



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

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DECISION ON CHAPTER 40B COMPREHENSIVE PERMIT APPLICATION
G.L. c. 40B, §§20-23

APPLICANT

Radke Associates, LLC/Donald Wright

LOCATION OF PROPERTY INVOLVED

270 Moosehill Road

Walpole Assessors Map: 36; Lot 64 & 65

I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was submitted by Radke Associates, LLC (the "Applicant") to the Walpole Zoning Board of Appeals (the "Board") on May 15, 2020. The original application proposed eight (8) dwelling units within four (4) duplex style structures to be located on property located on Assessor's Map 36, Lots 64 & 65 at 270 Moosehill Road, Walpole, Massachusetts (the "Project").
2. The Board's hearing on the application was duly opened on December 21, 2020 and was continued as requested by the Applicant to January 27, 2021 (no testimony taken); March 3, 2021 (no testimony taken); April 7, 2021 (no testimony taken); April 14, 2021 (no testimony taken); May 19, 2021; June 23, 2021; July 14, 2021; and July 28, 2021. The public hearing was closed on July 14, 2021. The Board deliberated and voted on the decision on July 28, 2021. The opening of the public hearing was delayed and the first seven (7) public hearings were held via a virtual platform (zoom webinars) due to the Governor's March 10, 2020 declaration of a State of Emergency caused by the COVID-19 pandemic which put limits on public gatherings. All submittals concerning the Project are part of the administrative record kept at Walpole Town Hall and incorporated herein. All waivers requested and votes taken are listed on **Exhibit A** and incorporated herein.

3. The Project is located at Assessor’s Map 36, Parcels 64 & 65; 270 Moosehill Road, Walpole, Massachusetts.
4. The Property is located in the Residence A (RA) Zoning District. The Property consists of one parcel totaling 1.16+/- acres. There is an existing single family home on the Property which will be razed. The Property resides along Moosehill Road which is in the eastern side of the Town of Walpole and in close proximity to Boston-Providence Highway (Route 1), High Plain Street (Route 27), and Coney Street (access to Interstate 95).
5. The Applicant provided certain materials, reports, and revised plans during the course of the public hearing on the Application. During the public hearing, the Applicant was represented primarily by their consultant, Delphic Associates LLC and their principle, Paul Cusson. The Applicant’s engineering consultant is Robert Truax, of GLM Engineering Consultants, Incorporated.
6. The Board utilized the services of Tetra Tech, Inc. (“Tetra Tech”) for civil engineering and stormwater peer review. Town Counsel also attended the public hearings and advised the Board.
7. The following Board members were present for the public hearing process: John Lee, Chair; Susanne Murphy, Vice-Chair; Robert Fitzgerald, Clerk; Mary Jane Coffey; and Drew Delaney.

II. JURISDICTIONAL FINDINGS

8. The Applicant received a Project Eligibility Letter (“PEL”) from MassHousing dated October 9, 2019 and submitted a copy to the Board with the original application. According to the PEL, the Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum Project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
 - a. The Applicant has agreed to form a limited dividend organization prior to applying for final approval (as defined in 760 CMR 56.02), The Applicant has agreed to conform to the limited dividend requirements of M.G.L Chapter 40B.
 - b. The Applicant has included a copy of Purchase and Sale Agreement and certain deed regarding the Property upon which the Board relies, in relevant part. According to the PEL, the Applicant has shown threshold

evidence of site control sufficient to qualify as an Applicant for a Comprehensive Permit.

- c. The Applicant has agreed to execute a Regulatory Agreement that limits its total profit and directs the redistribution of excess profit in accordance with the regulations adopted by the Massachusetts Department of Housing and Community Development (“DHCD”).
9. On April 25, 2019, the DHCD approved Walpole’s Housing Production Plan pursuant to 760 CMR 56.03(4).

III. FACTUAL FINDINGS

10. The Board engaged a peer reviewer (Tetra Tech) to review issues concerning civil engineering, drainage, traffic, site design, and stormwater impacts of the Project. The Board also sought comments from Town Departments and abutters in the surrounding area.
11. The Fire Department had expressed concerns about the proposed twenty (20) foot roadway width and initial design of the roadway lacking a proper turn-around for emergency vehicles. The proposed twenty (20) foot roadway width would make emergency vehicle access difficult and street parking would need to be prohibited.
12. The Applicant, at request from municipal departments and the Board’s peer reviewer, amended their proposal to include a rounded cul-de-sac turn-around. This amendment to the site plan replaced the originally design and added adequate visitor parking.
13. Peer Review from Tetra Tech had expressed concerns with the site’s vehicle turnaround and stormwater infiltration system. After revisions, the peer reviewer indicated that all major concerns they had were addressed.
14. The Project involves private septic systems for each duplex building. Information provided indicates that the systems can be designed to meet applicable design guidelines and requirements. The Applicant is still required to seek review and approval by the Walpole Board of Health per the requirements of 310 CMR 15 (Title 5).
15. Project site has limited open space and no recreational amenities.

