the FPOD including structural and non-structural activities whether permitted by right or by special permit must be in compliance with the following:

1. 780 CMR 21.02.0, of the Massachusetts State Building Code, which addresses floodplain and coastal high hazard areas;
2. 310 CMR 10.00, Wetlands Protection Regulations, Department of Environmental Protection (DEP);
3. 302 CMR 6.00, Inland Wetlands Restriction, (DEP);
4. 310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

Any variance from the provisions and requirement of the above reference state regulations may only be granted in accordance with the required variance procedures of these state regulations.

8.1.3 Definitions. In the FPOD, the following terms shall be as defined.

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated a Zone A, AO, AH, AL-30, AE, or A99.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded on any given year.

DEVELOPMENT means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT means Flood Plain Overlay District.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood have been designed as Zone A.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations.

FLOOD WAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than basement area, is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of FFIP Regulations 60.3.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

ONE-HUNDRED-YEAR FLOOD See Base Flood.

REGULATORY FLOOD WAY See Flood Way

SPECIAL FLOOD HAZARD AREA means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AL-30, AE, A99, AH.

STRUCTURE means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

ZONE A means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.
ZONE AL-A30 and ZONE AE means the 100-year floodplain with flood plain depth of 1 to 3 feet.

ZONE A99 means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

8.1.4 FPOD Boundaries and Base Flood Elevation Data. The Flood Plain Overlay District is herein established as an overlay district. The FPOD includes all special flood hazard areas designated on Otis Flood Hazard Boundary Map (FHBM) issued by the Federal Emergency Management Agency (FEMA) for the administration of The NFIP dated August 27, 1990, as Zone A, AE, AH, AO, AL-30, A99, which indicate the 100-year regulatory floodplain. The exact boundaries of the FPOD may be defined by the 100-year base flood elevations shown on the FIRM or FHBM and further defined by the Flood Insurance Study booklet dated August 27, 1990. The FIRM and FHBM and Flood Insurance Study booklet are incorporated and are on file with the Planning Board, Building Official, and Conservation Commission.

1. In Zone A, the best available Federal, State, Local or other flood way data shall be used to prohibit encroachment in flood ways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge in zone AL-30 and AE, along water courses, no new construction, substantial improvement, or other development shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood.

8.1.5 Permitted Uses. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged, provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
2. Forestry and nursery uses;
3. Outdoor recreational uses, including fishing, boating, play areas, etc.;
4. Conservation of water, plants, wildlife;
5. Wildlife management areas, foot, bicycle, and/or horse paths;
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and
7. Buildings lawfully existing prior to the adoption of these provisions.

SECTION 9.0 ADMINISTRATION AND ENFORCEMENT

9.1 ENFORCEMENT

9.1.1 Zoning Enforcement Officer. The Building Inspector shall be the Zoning Enforcement Officer and shall be appointed by the Board of Selectmen to serve at the pleasure of the Board of Selectman pursuant to such qualifications as may be established by the Board of Selectman. The Zoning Enforcement Officer shall be responsible for the administration and enforcement of this Zoning By-Law. Removal of the Zoning Enforcement officer requires a public hearing and just cause.

9.1.2 Permit Required. Pursuant to the State Building Code, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law.

9.1.3 Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued there under, including notification of noncompliance and request for legal action through the Selectmen to Town Counsel.

9.1.4 Penalties. The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be Three Hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

9.2 ZONING BOARD OF APPEALS

9.2.1 Establishment. There shall be a Zoning Board of Appeals consisting of five (5) members and two (2) associate members to be appointed by the Board of Selectmen as provided in Section 12, Chapter 40A of the General Laws.

9.2.2 Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

- a. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority.
- b. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10.

The Board of Appeals shall not grant use variances.

c. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.

d. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

9.2.3 Regulations. The Zoning Board of Appeals may adopt rules and regulations for the administration of its powers.

9.2.4 Fees. The Zoning Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

9.3 SPECIAL PERMITS

9.3.1 Special Permit Granting Authority. Any board designated as Special Permit Granting Authority in this By-Law may hear and decide applications for special permits in accordance with the provisions of Section 9, Chapter 40A of the General Law.

