

THE RESIDENCES AT PINNACLE POINT
PINNACLE DRIVE – WALPOLE, MA
APPLICATION FOR COMPREHENSIVE PERMIT
UNDER M.G.L. C. 40B

ZONING BOARD OF APPEALS OF THE TOWN OF WALPOLE
COMPREHENSIVE PERMIT REGULATIONS
APRIL 28, 2022

SECTION 3.2.11 – LIST OF REQUESTED EXEMPTIONS AND WAIVERS

INTRODUCTION

The Applicant, Wall Street Development Corp. (the “Applicant”), requests waivers from certain local bylaws, regulations and other requirements in connection with the proposed development entitled “The Residences at Pinnacle Point”. The development is proposed pursuant to M.G.L. Chapter 40B and, in accordance with M.G.L. 40B, all local approvals for the proposed development are to be granted pursuant to a Comprehensive Permit to be issued by the Town of Walpole Zoning Board of Appeals (the “ZBA”) instead of being granted individually by other permitting authorities.

Under M.G.L. Chapter 40B, the ZBA performs a complete technical review of the Applicant's plans and specifications during the Comprehensive Permit hearing, including but not limited to site plans, grading, stormwater management, erosion and sediment control, etc. All the work proposed on the development will be (i) performed in accordance with the plans of record approved by the ZBA or its designee, (ii) subject to the conditions contained in the Comprehensive Permit, and (iii) the inspections of the ZBA or its designee for compliance with the plans of record and the Comprehensive Permit.

The Applicant hereby requests waivers from the Local Requirements as follows and as outlined in the attached Table I.

1. Board of Appeals 40A Rules and Regulations:

The Zoning Board of Appeals (the "ZBA") Rules and Regulations are designed to address applications for Special Permits and Variances under M.G.L. c. 40A. As an affordable housing development, the Applicant seeks approval for The Residences at Pinnacle Point pursuant to M.G.L. Chapter 40B. Accordingly, the proposed development will comply with the ZBA's 40B Rules (except for the provisions thereof from which waivers have been requested), and all local approvals for the proposed development are to be granted by a Comprehensive Permit issued by the ZBA. The applicant therefore requests a waiver from the ZBA's 40A Rules and Regulations and Section 2 of the Zoning Bylaws.

2. Board of Appeals Comprehensive Permit Regulations:

The Comprehensive Permit Regulations ("ZBA 40B Regulations") dated November 20, 2019 are designed to address applications for comprehensive permits submitted under M.G.L. c 40B, sec. 20-23. The ZBA 40B Regulations are inconsistent with Chapter 40B and the regulations promulgated by the Executive Office of Housing and Economic Development ("EOHED") under 760 CMR 56.00 (the "Regulations"), specifically, 760 CMR 56.05(1) and (2).

In addition, the ZBA 40B Regulations in Section 5.2 states:

"The Board shall open a public hearing on a complete application within thirty days of its receipt thereof provided that said complete application includes the filing fees and all the information required by these regulations. Unless one or more of the items of information required by these Regulations is waived by the Board, an application will not normally be deemed complete if it does not contain all of the filing requirements established herein. The Board may in its discretion allow one or more of the items of information required by these Regulations to be submitted during the Board's public hearing on an application."

The provisions of Section 5.2 of the ZBA 40B Regulations are inconsistent with and contrary to the provisions of the Regulation at 760 CMR 56 (2) which states:

"The Applicant shall submit to the Board an application and a complete description of the proposed Project. Normally the items listed below will constitute a complete description. Failure to submit a particular item shall not necessarily invalidate an application."

Based on the information outlined above, the Applicant shall use its best efforts to comply with the provisions of the ZBA 40B Regulations to the extent practicable.

3. Walpole Rules and Regulations Governing the Subdivision of Land:

The proposed development of Darwin Commons does not involve a "subdivision" within the meaning of the Subdivision Control Law, M.G.L. c. 41, sec. 81K - 81GG. The Planning Board Rules and Regulations Governing the Subdivision of Land (the "Subdivision Regulations") have no applicability to the proposed development. However, to the extent that such Subdivision Regulations, or any part thereof, were to be deemed applicable, the Applicant hereby requests a waiver from such Subdivision Regulations or part thereof to the extent that such regulation would affect the proposed development as shown on the plans.