16. The Board finds that the conditions imposed in Section IV of the Decision are necessary in order to address Local Concerns. Based upon the fact that the Applicant was afforded opportunity to address these conditions during the public hearing and did not challenge the conditions on the grounds that they either singly or in the aggregate render the Project uneconomic, the Board finds that there is no basis in the record to conclude that such conditions will render the Project uneconomic.
17. The Board received no comments, either verbally or in writing, from abutters to the project. The Board did receive comments from Town Departments which are addressed by the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately addressed these matters of local concern in a manner that is consistent with the regional need for affordable housing. The Board finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.

IV. CONDITIONS

A. **General**

- A.1 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.1, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project (“Approved Plans”). The Approved Plans consist of the following:

“Site Development Plan, A Comprehensive Permit M.G.L. c. 40B, Moose Hill Condominiums”, prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, **dated March 10, 2020, with revisions through July 7, 2021**

The Plan Set consists of the following sheets:

- Sheet 1. Cover Sheet
- Sheet 2. Existing Site Conditions
- Sheet 3. Layout Plan
- Sheet 4. Grading, Drainage & Utilities
- Sheet 5. Erosion Control Plan
- Sheet 6. Landscape Plan
- Sheet 7. Details
- Sheet 8. Details
- Sheet 9. Details

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Architecture and Elevation plans dated: June 1, 2021, by South Coast & Associates, 34 Slocum Farm Drive, Dartmouth, MA 02747

Sheet 1. Option with first floor bedroom
Sheet 2. Option with all bedrooms on second floor

Architectural Renderings were provided separately in plans dated: May 10, 2021, by South Coast & Associates, 34 Slocum Farm Drive, Dartmouth, MA 02747

Sheet 1: Scheme 1.3

Additional Plans: Fire Truck Turning Plan

“Site Development Plan, A Comprehensive Permit M.G.L. c. 40B, Moose Hill Condominiums”, prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, **dated April 20, 2017, with revisions through May 6, 2021**

Sheet 1. Walpole Fire Truck Left Turn Entering Site Driveway
Sheet 2. Walpole Fire Truck Left Turn Exiting Site Driveway
Sheet 3. Walpole Fire Truck Right Turn Entering Site Driveway
Sheet 4. Walpole Fire Truck Right Turn Exiting Site Driveway
Sheet 5. Walpole Fire Truck U-Turn Around Cul-De-Sac

- A.2 The Applicant shall be a Limited Dividend Organization as required by Chapter 40B and it and its successors and assigns, shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.3 The Project shall consist of no more than eight (8) duplex-style owner occupied dwelling units of which two (2) shall be affordable as defined by the subsidizing agency in perpetuity. All dwelling units shall consist of no more than three (3) bedrooms. There shall be no bedrooms within the basement of any dwelling unit.

- A.4 The Project provides a garage and driveway for each unit. There shall be three (3) parking spaces for dwelling units labeled "units 2-8" on the Approved Plans. One (1) parking space within each unit's garage, and two (2) parking spaces within each unit's driveway. The dwelling unit labeled "unit #1" on the approved plan is to have one (1) parking space within the unit's garage, and one (1) parking space within the unit's driveway. Driveway parking spaces for all dwelling unit shall not cross into the Project roadway.
- A.5 There will be four (4) visitor parking spaces available on the site as shown on the Approved Plans. Identified visitor parking shall not impede emergency access to and from the site.
- A.6 All on-street parking within the Project roadway is prohibited.
- A.7 Affordable units shall be interspersed evenly throughout the Project, as approved by the Subsidizing Agency during Final Approval.
- A.8 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Walpole Zoning Bylaw and other local by-laws and regulations as specified therein. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23, and no waivers of any requirements otherwise within the Board's jurisdiction under G.L. c.40B, §§20-23 have been granted except for those expressly granted by the Board as set forth in Exhibit A. To the extent the Approved Plans reflect a waiver not expressly granted in Exhibit A, the terms and conditions of Exhibit A shall govern. No waiver of building permit or inspection fees has been granted. Any subsequent revision to the Final Plans, including but not limited to revisions that are apparent in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- A.9 The Project shall comply with all local regulations of the Town of Walpole and its boards, commissions and departments unless specifically waived herein.
- A.10 The Applicant shall copy the Board, through the Board Secretary and the Community and Economic Development Director, on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.

