

**Waiver Requests, originally submitted as of May 31, 2023, updated November 20<sup>th</sup> 2023**

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Through a Comprehensive Permit, the Walpole Board of Appeals has the authority under M.G.L. Chapter 40B and its implementing regulations to waive requirements of local bylaws; further, the Board of Appeals can act on behalf of any local permitting authority through the Comprehensive Permit process. The project plans reflect an attempt to minimize the number of waivers requested and we believe reflects a plan that is contextually appropriate on several different levels. Please find a table of the waivers necessary to permit the proposed project. This document and waivers are reflective of the Civil Site Plans dated 5/31/2023, recognizing that additional revisions to that plan set have since been submitted.

<b>WAIVERS FROM ZONING BYLAW OF THE TOWN OF WALPOLE</b>			
<b>LOCAL REGULATION</b>	<b>REQUIREMENT</b>	<b>PROPOSED</b>	<b>EXPLANATION</b>
<b>1. Section 8.3.1</b>	Parking Reduction Special Permit	Waiver request to review parking reduction Special Permit request under the Comprehensive Permit.	The Applicant is requesting approval on the proposed parking plan as represented within the Comprehensive Permit Application. Moreover, the Applicant is requesting that the plan review be performed by the ZBA within the Comprehensive Permit public hearing process as is customary for all 40B applications, and not by the Planning Board as is customary under a Special Permit Application.
<b>2. 5-B.1.3.d(ii)</b>	Use Table (Residential) – dwelling located on lot w/ 30,000sf plus 10,000sf additional for each unit in excess of 3	Waiver requested to allow a residential use of 142 units for a site of 83,070 square feet, where 8 units would be permitted.	A residential use with 142 units is not permitted on a site of 83,070 square feet within the CBD zone. The proposed development cannot be constructed without this waiver of use.
<b>3. 6-B-1</b>	Building Height (52' max.)	A building height of 69' 11" is proposed.	A 69' 11" building height is represented on the plan set submitted as part of the Comp Permit Application and is necessary in addressing all of the previous requests, <u>financial mitigation obligations</u> and site planning

			mandates issued by the Town <u>as part of the Memorandum of Agreement</u> , while maintaining a financeable project.
<b>4. 6-B.1</b>	Front Building Setback: 0' Minimum 25' Maximum	6'-7" Minimum 78' <u>8"</u> Maximum	The front building setback varies between 6'-7" and 78'- <del>78"</del> . The setback varies and exceeds 25 feet in many areas. The variable front setback adds interest to the design program and breaks up the mass of the front facade. The area between the property frontage and building is proposed with pedestrian amenities to enhance the public realm experience. The setback to the front lot line is necessary to build the project as proposed.
<b>5. 8.7.B</b>	Parking lots shall not be allowed in front of buildings along public way	A small portion of the total parking is proposed in a parking area at the front of the building.	The majority of the parking is proposed behind the building or in an underground garage. The small parking area proposed in front is needed to support the multiple entrances on the building and provide convenient service deliveries and resident needs.
<b>6. 8.7.C</b>	Landscaping required to screen ground level parking facing streets/open space	A small portion of the total parking is proposed in a parking area at the front of the building. Various landscape and pedestrian amenities are proposed <del>between the parking and</del> <u>along</u> the street.	Various landscape and pedestrian amenities <del>are</del> <u>were originally</u> proposed between the parking and street <del>which to</del> act as a buffer. <u>However, the ZBA prioritized better package delivery and small truck waiting area effectiveness, and as such, some of the front landscaping was removed.</u> Further, the building projections provide screening to the parking lot from certain perspectives from the street. While we believe the proposed screening is appropriate,

			strict and literal compliance may not be met and therefore a waiver is being requested.
<b>7. 8.8.A</b>	<p>Parking Space and Aisle Dimensions – 90 degree parking requires 9' wide space, 18.5' long, 26' wide aisle</p> <p>Accessible spaces must comply with local dimensions.</p>	<p>Off street parking is proposed with dimensions of 9' wide, 18.0' long, <del>and aisles width of 24'</del> for parking spaces that aren't otherwise designated as compact parking spaces, <u>and aisle widths of 24' for two-way traffic and 20' for one-way traffic</u>. Further, accessible parking spaces are proposed to meet state requirements relative to stall and aisle dimensions.</p>	<p>The proposed parking space dimensions are consistent with typical industry standards. Adherence to a 9x18.5x26' spacing would require a significant reduction in the number of spaces; -which is inconsistent with previous municipal requests as well as general good operational policy . <u>The ZBA has reiterated a desire for the maximum amount of functional parking spaces.</u></p>
<b>8. 8.8.B(1)</b>	<p>Amount of Landscaping – min 10% open space within areas designated for parking for 6 or more spaces</p>	<p>2.72% open space within parking areas.</p>	<p>The current design provides a total of 911.4% landscape area within the property. However only 2.72% is proposed within the parking area itself. Limiting the open space area within the parking lot allows the project to provide larger usable open spaces amenity areas within the property while also allowing a more effective parking ratio.</p>
<b>9. 8.8.B(2) &amp; Section 5-G</b>	<p>Buffers – landscape requirement per section 5-G between non-residential uses &amp; future residential development areas</p>	<p>East Street Buffer: 0-6.6' (varies)  Mass Bay Buffer: 2.9'4'-5.4' (varies)  Easterly Abutter Buffer: 0-30' (varies)</p>	<p>It's not clear to the applicant whether this section applies to this project. We believe the intent is to provide buffering to other residential (direct abutters, of <del>there-which there</del> are none (no direct residential abutters to this project) A waiver is requested in the event the ZBA determines that this section does apply.</p>