9.3.2 Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

9.3.3 Review by Other Boards and Agencies. The Special Permit Granting Authority shall within ten (10) days after receipt of an application for a special permit transmit a copy thereof for review to the Board of Health, the Planning Board, the Board of Selectmen, the Conservation Commission and any other municipal board or agency at the discretion of the Special Permit Granting Authority. Any board or agency to which such applications are referred for review shall make such recommendations as they deem appropriate in writing,

provided, however, the failure to make recommendations within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

9.3.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-Law.

9.3.5 Plans. Unless otherwise provided the rule or regulation of the Special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 9.4, herein.

1. The provisions of this Section should not apply to applications for special permits to reconstruct, extend, alter, or structurally change a nonconforming single or two family structure.

9.3.6 Regulations. The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

9.3.7 Fees. The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

9.3.8 Lapse. Special permits shall lapse if a substantial use thereof or construction there under has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

9.4 SITE PLAN REVIEW

9.4.1 Purpose. The purpose of the site plan approval process is to assure that development proposals are consistent with the environmental and site planning objectives of the Town of Otis. The site plan shall provide basic information necessary for reasoned review by citizens and agencies of the Town.

9.4.2 Applicability. The following uses shall be required to obtain Site Plan Approval from the Town of Otis Planning Board.

1. Any use available as of right in the Village District, other than a one or two family dwelling;
2. Grading or re-grading of land to planned elevations and or removal or disturbance of the existing vegetative cover, over an area of five thousand (5,000) or more square feet; provided, however, that such alterations authorized by a building permit, subdivision approval, agricultural use, or a forest cutting plan shall not be subject to this provision.

9.4.3 Site Plan Contents. The site plan approval process requires the submission of a site plan

to the Planning Board. The site plan shall be prepared by a registered engineer or surveyor and shall be clearly and legibly drawn at a reasonable scale. The site plan may contain the following information subject to the discretion of the Planning Board:

1. Plan name, boundaries, true north point, date scale and zoning district(s);
2. Suitable space to record the action and signatures of the Planning Board;
3. Major site features including existing fences, buildings, wetlands, watercourses, and tree lines;
4. Existing and proposed topography of the land;
5. Size and location of existing and proposed utility systems including water supply and wastewater treatment;
6. Existing and proposed layout of driveways, sidewalks, parking areas, storage and loading areas, lighting and signs, including locations, sizes and illumination;
7. Profiles of all buildings, structures and signs; and
8. Landscaping plan.

The Planning Board may waive any information requirement it judges to be unnecessary to the review of a particular plan.

9.4.4 Site Plan Approval Process. The Planning Board shall review and evaluate the site plan to ensure that it is consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations in the V-I Village District. The development shall be designed to:

1. Integrated the existing terrain and surrounding landscape;
2. Protect abutting properties and community amenities;
3. Minimize environmental and visual impacts;
4. Protect unique natural and historic features;

5. Assure that structures are aesthetically consistent with the character of the Town and the surrounding properties;
6. Screen objectionable features through the use of landscaping and maintain existing public shade trees;
7. Minimize excessive demands on Town services and infrastructure; and
8. Provide for safe vehicle and pedestrian access and circulation.

Before approval of a site plan, the reviewing board may request the application to make modifications in the proposed design of the project to ensure that the above criteria are met.

9.4.5 Decision. The Planning Board's decision shall be in writing and shall consist of

1. A determination that the proposed project will constitute a suitable development and is in compliance with the criteria set forth in the By-Law; or
2. Approval subject to any reasonable conditions, modifications, and restrictions as the Planning Board may deem necessary.

9.4.6 Enforcement. The Building Inspector shall not issue a permanent Certificate of Occupancy permit until all work is completed as approved by the appropriate agencies and in conformity with the approved site plan.

9.4.7 Lapse. Site plan approval issued under this section shall lapse at the end of two (2) years after approval if work has not been commenced, except where an extension of time for good cause has been granted by the Planning Board.

9.4.8 Appeal. Any person aggrieved by a decision of the Planning Board pursuant to this Section may appeal said decision to the Zoning Board of Appeals within twenty (20) days from the date of the order or decision being appealed, by filing an application for appeal on an official form of the Town of Otis, specifying the grounds for the appeal therein. Said application for appeal shall be filed with the Town Clerk, who shall forthwith transmit copies thereof to the members of the board of appeals.