- A.11 Except as otherwise specifically provided herein, where this Comprehensive Permit Decision provides for the submission of plans or other documents for approval by the Building Commissioner or other Town Departments, the Building Commissioner or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Building Commissioner or applicable Department Head, the thirty (30) day time period shall not begin until the consultant’s fee has been fully funded by the Applicant.
- A.12 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the Project regardless of sale, transfer, or assignment of the Project.
- A.13 The driveways, roadway, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town of Walpole shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, drainage and landscape maintenance.
- A.14 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board’s behalf subsequent to this Decision.
- A.15 The Applicant shall submit to the Building Commissioner and Board prior to any construction or site development activities (including site clearing, tree removal, grading, etc.):
- a. Final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts. Said plans shall be reviewed by the Building Commissioner, as to whether or not the Final Plans conform to the Approved Plans and the conditions of approval. If the Building Commissioner takes no action within thirty (30) days of receipt, the plans shall be deemed to conform.
 - b. Final Engineering Drawings and Plans (“Final Plans”) that conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Final Plans shall also incorporate all conditions and requirements

of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record and the Professional (Civil) Engineer of record. The Final Plans shall be submitted to the Building Commissioner at least thirty (30) days prior to the anticipated date of the submission of an application for building permits (the "Final Site Plan Submission Date").

At a minimum, the Final Plans shall be in accordance with the comments from the peer review consultant and Town staff detailed during the course of the hearing. If no written response of comments have been given to the Applicant by the Building Commissioner concerning the Final Plans within (30) days after the Final Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.

B. Affordability

- B.1 A minimum of 25% of the home ownership units shall be low- or moderate-income units, meaning that they shall be sold to, and occupied by, households whose income is not more than 80% of the Area Median Income (“AMI”), as determined by the United States Department of Housing and Urban Development (“HUD”) and DHCD (“Affordable Units”). Affordable units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency. The Applicant shall be responsible for maintaining records sufficient to comply with DHCD guidelines for the location of Affordable Units in the Project and occupancy of such Units by income-eligible households. Affordable Units shall remain affordable, as defined by the subsidizing agency, in perpetuity.
- B.2 Upon completion of the Project, and in perpetuity, two (2) units shall meet the criteria for inclusion in the DHCD’s Subsidized Housing Inventory.
- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to the sale or rental of any units and shall ensure that the Project complies with the Subsidizing Agency’s fair housing requirements.

C. Submission Requirements

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit, the Applicant shall:

- a. Deliver to the Board a check in a reasonable amount determined by the Building Commissioner to be used for the Building Commissioner to retain outside experts for technical review of the Final Plans. Said funds shall be deposited by the Building Commissioner in an account pursuant to G.L. c. 44, s. 53G and shall only be used for technical reviews associated with this Project. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the Project. If at any time the Building Commissioner reasonably determines that there are insufficient funds to cover the costs of technical reviews, they shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Building Commissioner in a reasonable amount as may be determined by the Building Commissioner.
- b. Obtain any and all Federal, State and local permits and approvals required for the construction and operation of the Project.
- c. Submit Final Plans and supporting documentation for review and approval by the Building Commissioner and its review consultant.
- d. Determine the volume of cuts/fills needed for the Project and provide such information to the Building Commissioner, signed by the Registered (Civil) Engineer of record.
- e. A construction management plan shall be submitted to the Building Commissioner for review and approval, including, but not limited to, dust control measures, fill delivery schedules, security fencing, stockpiling area, and like matters. The Applicant shall conform to all local, State, and Federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. The Applicant shall keep all portions of any public way used to access/egress the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project. During the construction process an up-to-date Material Safety Data Sheet must be updated and kept on site with any materials brought onto site and used on site by the construction team. The Building Commissioner may restrict hours of delivery depending upon peak traffic concerns. The Building Commissioner may also request police detail as needed with coordination and input from the Police Chief. The expenses for police detail shall be paid for by the Applicant or their successor. The construction management plan shall also provide a 24-hour contact person for the Applicant who will be available to respond to local officials or area

residents reporting issues or problems that may arise during construction.

- f. Other than site work and such other work as may be authorized in writing by the Building Commissioner, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Building Commissioner has approved the Final Plans as being in conformance with this Comprehensive Permit.
- g. Submit to the Building Commissioner a construction schedule outlining the entire development of the Project.
- h. Submit to the Board a Site-Specific Safety Plan including but not limited to emergency contacts information for the job team, muster point for emergency personnel, emergency response plan, sign-in area for all site visitors, designated employee parking area, and designated fueling area. All employees on site shall be responsible for understanding the plan and, at any point during the construction process, the Project shall be subject to inspection by the Building Commissioner for compliance of all site personnel.

C.2 Prior to the issuance of any building permits, the Applicant shall:

- a. Record this Comprehensive Permit with the Norfolk Registry of Deeds, at the Applicant’s expense, and provide proof of such recording to the Walpole Building Commissioner and Community and Economic Development Director.
- b. Submit to the Board and the Building Commissioner evidence of Final Approval from the Subsidizing Agency, MassHousing, as required by the Project Eligibility Letters and the Chapter 40B regulations.
- c. Submit to the Board and the Building Commissioner a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project and evidence of recording the same. The Building Commissioner shall also be provided with evidence of a subsidy funding commitment by MassHousing or an approved New England Fund lender.
- d. Obtain all necessary electrical, plumbing, and other permits required to begin construction on the building for which the building permit is sought.
- e. The Applicant and the site general contractor shall attend a preconstruction conference with the Building Commissioner and other

Town staff as may be determined. If Applicant has obtained a demolition permit, Applicant may proceed with demolition of existing structures in accordance with the terms and conditions of the permit.