4. Planning Board Site Plan Review Rules:

As the development is proposed under M.G.L. Chapter 40B, the Zoning Board is the permit granting authority for all local approvals for the proposed development. To the extent the Site Plan Review Rules in Section 13 of the Zoning Bylaws are deemed applicable to the proposed development, the Applicant requests a waiver for the reasons described in Section 1, above, which is incorporated herein by this reference.

5. Walpole Stormwater Management and Erosion Control Bylaw:

To the extent that any provision of the Walpole Stormwater Management and Erosion Control Bylaw is deemed applicable to the proposed development, a waiver of such provision is hereby requested because the proposed development will be governed by the Commonwealth of Massachusetts Stormwater Management Standards and Stormwater Policy Handbook

TABLE I

SECTION	DESCRIPTION	WAIVER	NOTES
<p>ZBA 40A Rules and Regulations</p>	<p>40A Rules and Regulations and Section 2 of the Zoning Bylaws</p>	<p>As an affordable housing development, the applicant seeks approval of the project under M.G.L. Chapter 40B and will comply with the Board's 40B Rules and Regulations (unless otherwise requested)</p>	<p>40A Rules and Regulations and Section 2 of the Zoning Bylaws</p>
<p>Walpole Rules and Regulation Governing the Subdivision of Land</p>			
<p>Town of Walpole Rules and Regulations Governing the Subdivision of Land, as amended through 2016</p>	<p>The local municipal subdivision rules and regulations</p>	<p>Being that this is not a subdivision the applicant requests a waiver from the town of Walpole's subdivision rules and regulations to the extent that such regulation would affect the proposed development as shown on the plans.</p>	
<p>Town of Walpole Zoning Bylaws</p>			
<p>Section 5-B Schedule of Use Regulations</p>			
<p>Table 5-B.3.d.ii</p>	<p>Dwelling for occupancy by more than three (3) families provided that such dwelling is located on a lot having an area of at least thirty thousand (30,000 square feet with an additional ten thousand (10,000) square feet for each dwelling unit in excess of three (3) to be accompanied;</p>	<p>Allow dwellings for occupancy of more than three (3) families with an additional 4,500 square feet for each dwelling unit in excess of three (3) to be accommodated</p>	

SECTION	DESCRIPTION	WAIVER	NOTES
Table 5-B.3.d.iii	a fifty (50) foot buffer zone shall be required where the adjacent lot has a single-family dwelling or is vacant;	Allow no buffer	
Table 5-B.3.d.iii	iii. If there is to be more than one (1) principal building on a lot, there shall be a minimum of 10,000 square feet of lot area per dwelling unit, regardless of how many buildings are on the lot or how many units are in a building.	Allow up to nine (9) principal buildings on a lot with less than 4,500 square feet of lot area per dwelling unit	
Section 5-D Excavation or Filling of Earth			
Section 5-D.2. Activities Prohibited	Clear-cutting of vegetation and stripping of topsoil on a site before a Building Permit has been issued by the Building Inspector for the intended use of the site is prohibited unless limited clearing is required for pre-development work including, but not limited to, site access, surveying, and test pits pursuant to accepted engineering practices.	Allow tree clearing and stripping of topsoil and site work to commence upon approval of the Comprehensive Permit and expiration of any appeal periods.	
Section 5-D.3.E.	Activities approved as part of any Site Plan Review	Allow activities as required and shown on the plan as site plan review is not required.	

SECTION	DESCRIPTION	WAIVER	NOTES
Section 5-D.4.A.	Under the provisions of this Section of the Bylaw, the Board of Appeals may authorize a Special Permit for the following activities: (A) Activities associated with a residential use that will involve the excavation or filling of one hundred (100) cubic yards of earth or more per year except those listed in Subsection 5-D.3.C above.	Allow excavation and /or filing activities required for the development, as shown on the plan without special permit.	
Section 5-F. E	Authorization for temporary building or structure for greater than 180 days	Allow 36' x 10' construction trailer/sales office for a period of 36 months during construction of the project without a special permit.	
Section 6-B Schedule of Dimensional Regulations			
Section 6-B.1.C.	<u>General Residence District</u> Allow a building to be nearer to the line of a street than the "Required Setback Distance" or nearer to the side lines of its lot than the "Required Side Yard Width" or nearer to the rear line of its lot than the "Required Rear Yard Depth", as specified in the chart in Section 6-B for the district in which the lot is located (General Residence District).	Allow front setback distance to be a minimum street-line setback of twenty (20) feet. Allow rear yard depth as shown on the plan.	