The Zoning Board of Appeals shall hold a hearing on said application for appeal within sixty (60) days from the filing thereof, and shall uphold the decision of the Planning Board unless the Applicant establishes by clear and convincing evidence that said decision of the Planning Board was based on error of law, was arbitrary and capricious, was unsupported by substantial evidence, or was otherwise not in accordance with the law. Any person aggrieved by a decision of the Zoning Board of Appeals may appeal said decision to a court of competent jurisdiction in accordance with G.L. c. 40A, section 17.

9.5 Applications. All applications to a Board designated by this By-Law as the authority for particular zoning action or relief, including, without limitation, applications for

special permits, variances, site plan review, and appeals from decisions of the Zoning Enforcement Officer, shall be made on forms available from the Town Clerk, and shall be accompanied by the required fee and any other information as may be prescribed by rules and/or regulations of the appropriate Board. No application shall be considered filed in the absence of such properly completed application, required fee, and supportive materials as may be deemed necessary for a full and fair review by the responsible reviewing bodies.

SECTION 10.0 DEFINITIONS

In this by-law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the by-law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or Including should not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this by-law.

ACCESSORY APARTMENT: A separate dwelling unit, complete with its own cooking and sanitary facilities, having not more than one bedroom and functioning as a separate unit. Additions, renovations, and all construction shall meet the requirements of the current edition of the State Building Code.

ACCESSORY BUILDINGS: Any building which is subordinate to and whose use is incidental and subordinate to the use the principal building on the same lot or an adjoining lot under the same ownership. Accessory buildings shall include but not limited to such structures as garages, storage sheds, barns, etc.

ACCESSORY USE: A related minor use which is either necessary to the operation or enjoyment of a lawful principal use, or which is appropriate to, customarily incidental to and subordinate to any such use.

ADULT DAY CARE FACILITY: A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

BED AND BREAKFAST ESTABLISHMENT: A dwelling having a mixed use as a home for the residential owner and as guest lodging with the lodging function often if not always superseding the home use. The home is to be the primary and legal residence of the owner. The maximum number of rooms for rent shall be 3 (three). The only food service for guests in this facility shall be breakfast.

BED AND BREAKFAST INN: A dwelling having a primary use as guest lodging with a home function for the resident owner secondary to the business of renting rooms. The home is to be the primary and legal residence of the owner. The maximum number of rooms for rent is 10 (ten). The only food service for guests in this facility is breakfast.

BED AND BREAKFAST COUNTRY INN: The same principal use as a Bed & Breakfast Inn except that full food service may be provided as part of the amenities available.

BILLBOARD: A sign or structure, in excess of twenty-five (25) square feet, directing attention to an idea or product, business activity, services or entertainment which is primarily conducted, sold or offered elsewhere than upon the premises on which sign is located or affixed.

BUILDING: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons or animals. The word "building" shall be construed, where the context allows, as though followed by the words "or part or parts thereof".

BUSINESS OR PROFESSIONAL OFFICE: A building or part thereof, for the transaction of business or the provision of professional services exclusive of the receipt, sale, storage, or processing of merchandise.

CAMPGROUND, COMMERCIAL: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains an open air or natural character.

CHILD CARE FACILITY: A day care center or school age child care program, as those terms are defined in G.L. c. 28A, s. 9.

CONVENIENCE STORE: A retail establishment selling a limited variety of groceries, beverages, and small household items for the primary use of customers that need a few items in an expedient manner.

COTTAGE INDUSTRY: An intensive form of home-based business. A cottage industry shall have no more than seven (7) employees who are not resident on the premises, may use accessory structures, and may have incidental retail sales. The total floor area used for a cottage industry may not exceed the total floor area used for residential purposes. A cottage industry, like a home occupation, is clearly remains subordinate to the use of the parcel and dwelling for residential purposes.

DRIVEWAY: A drive servicing a single lot which meets all of the requirements of Section 5.3.

DRIVEWAY, COMMON: Common driveways may be allowed with the approval of the Planning Board. The minimum width shall be 16 feet. The common driveway shall serve not

more than three house lots which shall have legal access and frontage on an approved public way. The common driveway may never be used to satisfy the frontage requirement. A plan shall be recorded showing the easement, and the easement shall be recorded in the deed.