- f. The Applicant shall provide security in an amount acceptable to the Town for restorative landscaping to consist of loam, hydroseed, and planting and replant die-outs of any disturbed areas. Said security shall be provided consistent with the provisions of G. L. 41, § 81U, as provided for in Condition No. I.1, provided herein.

D. Construction Completion/Certificate of Occupancy

- D.1 Prior to issuance of certificate of occupancy for specific dwelling units, the Applicant shall:
 - a. Submit engineer’s interim certification of compliance with utilities plan and profiles (as applicable) to the Building Commissioner.
 - b. Provide a letter to the Board, signed by the Applicant’s civil engineer, certifying that the as-built Project has been constructed in compliance with the Final Plans in all material respects, or noting where there are differences.
 - c. Obtain acceptance from the Walpole Fire Department of testing of all fire protection systems including but not limited to fire alarm systems and smoke alarms within the dwelling units. The proposed fire hydrant location is in place at proper grade and functioning.
 - d. Submit request and obtain approval of a street name for the Project roadway as required under Section 505-1 of the Walpole General By-Laws.
 - e. Submit to the Board’s counsel the Condominium Master Deed, Condominium Declaration of Trust and accompanying condominium plans (together, the “Condominium Documents”). Such Condominium Documents shall incorporate all the conditions of this Comprehensive Permit.

- e. Submit as-built plan of the infiltration units along with certification by Applicant’s Civil Engineer of compliance with the conditions of approval for the stormwater management system set forth in the final stormwater management plans that have been approved by the Town’s peer review engineer with counsel from Town Engineering.

D.2 Prior to issuance of the certificate of occupancy for the last residential unit, the Applicant shall:

- a. Submit to the Building Commissioner, in digital file format, a final as-built utilities plan showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in a form acceptable to the Building Department. AutoCAD file delivery shall be in full model view and individual sheet views. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
- b. Submit to the Building Commissioner as-built plans for all buildings in the Project.
- c. Submit to the Board all information relating to the condominium association rules and regulations and the management company being retained to act as the property manager that the Applicant submits to the Subsidizing Agency as part of the Final Approval process. Such property management agreement and condominium association rules and regulations shall, at a minimum, pet policy, staffing, trash removal, smoking policies, snow and ice removal, and snow storage.
- d. Submit verification that the stormwater management system including but not limited to catch basins, infiltration units, and pipes, has been inspected and cleaned.
- e. Submit to the Board a certification of compliance with all terms and conditions of this Comprehensive Permit.
- f. Certification by the Town Engineering Department that all off-site measures (if any) are complete.

- f. Certification from the Town’s DPW Water and Sewer Department that all systems have been installed, tested, and that all valve covers and other related items are at grade and are in proper working condition.
- g. Certification from the Town’s Board of Health as to the review and compliance of the proposed septic systems as required under 310 CMR 15.

E. Project Design and Construction

- E.1 At reasonable times and after notice to the Applicant, representatives of the Board may observe and inspect the Property and construction progress until such time as the Project has been completed at their own risk.
- E.2 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- E.3 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer and shall be equipped with a 4 foot fence for safety purposes.
- E.4 During construction, the Applicant shall comply with the construction management plan referenced in Condition C.1.
- E.5 Appropriate signage shall be shown on the Final Plans. All other sign regulations shall be abided by.
- E.6 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans provided to the Board and Building Commissioner.
- E.7 If the Applicant uses natural gas for the Project or any part thereof, gas service locations shall be included on the Final Plans.
- E.8 Lighting shall be installed as follows:
 - a. All proposed exterior lighting shall comply with all applicable federal, state, and local laws, rules, and regulations, including but not limited to, applicable sections of the Massachusetts Building Code, the Walpole Zoning Bylaws, and the Walpole Town Bylaws. In event of a conflict among such requirements, the most restrictive provision shall apply. A proposed lighting plan shall be submitted to the Building Commissioner

and Board. The lighting plan submitted shall show all locations of any proposed lamp-post fixtures, exterior mounted light fixtures, and landscape lighting. The lighting plan proposed shall include, but not be limited to, a site plan depicting the property lines of the Project location for which lighting is proposed, the location and specification of all exterior light fixtures to be installed within the Property, their lumen values, mounting heights, shielding, directionality and controls, protections provided to minimize light pollution, the uses of properties associated with parties in interest, other relevant site conditions, and any additional information required to demonstrate compliance with applicable standards. The lighting plan submitted shall include a proposed photometric calculation to ensure public safety and minimize light trespass from the proposed Project property line. To minimize impacts to abutters, all lighting shall meet standards for building code while avoiding excessive flood lighting.

