§ 274-b. Approval of special use permits. 1. Definition of special use permit. As used in this section the term "special use permit" shall mean an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.

2. Approval of special use permits. The town board may, as part of a zoning ordinance or local law adopted pursuant to this article or other enabling law, authorize the planning board or such other administrative body that it shall designate to grant special use permits as set forth in such zoning ordinance or local law.

3. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to section two hundred sixty-seven-b of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

4. Conditions attached to the issuance of special use permits. The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the town.

5. Waiver of requirements. The town board may further empower the authorized board to, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in the ordinance or local law adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of the public

health, safety or general welfare or inappropriate to a particular special use permit.

6. Public hearing and decision on special use permits. The authorized board shall conduct a public hearing within sixty-two days from the day an application is received on any matter referred to it under this section. Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five days prior to the date thereof. The authorized board shall decide upon the application within sixty-two days after the hearing. The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the authorized board on the application after the holding of the public hearing shall be filed in the office of the town clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.

7. Notice to applicant and county planning board or agency or regional planning council. At least ten days before such hearing, the authorized board shall mail notices thereof to the applicant and to the county planning board or agency or regional planning council, as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law.

8. Compliance with state environmental quality review act. The authorized board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

9. Court review. Any person aggrieved by a decision of the planning board or such other designated body or any officer, department, board or bureau of the town may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by such board in the office of the town clerk. The court may take evidence or appoint a referee to take such evidence as it

may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

10. Costs. Costs shall not be allowed against the planning board or other administrative body designated by the town board unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

11. Preference. All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.