DWELLING: Any building used exclusively for human habitation, including any permitted home occupation but excluding hotels, motels, lodging houses, inns or mobile homes.

DWELLING, ONE FAMILY: A detached residential building designed for and occupied by one (1) family only, but not including mobile homes whether placed on a foundation or not.

DWELLING, TWO FAMILY: A detached residential building containing two (2) dwelling units, designed for occupancy but not more than two (2) families.

DWELLING, MULTI-FAMILY: A residential building designed for or occupied by three (3) but not more than six (6) families, with the number of families in residence not exceeding the number of dwelling units provided. Dwelling units within multiple family units may be owned individually or rented.

DWELLING UNIT: One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one (1) family.

ESSENTIAL SERVICES: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhand, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

EXTERIOR ALTERATION: An increase in volume or a change in the footprint of a structure.

FAMILY DAY CARE, LARGE AND SMALL: Any private residence operating a facility as defined in G.L. c. 28A, s. 9.

FARM: Any parcel of land which is used for horticulture, agriculture, floriculture or the raising of animals, including but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees, or fur bearing animals for the purpose of selling produce, animals or a product derived from such animals or produce in the regular course of business.

FARM STAND, SEASONAL: Facility for the seasonal sale of produce, wine and dairy products on property not exempted by G.L. c. 40A, s. 3 for a period not longer than six consecutive months in any calendar year.

FENCE: An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

GENERAL SERVICE ESTABLISHMENT: Shop for lawn mower or small appliance repair, upholstery or furniture repair, bicycle repair person, printer, blacksmith, builder, carpenter, caterer, electrician, lawn mower service person, mason, painter, plumber or roofer.

HOMESTAY: A dwelling, the primary use of which is the private home for the residential owner with lodging as a secondary use. The home shall be the primary and legal residence of the owner. The maximum number of guests rooms permitted at anyone time shall be three (3).

HOME-BASED BUSINESS: Any activity conducted by a resident within a dwelling for financial gain. A home-based business shall be an accessory use to the primary residential use of the parcel. Home-based businesses include home occupations and cottage industries.

HOME OCCUPATION: The use of a room or rooms in a dwelling or accessory building by a resident occupant for practice of a recognized profession, or by a resident carpenter, painter, plumber, electrician, or other artisan in connection with his trade, or by a resident engaged in a customary home occupation, as defined in Section 3.4, provided that there is no external evidence of any business other than a permitted sign and no undue traffic or noise.

HOTEL, LODGING HOUSE OR INN: A building rented or used by paying guests, transiently or permanently with the total number of available rooms not exceeding fifteen (15).

KENNEL: A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold.

LANDSCAPING: In all cases where landscaping or planting is required by the provisions of this By-Law, such trees, shrubs and other plant materials must be live specimens as opposed to artificial plant materials.

LIGHT INDUSTRIAL USE: Industrial use involving no emission or discharge of fumes, vapor, gas, smoke, dust, dirt, odor chemical, effluent, noise or vibration, or unduly increased rise from fire or explosion, or other element dangerous or injurious to the health or safety of the public.

LOT: A single tract of land held in identical ownership throughout, defined by metes and bounds or lot lines or other definite boundaries in a deed or conveyance, or shown on a duly recorded plan, used or available for use as the site for one or more buildings.

LOT AREA: See Section 4.1.3.2 and Appendix A.

LOT, FRONTAGE: The continuous distance along the street line which provides direct access to the lot, except for lots in a turnaround in an approved subdivision where frontage will be measured at the minimum front setback line as provided in Section 5 herein, provided, however, that the depth of any lot created after the effective date of this By-Law,

shall not be less than twenty (20) feet at any point along its frontage in order to qualify for frontage under this By-Law. A private street approved by the Planning Board under the Subdivision Control Law may provide frontage only for the lots, which are contained within the approved subdivision.

LOT WIDTH: See Section 4.1.3.3 and Appendix B.

MOBILE HOME: A portable dwelling unit completely enclosed structure built on a permanent chassis, designed to be transported after fabrication on its own wheels or on flatbed or detachable wheels. For the purpose of this By-Law, the term "mobile home" includes trailers incorporating the characteristics of mobile homes as herein defined.