- b. *Permanent Street Lighting/Lamp Post Lighting*
No free-standing light fixtures shall be installed to a height exceeding 15 feet. All illumination shall be directed and/ or shielded so as not to shine beyond the perimeter of the site or interfere with traffic. (Walpole ZBL Section 13 Sub-Section 10.A (5))
- c. *Permanent Exterior lighting mounted to building structures*
Broad lighting will be highly discouraged while soft lighting aimed down will be highly encouraged. (Walpole ZBL Section 13 Sub-Section 12.H(1)). Exterior mounted fixtures must be partially shielded directional light fixtures, placed not less than 4 feet apart or 8 feet in height from the surface area to be illuminated.
- d. *Seasonal Lighting & Landscape Lighting*
Landscape lighting shall be limited to lighting of trees, shrubs, or other plant material. Lighting shall be “low-level light fixtures” (3 feet or lower) and only be directed in a downward facing direction. Seasonal Lighting shall not be permitted for longer than a six-week period in any calendar year.
- e. *Construction & Temporary Lighting*
Temporary lighting used for security or illumination purposes shall be shielded and down-ward facing. Temporary lighting of the interior

buildings must be contained with-in the building structure or shut off between the hours of 8:00 pm to 7:00 am.

f. Photometric Survey:

Upon completion of said Project a photometric study shall be conducted by a registered professional engineer licensed in the Commonwealth of Massachusetts at the cost of the Applicant to ensure compliance with the conditions of this Section E9. All exterior light fixtures shall comply with IDA fixture seal of approval. All proposed lighting shall promote Dark Skies and minimize glare while reducing light trespass and skyglow.

- E.9 Construction activities shall be conducted between the hours of 7:00 A.M. and 8:00 P.M., Monday through Saturday. Any work causing noise over 85 decibels at any segment of a property line shall be further restricted to hours of 10:00 a.m. to 5:00 p.m. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, vehicle fueling; vehicle access to and from site; delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on site during construction.

In addition, no exterior work shall be conducted except snow management or work to prepare the site for a weather event, on Sunday or on the following National holidays: New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

- E.10 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law, and Applicant shall provide manifests/bills of lading to the Town certifying the removal of any waste or contaminants from the Project site. The Applicant shall also include a dumpster location and management plan for approval by the Building Commissioner prior to commencement of work at the Property including a dumpster emptying and removal protocol from a duly licensed and insured private contractor approved by the Building Commissioner. During construction, the site shall be secured against unauthorized entry or vandalism by construction security fencing, and all construction materials shall be stored or stockpiled in a safe manner.

- E. 11 Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.12 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by paving or loaming and seeding exposed areas. All 2:1 slopes or steeper areas shall be permanently stabilized with rip rap or vegetated cover.
- E.13 All retaining walls visible from a public way or direct abutters, as determined by the Building Commissioner based upon the time of year when such walls would be most visible, shall be constructed in an aesthetic manner. Specifically, retaining walls shall avoid the use of exposed concrete (except for modular concrete block wall systems) to the greatest extent practicable.
- E.14 The Applicant shall comply with all applicable state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.
- E.15 The Applicant is responsible for the sweeping, removal of snow and sanding of the roadway and providing access to residents of the Project, as well as emergency vehicles.
- E.16 Snow shall be stored within the areas of the site designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage on the site, the Applicant shall truck the excess snow off-site.
- E.17 The Applicant shall maintain all portions of Moosehill Road used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.

- E.18 Prior to the commencement of any work on the Property, the Applicant and the site general contractor shall submit a dust mitigation plan and air quality management plan to the Building Commissioner. Water must be used to mitigate any dust created during construction.
- E.19 Construction security fencing shall be utilized at least until the first certificate of occupancy is issued to ensure the safety and security of the site for the benefit of the surrounding neighborhood and the Applicant. Six (6) foot tall chain-link fencing shall be utilized with access gate at the entrance of the site. Walpole Fire Department shall have access to a Knox Box placed at the entrance to the gate during the construction process. Security personnel shall be utilized to open and close the site daily and confirm/mandate the hours of operation for site personnel. Security personnel contact information shall be posted on the site and made visible to the public.
- E.20 All construction equipment must be off-loaded and parked on the Property. No equipment or material shall be off-loaded or parked on Moosehill Road.
- E.21 The Applicant shall submit a trucking routes plan, subject to the review and approval of the Town Engineer.

