

## II.B. Plan Believed not to Require Approval

1. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court, a plan of land, and who believes that his/her plan does not require approval under the Subdivision Control Law, may submit to the Planning Board the following:
  - a. a reproducible original and five (5) copies of his/her plan;
  - b. [**bold type** indicates amendment made on October 5, 1987] filing fee in the amount of \$70 per lot, e.g. seventy dollars times the number of lots shown on the plan; the filing fee shall be in the form of a certified check or money order, made payable to "Town of Shutesbury, Massachusetts"; or written evidence that said filing fee has been paid to an appropriate Town official. Lots marked "This is not a building lot" will not be included in calculating the filing fee;
  - c. application Form A, appended hereto, signed by the applicant and providing all information requested;
  - d. all supporting evidence necessary to show that the plan does not require approval.

In addition, the applicant shall provide written notice to the Town Clerk by personal delivery in hand or by registered mail, with return receipt requested. Said notice shall state the date of submission to the Planning Board of the items specified in Sections II.B.1.a through II.B.1.d above, and shall be accompanied by one copy each of the plan and application Form A. If the notice is given by delivery, the Clerk shall, if requested, give a written receipt therefore to the person who delivered such notice.

[**italicized type** indicates amendment made on January 8, 2001] For the purposes of this section, the date of submission to the Planning Board shall mean the date of the first regular or special Planning Board meeting following delivery of all copies of the items specified in Sections II.B.1.a through II.B.1.d above to the Town Clerk. In order for a plan to be deemed so submitted, delivery to the Town Clerk must occur no later than seven (7) days prior to said Planning Board meeting. The date of said Planning Board meeting fixes the start of the period of time during which the Planning Board must act and report.

2. [**bold type** indicates amendment made on October 5, 1987] [**CAPITALIZED TYPE** indicates amendment made on December 7, 1987] If the Board determines that the plan does not require approval, it shall within **TWENTY-ONE (21)** days and without a public hearing endorse on the plan the words "Planning Board Approval under the Subdivision Control Law Not Required." Said endorsement shall be signed by a majority of the Planning Board. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within **TWENTY-ONE (21)** days of submission of said plan so inform the applicant and return the reproducible original of the plan. The Board shall give written notice of its determination to the Town Clerk. Before the Board makes its determination, it shall review or have a consultant review the correctness of all street information and compliance with the Shutesbury Zoning By-Laws. If, in the judgment of the Board, consulting services are necessary or appropriate, the applicant shall reimburse the Town for the full cost of such services prior to the endorsement of the plan. Where the physical condition or width of a public way, from which the lots shown on the plan have their access, is considered by the Board to be inadequate either to provide for emergency services or to carry the traffic which is expected, in the opinion of the Board, to be generated by such lots, the Board shall determine that the plan does require approval under the Subdivision Control Law. **Where the Board determines that in its opinion adequate access (as contemplated by section 81M of the Subdivision Control Law and Section I.B. of these regulations) does not exist, then the Board shall determine that the plan does require approval under the Subdivision Control Law.**
3. [**CAPITALIZED TYPE** indicates amendment made on December 7, 1987] If the Board fails to act upon a plan submitted under this section or fails to notify the Town Clerk and the applicant of its action within **TWENTY-ONE (21)** days after its submission, it shall be deemed to have determined that approval under the subdivision control law is not required.

#### II.C. Basic Requirements

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of utilities and municipal services therein, unless and until a Definitive Plan of such subdivision has been submitted to and approved by the Board as hereinafter provided, and subsequently recorded at the Franklin County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court.

#### II.D. Zoning

Subdivisions shall meet the requirements pertaining to lot size, frontage, and all other requirements under existing zoning laws. No subdivision rules can dictate the size, shape, width, frontage or use of lots except that they shall be in compliance with all applicable zoning requirements.