

**APPLICATION FOR COMPREHENSIVE PERMIT
APPLICANT - WALL STREET DEVELOPMENT CORP.
DIAMOND HILL ESTATES - WALPOLE, MA
PRELIMINARY REQUEST FOR WAIVERS
FEBRUARY 27, 2020
REVISED JANUARY 10, 2021**

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 "Diamond Hill Estates". 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 Diamond Hill Estates 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 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”). The sections of the ZBA 40B Regulations that are inconsistent with the Regulations can be summarized as follows:

Section 3.2.10 – Recreation and Open Space Amenities

Section 3.2.12 – Pro Forma

Section 3.2.13 – Impact Analysis of the Natural and Built Environment

Section 3.2.14 – Traffic Impact Report

Section 3.2.15 – Statement of Impact on Municipal Facilities and Services

Section 3.2.16 – Statement of Demonstration of Compliance with Walpole’s Master Plan and Open Space Plan

Section 3.2.19 - Payment of Filing Fee

The requirements of the above outlined sections of ZBA 40B Regulations are in excess of the requirements to be included with an application for a comprehensive permit under M.G.L. c. 40B and as provided for in the regulation at 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 requests a waiver of the above referenced provisions of the ZBA 40B Regulations.

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

The proposed development of Diamond Hill Estates 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
APPLICATION FOR COMPREHENSIVE PERMIT
DIAMOND HILL ESTATES - WALPOLE, MA
PRELIMINARY REQUEST FOR WAIVERS
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WALPOLE ZONING BYLAWS THROUGH OCTOBER 18, 2019

<u>Applicable Bylaw/Regulation</u>	<u>Waiver Requested</u>
<u>Section 5-B: Use Regulations</u>	<u>Waiver Requested</u>
Section 5-B.3.d. iii.: iiii. if there is to be more than one (1) principle 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 eight (8) principle buildings on a lot with less than 6,500 square feet of lot area per dwelling unit
<u>Section 5-D Excavation or Filling of Earth</u>	<u>Waiver Requested</u>
Section 5-D.2. Activities Prohibited	Allow tree clearing and stripping of topsoil and site work to commence upon approval of the Comprehensive Permit and expiration of any appeal periods
<u>Section 5-D Excavation or Filling of Earth</u>	<u>Waiver Requested</u>
Section 5-D.3.E. Activities approved as part of any Site Plan Review application	Allow activities as required and shown on the plan
<u>Section 5-D Excavation or Filling of Earth</u>	<u>Waiver Requested</u>
Section 5-D.4.A. Activities associated with a residential use that will involve the excavation or filling of one hundred (100) cubic yards of each or more per year except those listed in Subsection 5-D.3.C.	Allow excavation and /or filling activities required for the development, as shown on the plan without special permit

Section 6-B.1 Table of Dimensional Regulations:

Waiver Requested

Section 6-B.C. 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 Residence B District

Allow front setback distance of all buildings to have a minimum setback of twenty-two (22) feet

Allow rear yard setback of all buildings to be twenty-five (25) feet

Allow exterior decks or steps to be within five (5) feet of any side yard setback

Section 6-B. Schedule of Dimensional Regulations:

Waiver Requested

Table 6-B.1. Table of Dimensional Regulations

Waive compliance with dimensional requirements in a Residence B District for lot area, impervious surface, front, rear and side yard setback distances.

Section 6-C Special Conditions:

Waiver Requested

Section 6-C.4. Number of Buildings per Lot

Allow eight (8) principal buildings to be constructed for use as a single-family dwellings to be located on a lot without a special permit

Section 6-C Special Conditions:

Waiver Requested

Section 6-C.4.A.3. Minimum thirty-foot setback from any building to any adjacent property line

Allow ten (10) foot setback from any building to any adjacent property line

Section 6-C Special Conditions:

Waiver Requested

Section 6-C.4.A.4. Buildings shall be a minimum of thirty feet apart

Allow buildings to be ten (10) feet apart

Section 6-C Special Conditions:

Waiver Requested

Section 6-C.4.A.6. Maximum number of dwelling units not to exceed one dwelling unit for every 10,000 square feet of lot area on a single lot

Allow eight (8) dwelling units with one unit for every 6,500 square feet of lot area on a single lot

Section 6-C Special Conditions:

Waiver Requested

Section 6-C.11. Uncovered and/or unenclosed porches, decks, platforms, landings or stoops, which are part of required egress, shall not encroach more than forty-eight (48) inches into the setbacks.

Allow front porticos, front porches and rear decks to encroach up to sixty (60) inches into the setbacks

Section 13 - Site Plan Review:

Waiver Requested

Section 13.2.A.(6) Height and use of all buildings abutting proposed project

Not required to be submitted with application

Section 13 - Site Plan Review:

Waiver Requested

Section 13.2.A.(8) Rendering of all elevations of proposed buildings and structures

Renderings not required with application, final plans to be submitted upon approval of Comprehensive Permit

Section 13 - Site Plan Review:

Waiver Requested

Section 13.2.A.(17) Lighting Plan

Street Lighting Plan as submitted

Section 13 - Site Plan Review:

Waiver Requested

Section 13.2.A.(18) Landscape Plan

Landscape plan not required with application - landscape plan to be submitted upon approval of Comprehensive Permit

Section 13 - Site Plan Review:

Waiver Requested

Fees

No Fees Required

**WALPOLE STORMWATER MANAGEMENT AND
EROSION CONTROL BYLAW**

Walpole Stormwater Management and
Erosion Control Bylaw

Waiver Requested

Section 4 - Applicability

Waive applicability to this development. Stormwater management design shall be in compliance with the Massachusetts DEP Stormwater Management Standards and Stormwater Policy Handbook

**WALPOLE STORMWATER MANAGEMENT AND
EROSION CONTROL REGULATIONS**

Walpole Stormwater Management and
Erosion Control Regulations

Waiver Requested

Part III - Stormwater Management Plans:

Waive requirement. Stormwater management design shall be in compliance with Massachusetts DEP Stormwater Management Standards and Stormwater Policy Handbook

**WALPOLE BOARD OF SEWER AND
WATER COMMISSION REGULATIONS**

Walpole Board of Sewer and Water
Commission Regulations

Waiver Requested

Water Entrance Fees:

Waive all entrance and system development fees for each unit

Walpole Board of Sewer and Water
Commission Regulations

Waiver Requested

Sewer Connection Fee:

Waive all residential sewer connection fees for each unit

Walpole Board of Sewer and Water
Commission Regulations

Waiver Requested

Inflow and Infiltration Fee:

Waive inflow and infiltration fee for each unit

BUILDING PERMIT FEES

Applicable Bylaw/Regulation

Waiver Requested

Building Permit Fees

Waive building permit fees on all affordable units

THE APPLICANT RESERVES THE RIGHT TO AMEND THIS REQUEST FOR WAIVERS AT ANY TIME DURING THE HEARING PROCESS