F. Roadway and Traffic Safety Conditions

- F.1 Access and egress to the Project shall be consistent with the Approved Plans.
- F.2 Any reduction in the number of parking spaces for the Project, absent a corresponding reduction in the number of units, shall constitute a substantial change pursuant to 760 CMR 56.05(11).
- F.3 Applicant shall install a marked crosswalk at the intersection of the Project Roadway and Moosehill Road.
- F.4 The internal driveway parking spaces shall have a minimum depth of 18 feet as measured from the front of each unit to the lot line coincident with the Project roadway.
- F.5 Appropriate safety signage shall be shown on the Final Plans and approved by the Fire Department. A stop sign to be installed shall be consistent with the current Manual on Uniform Traffic Control Devices (MUTCD) standards and guidelines.

G. Police, Fire, and Emergency Medical Conditions

- G.1 The Project shall comply with NFPA-13 and applicable building codes.
- G.2 Posted no parking restrictions along the Project roadway with appropriate markings and/or signage shall be provided on the Final Plans.
- H. Water, Septic, Stormwater and Utilities**
- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.
- H.2 Final Plans shall include a fire hydrant placed at the end of the proposed cul-de-sac. If the Walpole Fire Department approves a different hydrant location, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).
- H.3 The service size for the domestic water service for each individual dwelling unit should be verified by the Water Department. The Applicant shall submit information regarding the size of the domestic service as part of Final Plans, after consultation with the Water Department.
- H.4 All valves and fittings shall be shown on the Final Plans and their locations be approved by the Water Department prior to construction and that an as-built plan of all utility infrastructure be provided upon completion.
- H.5 All water and septic improvements necessary to serve the Project must be shown on Final Plans including all details and supporting information required for review by the Water and Sewer Department and Board of Health. The water service improvements servicing each structure are to be completed, and interim as-built plans must be submitted to and approved by the DPW Water / Sewer Department, before any certificate of occupancy for said individual structures may be issued. The proposed septic systems will require review and approval by the Walpole Board of Health per the requirements of 310 CMR 15. All operation, maintenance and repair of water and septic infrastructure within the Project will be the sole responsibility of the Applicant and/or its successor. As-built Plans shall show layout and construction details of all proposed water and septic infrastructure installed per town standards. A detailed hydraulic analysis shall be submitted to the Building Commissioner that complies with applicable regulations.

- H.6 The Project shall meet all applicable state stormwater management standards to be documented on the Final Plans and approved by an agent of the Town prior to issuing a building permit. Stormwater management facilities shall be constructed as shown on the Final Plans.
- H.7 The area of infiltration systems shall be excavated to remove fill down to natural soils and shall be witnessed by an agent of the Town prior to the installing crushed stone and the underground infiltration system.
- H.8 Septic systems shall be pumped out yearly and a copy of the yearly report sent to the Board of Health.

I. Completion of Infrastructure:

- I.1 As security for completion of the infrastructure shown on the Final Plans, including, but not limited to the roadway, stormwater management system, lighting, water and septic systems, landscaping and all other utilities (collectively the “Infrastructure”), the Applicant shall provide security consistent with the provisions of G. L. 41, § 81U, solely for that portion of the Project for which certificates of occupancy are requested and subject to the following:
 - a. No certificate of occupancy for a dwelling unit shall be issued until: (1) the roadway shown on the Final Plans providing access to all of the proposed dwelling units has been installed, excepting the final course of pavement; and (2) all other Infrastructure necessary to serve all of said dwelling units, as approved by the Board’s peer review engineer or the Building Commissioner has been constructed and installed so as to adequately serve all of said dwelling units. The final infrastructure for the Project, including, but not limited to, final course of pavement shall be installed prior to the issuance of a certificate of occupancy for the final dwelling unit. The final infrastructure shall include, but not be limited to: intermediate and final course of pavement, remaining landscaping, and any “punch list” items identified by the Board’s engineer or the Building Commissioner. Alternatively, if the Applicant desires to obtain such final certificate of occupancy for the final dwelling unit before the completion of said Final Infrastructure, it shall deposit such security as permitted by M.G.L. ch. 41, section 81U with the Town securing the installation and construction of such Final Infrastructure. The amount of such security and any necessary contingency shall be determined by the Board, acting reasonably and upon the advice of its consulting engineer. The form of the security agreement binding such security shall be subject to reasonable review by Town Counsel.

J. Other General Conditions

- J.1 In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law.
- J.2 The Applicant shall comply with all applicable local regulations of the Town of Walpole and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.3 This Comprehensive Permit Decision prohibits the parking or storage of any unregistered vehicle on the Property, and likewise prohibits the service of any vehicles on the Property.
- J.4 Trash and recycling services are not the responsibility of the Town. However, a trash and recycling management plan shall be submitted to the Board of Health for review and approval. No common dumpsters are permitted on the Property, no dumpsters were shown on the Approved Plans.
- J.5 Prior to the issuance of any certificates of occupancy, and prior to the execution of any purchase and sales agreement for a market rate unit, the Applicant shall submit, to the satisfaction of the Building Commissioner, a copy of the Condominium Trust and Condominium Master Deed which shall include an adequate plan for the operation and maintenance of the Project roadway. The Project roadway shall be maintained in perpetuity by the Condominium Association, which obligation shall be incorporated in the Condominium Association documents, as applicable, and the declaration of restrictive covenants to be executed by the Applicant. The Condominium Association obligation shall include snow removal of the Project roadway. The condominium documents shall include bylaws prohibiting cars from parking on any portion of the Project roadway with exception of the four (4) marked visitor parking spaces.