10. 8.8.B(3)	Parking Aisles – landscaping islands internal to rows of parking for rows exceeding 25 spaces (island spacing every 13 spaces)	Internal landscape Islands between parking spaces are not proposed.	Limiting the islands between parking spaces within the parking lot allows the project to provide larger open spaces amenity areas within the property while also facilitating a higher parking ratio. The site otherwise complies except for the row of 52 parking spaces along the northwest property line.
11. Section 13	Site Plan Review	Waiver requested from Site Plan Review and all applicable Site Plan Review requirements under this section.	The project will be reviewed under the rules and regulations governing Chapter 40B and Comprehensive Permit Applications.

<b>WAIVERS STORMWATER MANAGEMENT &amp; EROSION CONTROL BYLAW OF THE TOWN OF WALPOLE</b>			
<b>LOCAL REGULATION</b>	<b>REQUIREMENT</b>	<b>PROPOSED</b>	<b>EXPLANATION</b>
12. Section 8.B.3.c(ii)	Profiles of drain trunk lines	Drain lines are detailed on the Utility Sheet with slope, size, material, inverts and crossings.	Drain lines are detailed on the Utility Sheet (C-501) with slope, size, material, inverts and crossings as is consistent with industry standards and typical municipal requirements for private property development.
13. <del>8-C.3</del>	<del>Retain first 1" to max. extent</del>	<del>The applicant proposes to retain the first 0.5".</del>	<del>Stormwater rates, volumes &amp; treatment are proposed to meet the requirements of the Massachusetts DEP Stormwater Management Standards for a redevelopment. Since this property is a redevelopment, we believe this section does not apply but have requested a waiver in the instance the Town has a different interpretation as to its applicability.</del>
14. <del>8-C.4/5</del>	<del>If not meeting 1", provide 90% Total Suspended Solids removal and 60% Total Phosphorus</del>	<del>The applicant proposes to retain the first 0.5" and provide a TSS removal rate of 80%. Additional soil testing is in process</del>	<del>Stormwater rates, volumes &amp; treatment are proposed to meet the requirements of the Massachusetts DEP Stormwater Management</del>

		to determine what percent of Phosphorus removal may be provided.	Standards for a redevelopment. Since this property is a redevelopment, we believe this section does not apply but have requested a waiver in the instance the Town has a different interpretation as to its applicability. Additional soil testing is in process to confirm preliminary assumptions.
<b>15. 8.B.D</b>	Retain 0.5" for redevelopment if can't meet the 1"	The applicant proposes to retain the first 0.5". However, additional soil testing is in process to confirm this assumption.	Stormwater rates, volumes & treatment are proposed to meet the requirements of the Massachusetts DEP Stormwater Management Standards for a redevelopment. This property is a redevelopment site and as such is required to meet the recharge standards to the maximum extent practicable. Bases on assumed groundwater elevations, the applicant has proposed a system that will retain the first 0.5" of runoff. Additional testing is in process to confirm the 0.5" assumption.
<b>16. 8.B.E.2</b>	No runoff conducted over public ways	Under large storm events portions of the site may have stormwater runoff into the public way.	Under current existing conditions, portions of the existing site stormwater already runoffs to the public way. This runoff is immediately captured by existing stormwater catch basins. The proposed site seeks to ensure the peak runoff rates are match or reduced to mitigate any impact this runoff would have on the existing system.