MOTOR VEHICLE SERVICE STATION OR REPAIR SHOP: A building, or part thereof, for the retail sale of gasoline, oil, and motor vehicle accessories and repairs and servicing such as lubricating, tune-ups, adjusting, and repairing brakes, tire service, and general service.

NONCONFORMING USE: A building structure, or use of land, existing at the time of this By-Law or any amendment thereto, which does not conform to the requirements of this By-Law or amendments thereto.

OFFICE PARK/LIGHT INDUSTRIAL: An area planned for occupancy of more than one (1) light industrial building with shared common areas and/or parking area as well as buildings designed for business offices or research laboratories.

Person Aggrieved: an individual or entity, including a firm, partnership, association, corporation, limited liability company, trustee, and their legal successors, entitled to appeal a Decision of the Zoning Board of Appeals within the meaning of G.L. c. 40A, § 17.

PERSONAL SERVICE ESTABLISHMENT: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

PRINCIPAL BUILDING: The main or most important building on a lot; attached structures shall be considered an integral part thereof provided such structures are completely enclosed by continuous walls supporting a roof.

RESTAURANT: An establishment, the principal activity of which is the service or sale of food or drink for on-premises consumption.

RETAIL, GENERAL PURPOSE: A facility selling goods but not specifically listed in the Table of Use Regulations.

RETAIL, SPECIALIZED: A facility including but not limited to shops selling gifts, novelties, flowers, books, periodicals, jewelry, apparel, antiques and crafts with less than 10,000 square feet of gross leasable floor area.

SIGN: Any structure or device used for the purposes of visual communications, which identifies or calls attention to any premises, person, product, activity, business or use of a property. For the purpose of this By-Law the following shall not be included in the application of the regulations herein:

- a. Legal notices, identifications, information, directional or warning sign erected or required by governmental agents or bodies; or various warning signs as commonly used by property owners;
- b. Memorial signs or tablets not exceeding one (1) square foot in area;
- c. Signs directing, guiding or controlling traffic and parking on private property but bearing no advertising matter;
- d. Temporary signs on the inside of glass of store windows as commonly used in retail business, or signs of special events or for political candidates.

SIGN, AREA:

- a. The area of a sign shall be considered to include all lettering, working, and accompanying designs and symbols, together with the background on which they are displayed and any frame around.
- b. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest quadrangle or triangle which encompasses all of the letters and symbols.
- c. The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross section of that object.

SITE PLAN: A plan indicating, but not limited to the following: The location of existing and proposed buildings, structures, driveways, parking areas and other open spaces, and all proposed site improvements, including recreational areas, fences, walks and signs.

SPECIAL PERMIT GRANTING AUTHORITY: Except where otherwise designated, the Zoning Board of Appeals is designated by this By-Law as the Special Permit Granting Authority responsible for issuing Special Permits for a particular use or purpose in accordance with these By-Laws.

STREET: A public way, or private way either shown on a plan approved in accordance with the Subdivision Control Law, or otherwise qualifying lots along it for frontage under the Subdivision Control Law.

STRUCTURE: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, reviewing stand, platform, or deck. Structure shall specifically include all projections under the roofline and specifically exclude all projections above the roof.

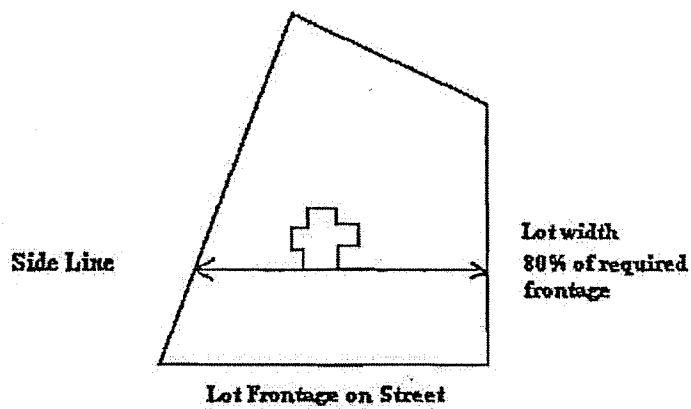
VETERINARY HOSPITAL: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or

hospital use.