- J.6 The landscaping shall be maintained in perpetuity by the Condominium Association, which obligation shall be incorporated in the Association documents, as applicable, and the declaration of restrictive covenants, if any, to be executed by the Applicant. Dead or diseased plantings shall be replaced within six (6) months in accordance with growing and weather conditions. The Building Commissioner shall confirm compliance with Final Plan before issuance of certificate of occupancy. Obligation to maintain the landscaping in accordance with the landscaping plan shall be the responsibility of the Applicant and any subsequent condominium association.
- J.7 No dwelling unit shall have a garbage disposal system.
- J.8 A final landscaping plan shall extend plantings along the northern boundary of the Project so as to provide a suitable vegetative buffer between the Project and abutting properties. The final landscape plan shall include planting details such as location, species, count, and size.
- J.9 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as deemed reasonably necessary by the Building Commissioner), then the Town may take one or more of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; or (b) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys’ fees and expenses incurred in connection with such claim.

V. DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit for the construction of eight (8) duplex-style dwelling units within four (4) structures of which two (2) will be affordable as defined by the subsidizing agency in perpetuity, pursuant to Chapter 40B, §§ 20-23, for the development described above.

SIGNATURE PAGE TO FOLLOW

Decision on Chapter 40B Comprehensive Permit Application
Radke Associates, LLC/Donald Wright
"Moosehill Condominiums", 270 Moosehill Road, Walpole, MA
July 29, 2021
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VI. RECORD OF VOTE

On July 28, 2021, the Board, on a motion made by Ms. Murphy, seconded by Ms. Coffey, voted **5-0-0** (John Lee, Susanne Murphy, Robert Fitzgerald, Mary Jane Coffey, and Drew Delaney) to approve the **Comprehensive Permit** application of Radke Associates, LLC/Donald Wright, for the proposed Development at Assessor's Map 36, Parcel 64 & 65, 270 Moosehill Road, consisting of eight (8) duplex-style dwelling units, as shown on the Project's site plan dated March 10, 2020, with revisions through July 7, 2021 pursuant to Chapter 40B, §§ 20-23.

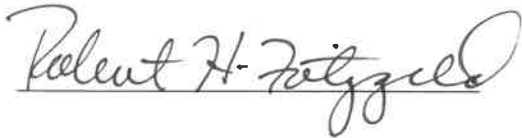
In Favor: John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Drew Delaney, Member

Opposed: None.

The Board has complied with all statutory requirements for the issuance of this Comprehensive Permit. A copy of this decision will be filed with the Town Clerk. Copies of this decision have been, or will be mailed, to all parties, persons or boards as required by M.G.L. c. 40B.

On July 28, 2021, the Board voted to authorize Robert Fitzgerald, Clerk to sign the Comprehensive Permit on behalf of the Board.

Robert Fitzgerald, Clerk



Date: *July 29, 2021*

Filed with the Town Clerk on July 29, 2021.



Town Clerk

Decision on Chapter 40B Comprehensive Permit Application
Radke Associates, LLC/Donald Wright
“Moosehill Condominiums”, 270 Moosehill Road, Walpole, MA
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Notice: Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Walpole, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.

Exhibit “A” – Waivers

Pursuant to the Waiver List revised and submitted to the Board, the Applicant has requested, and the Board has granted, certain waivers from the Walpole Zoning Bylaws and other local by-laws and regulations as specified in the attached Exhibit A. No waivers are granted from requirements that are beyond the purview of G. L. c. 40B, §§20-23, and no waivers have been granted other than those set forth in Exhibit A. No waiver of permits or inspections fees are granted.

On July 21, 2021, the Board, agreed to approve all Waivers requested by the Applicant, with exception to a waiver from all permits or inspection fees. The waivers requested are for the proposed Development at 270 Moosehill Road, consisting of a total of eight (8) duplex-style dwelling units, within four (4) structures, pursuant to Chapter 40B, §§ 20-23.