SECTION	DESCRIPTION	WAIVER	NOTES
Table 6-B.1	<p>General Residence District Required Lot Area: 15,000S.F. Impervious Surface Buildings – 30% Total Impervious Surface – 40% Front Setback: 30’ Rear Yard Setback: 30’ Side Yard Setback: 10’</p>	<p>Waive compliance with requirements in a General Residence District as follows: Allow side yard and rear setback distances as shown on the plan.</p>	
Section 6-C Special Conditions			
Section 6-C.4.	<p>Not more than one principal building constructed as a dwelling or so used shall be located on a lot</p>	<p>Allow nine (9) principal buildings to be constructed for use as a dwelling for up to six (6) dwelling units per building to be located on a lot without special permit</p>	
Section 6-C.11	<p>Uncovered and/or unenclosed porches, decks, platforms, landings or stoops, which are part of a required egress, shall not encroach more than forty-eight (48) inches into the setbacks.</p>	<p>Allow rear decks to encroach beyond that permitted into the rear setbacks.</p>	
Section 7.3.G	<p>Real estate signs of ten (10) square feet or less in surface area for property currently for sale, rent or lease</p>	<p>Permit real estate sign of not more than thirty (30) square feet in surface area for property currently for sale, rent or lease</p>	

SECTION	DESCRIPTION	WAIVER	NOTES
Section 13 – Site Plan Review	The Applicant requested the following:		
	As the development is proposed under M.G.L. Chapter 40B, the ZBA is the permit granting authority for all local approvals for the proposed development. Site Plan Review Rules as described in Section 13 of the Zoning Bylaws is not required.		
	Walpole Stormwater Management and Erosion Control Bylaw and Regulations		
Walpole General Bylaws - Chapter 499 Stormwater Management – Article II Erosion Control - §499-16	Applicability	Waiver applicability to this development. Stormwater management design shall be in compliance with the Massachusetts DEP Stormwater Management Standard and Stormwater Policy Handbook.	
Regulations - Part III (approved 11/14/2007 and revised 6/26/2019)	Stormwater Management Plans	Waiver requirement. Stormwater management design shall be in compliance with Massachusetts DEP Stormwater Management Standards and Stormwater Policy Handbook.	
	Walpole Wetland Protection Bylaw and Regulations		
Section 1.2	Protected resource areas	Protected resource areas shall be as defined in the Massachusetts Wetlands Protection Act and the Regulations at 310 CMR 10.00	

SECTION	DESCRIPTION	WAIVER	NOTES
Section 1.3	Bordering Lands (a/k/a Buffer Zone)	Lands within 100 feet of any other resource areas listed shall not be regulated as a resource area, allow this buffer some area to be regulated in accordance with the Massachusetts Wetlands Protection Act and the Regulations at 310 CMR 10.00	
Section 1.4.1	No Alteration Zone	No alteration zone -- not applicable. This buffer zone is to be regulated in accordance with the Massachusetts Wetlands Protection Act and the Regulations at 310 CMR 10.00	
Section 2.3.2	Fees	Waive all fees required under the Wetland Protection Bylaw Regulations	
Walpole Board of Sewer and Water Commission Regulations			
Water, Article III, Section N	Water Entrance Fees	Waive all entrance and system development fees for each unit.	
Sewer, Article II, Section C	Sewer Entrance Fees	Waiver all residential sewer connection fees for each unit.	
Sewer, Article IV, Section D	Inflow and Infiltration Fees	Waiver inflow and infiltration fee for each unit	
Building Department			
Building Permit Fees	All associated building permit fees	Waive building permit fee on all affordable units.	

Note: The Applicant reserves the right to amend this Request for Waivers.