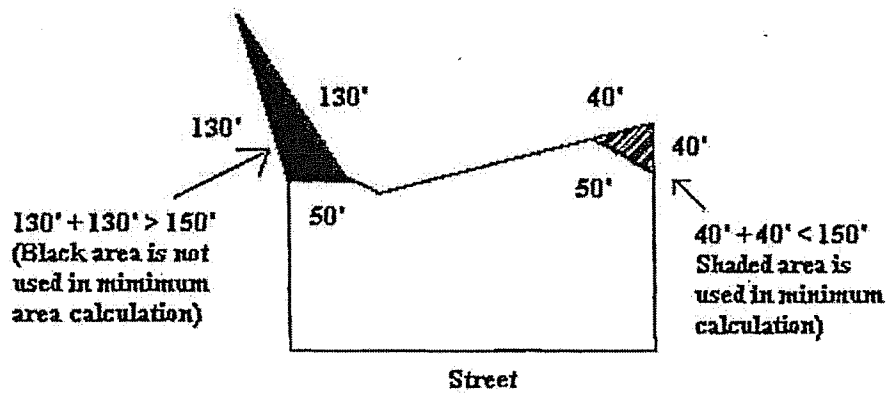
Principal Use	R-40	V-I
RESIDENTIAL USES		
One or two-family dwelling	Y	Y
Conversion of a one-family dwelling into a two-family dwelling	Y	Y
Multi-Family Dwellings	N	BA
Townhouse Development. See Section 7.3.	PB	PB
INSTITUTIONAL AND EXEMPT USES		
Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture on a parcel of more than five acres in area, subject to Board of Health regulations, as set forth in G.L. c. 40A s.3	Y	Y
Facilities for the sale of produce and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y	Y
Educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by religious sect or denomination, or by a nonprofit educational corporation	Y	Y
Use of land or structures for religious purposes	Y	Y
Municipal or governmental use including but not limited to municipal buildings, libraries, parks playgrounds or other facilities owned or operated by a town agency.	Y	Y
Essential services	BA	BA
Child care facility	Y	Y
NONRESIDENTIAL USES		
Sawmill	BA	N
Use of land and structures for horticulture or floriculture	BA	Y
Commercial dog kennel or veterinary hospital	BA	BA
Golf courses, ski faculty, riding stable or other recreational facility of similar character	BA	BA
Business or professional office; bank	BA	Y
Personal service establishment	BA	Y
General service establishment	BA	Y
Motor vehicle service station or repair shop	BA	Y
General purpose retail including convenience store	BA	BA
Specialized retail	BA	Y
Restaurant or tavern, without drive through facility	BA	BA
Wireless communication facilities. See Section 6.6	BA	BA
Light industrial use	BA	BA
Commercial campground	BA	BA
Travel trailer park	N	N
Bed or Breakfast Establishment or Homestay. See Section 6.1.	Y	Y

Bed and Breakfast Inn and Bed and Breakfast County Inn. Any rental of guest rooms where food is provided shall require appropriate food service permits if applicable. See Section 6.1	BA	BA
Hotel, lodging house or inn.	BA	BA
Drive-through window or facility at bank	N	BA
All other drive-through facilities	N	N
ACCESSORY USES		
Accessory scientific uses	BA	BA
Cottage industries. See Section 7.2.	BA	BA
Home occupation. See Section 7.2.	BA	BA
Family day care, large	BA	BA
Family day care, small	Y	Y
Adult day care	BA	BA
Construction of an accessory apartment within a residence or accessory structure	BA	BA
TEMPORARY USES -See Section 3.4		
Charitable fund raising events of a temporary nature	Y	Y
Farm stand, seasonal	Y	Y
Farmer's market	Y	Y
Flea market	Y	Y
Tag sale	Y	Y
OTHER USES		
Common Driveway see section 5.3	PB	

Appendix B



Minimum Lot Width



Minimum Lot Area

ZONING MAP OF THE TOWN OF OTIS



ZONING DISTRICTS:

- R-40 RESIDENTIAL
- V-1 VILLAGE
- FP FLOODPLAIN

SYMBOLS:

- WATER COURSE
- OPEN WATER

JUNE 1998

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