EXHIBIT A
“Moosehill Condominiums” (270 Moosehill Road)
Requested Waivers – Revised June 30, 2021

SECTION	DESCRIPTION	WAIVER	ZBA Decision/Notes	Waiver Number
Town of Walpole Zoning Bylaws				
*Section 2.A.				
Section 2.A.	Special Permits	Waive all provisions.	*Waiver request should be written as Section 2.2. not 2.A. Approved.	A
Section 5-B Schedule of Use Regulations				
Table 5-B.3.d.i-iii	<p>Dwelling for occupancy by more than three (3) families provided that;</p> <p>i. such dwelling is connected or is to be connected with the public sewer system at the time of construction;</p> <p>ii. 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 accommodated;</p> <p>iii. a fifty (50) foot buffer zone shall be required where the adjacent lot has a single family dwelling or is a</p>	<p>Waiver to allow multiple units on a single lot that is 50,487 square feet and the units are to be serviced by onsite sewage disposal systems.</p>	Approved.	B

SECTION	DESCRIPTION	WAIVER	ZBA Decision/Notes	Waiver Number
	<p>iv. 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.</p>			
Section 5-D Excavation or Filling of Earth				
Section 5-D.4.A	<p>Activities associated with a residential use that 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</p>	<p>Excess material will be excavated for the construction of the foundation and underground drainage systems.</p>	Approved.	C
Section 6-B Schedule of Dimensional Regulations				
Section 6-B.1.A	<p>No building shall be constructed on a lot having less than the "Required Lot Area" or having less frontage on at least one street than the "Required Lot Frontage".</p>	<p>Allow a building on a lot having less than the "Required Lot Area" or having less frontage on at least one street than the "Required Lot Frontage".</p>	Approved.	D
Section 6-B.1.B	<p>No building shall be constructed so as to cover, together with any other buildings on the lot, a larger portion of the lot area than the "Maximum Lot Coverage".</p>	<p>Allow a building so as to cover together with any other buildings on the lot, a larger portion of the lot area than the "Maximum Lot Coverage".</p>	Approved.	E
Table 6-B.1	<p><u>Residence A</u> Required Lot Area: 30,000S.F. Required Lot Frontage: 150' Maximum Lot Coverage by</p>	<p>Waive compliance with requirements in a Residence A District</p>	Approved.	F

SECTION	DESCRIPTION	WAIVER	ZBA Decision/Notes	Waiver Number
	<p>Structures: 25% Maximum Lot Coverage by Structures and other impervious surfaces: 40% Minimum Usable Open Space: 50% Minimum Front Yard Setback: 30' Maximum Front Yard Setback: N/A Minimum Side Yard Setback: 20' Minimum Rear Yard Setback: 30' Maximum Building Height: 35'</p>	<p>The existing lot has 91.21 feet of frontage along Moosehill Road. (150 ft. required) Impervious coverage 51.5% (40% allowed)</p>		
Section 6-C Special Conditions				
Section 6-C.4.A	Not more than one principal building constructed as a dwelling or so used shall be located on a lot	Allow more than one (1) principle building constructed as a dwelling or so used to located on a lot	Approved.	G
Section 10-E Common Driveways				
Section 10-E.2.	A Common Driveway is a driveway used as common access to no more than three lots or dwelling units. Common Driveways shall access lots from no more than one access point on an existing street or a street shown on an approved subdivision plan. A Common Driveway shall access lots over a portion of the approved frontage of one of the lots served and shall require a Special Permit from the	Allow a common driveway used as common access to more than three dwelling units.	Approved.	H

SECTION	DESCRIPTION	WAIVER	ZBA Decision/Notes	Waiver Number
	Planning Board.			
Section 10-E.5. A, D, F, G, H, I, L, M	Common Driveways shall conform to certain design standards set within this section of the Zoning Bylaws	Design standards waived.	Approved.	I
Section 10-E.6.	An acceptable amount and form of surety for construction of the Common Driveway and drainage system shall be agreed to by the Planning Board and the applicant prior to approval of the Special Permit. The Planning Board's inspection agent shall inspect the site and if it finds that all construction, including grading, loaming and seeding, clean up of earth materials and construction debris is complete, the agent shall so certify to the Planning Board. Thereafter, the Planning Board may release surety held under this Subsection.	No surety, guaranty or bond required. To allow a common driveway for access and egress to 8 dwelling units. Drive length approximately 385 feet to end of cul-de-sac (required for turnaround)	Approved.	J
Section 13 Site Plan Review				
Section 13	Site Plan Review	Waive site plan review.	Approved.	K

SECTION	DESCRIPTION	WAIVER	ZBA Decision/Notes	Waiver Number
	Additional Waiver Request (Fees)			
Board of Sewer and Water Commissioners Rules and Regulations. Walpole Building Department	Water Entrance Fee, Sewer Entrance Fee, Inflow and Infiltration Fee, and all building permit fees.	All related expenses for building permits, water connections, sewer connections, etc. for the 2 affordable units shall be waived.	Denied.	L
	General Bylaws, Chapter 767 Septic Systems			
Chapter 767-3(2) Requirements for disposal of sanitary sewage	Leaching area requirements must be increased by 50% for all new construction on-site septic systems. New construction includes renovations or additions to existing dwellings that may potentially result in an increased flow to a septic system.	Waiver requested that will include a deed restriction that no garbage disposals shall be allowed in the units. The 50% increase is required per Title 5, when garbage disposal system are installed in homes.	Approved.	M