<b>17. 8.B.E.5</b>	Avoid disturbance within buffer zones and flood plains	The majority of the site is redeveloping previously disturbed areas within buffer zones.	The majority of the existing site is paved and located within 200 feet of the existing stream; the proposed redevelopment of the degraded site is effectively occurring within the same footprint of the already disturbed area.
<b>18. 8.B.E.18</b>	Granite curb inlets at CBs	The applicant proposes <u>standard grated</u> catch basin inlets <del>with concrete curbing.</del>	The applicant proposes <u>standard grated</u> catch basin inlets <del>with concrete curbing</del> consistent with typical industry and municipal requirements for a private property.
<b>19. 8.B.E.23(a)</b>	minimize dewatering soils by limiting grading within 4' of SHGW	Portions of the building will be located within 4' of SHGW.	The development program requires underground garage parking and the groundwater elevations vary between 3' & 10' below grade based on available data. As such the project would not be able to be constructed without this waiver.
<b>20. 8.B.E.23(b)</b>	bot. elev. of building a min. of 2' above SHGW	Portions of the building will be located below the 2' SHGW.	The development program requires underground garage parking and the groundwater elevations vary between 3' & 10' below grade based on available data. As such the project would not be able to be constructed without this waiver.
<b>21. 8.E.9</b>	<del>Rainfall calculations for all Stormwater management BMP's shall be made as per the National Resources Conservation Service Precipitation Frequency Analysis for New York and</del>	<del>The project is designed to meet this local precipitation frequency requirement.</del>	<del>The project is designed to meet this local precipitation frequency requirement. However, additional soil testing is underway to confirm design assumption for the proposed stormwater basin sizing. As such, a waiver is being requested to allow</del>

	the New England States or Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada (Cornell data) whichever is greater.		the applicant flexibility to utilize the DEP standard rainfall events in the event the soil testing data does not support infiltration. This waiver may be deleted based upon information generated from the soil testing.
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WAIVERS FROM WETLANDS PROTECTION BYLAW OF THE TOWN OF WALPOLE			
LOCAL REGULATION	REQUIREMENT	PROPOSED	EXPLANATION
22. Section 1.4.1	No Alteration Zone (25')	Work is proposed within <del>0'-25'</del> of the wetland resource area.	This work is necessary to <del>connect into an</del> <del>replace an</del> existing 12" drainage pipe that is currently an outlet to the culverted section of the Spring Brook, <del>and to connect the relocated 18" sewer main into the existing 24" sewer main.</del> This application of this bylaw would make the improvements to the existing stormwater infrastructure impossible and thus significantly restrict the ability to meet other mandated state stormwater management requirements. The limited area on site within the 25 foot no-alteration zone is already disturbed and not in a natural state. The applicant intends to meet the requirements of the Massachusetts Wetland Protection Act.

<p><b>23. 1.2 Protected Resource Areas</b></p>	<p>Protected resource area buffers include (a) 100-foot horizontally lateral from any of the foregoing areas; or (b) 100- feet lateral from the water elevation of the 100 year storm, whichever is the greater of (a) or (b); and (c) land within 200-feet of the mean annual high-water line of any year round river or stream.</p>	<p>Work is proposed within all areas.</p>	<p>The majority of the existing site is already disturbed/paved and located within 200 feet of the existing stream and thus the proposed development. The Proposed development is being constructed effectively within the area that has already been disturbed/developed. The applicant intends to meet the requirements of the Massachusetts Wetland Protection (WPA) Act including all applicable jurisdictional buffers within the WPA.</p>
<p><b>24. 2.3 Supporting Documents</b></p>	<ul style="list-style-type: none"> <li>- Wildlife habitat assessment when altering areas within 25' buffer</li> <li>- Alternatives assessment when impacting 25' buffer</li> </ul>	<p>Work is proposed within the 25' buffer of the wetland resource area.</p>	<p>This work is necessary to <a href="#">replace connect into</a> an existing 12" drainage pipe that is currently an outlet to the culverted section of the Spring Brook, <a href="#">and to connect the relocated 18" sewer main into the existing 24" sewer main</a>. The limited area within this site is not in a natural state today and offers little if any value for wildlife habitat. The applicant intends to meet the requirements of the Massachusetts Wetland Protection Act. Project will not cause adverse impacts.</p>

<p><b>WAIVERS SUBDIVISION RULES AND REGULATIONS BYLAW OF THE TOWN OF WALPOLE</b></p>			
<p><b>LOCAL REGULATION</b></p>	<p><b>REQUIREMENT</b></p>	<p><b>PROPOSED</b></p>	<p><b>EXPLANATION</b></p>

<p><b>25.</b> Rules and Regulations Governing the Subdivision of Land</p>			<p>The proposed development has been submitted as a Comprehensive Permit Application and shall be reviewed under in accordance with all Chapter 40B rules and regulations. As such, it is a 40B development and not a residential subdivision. However, the Applicant has included this waiver only if the Town has a different interpretation as to the bylaw's applicability in this instance.</p>
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By requesting the foregoing waivers from local bylaws and regulations, it is the intention of the Applicant to request a Comprehensive Permit to allow construction of the Project as shown on the Plan. If, in reviewing the Applicant's building permit application(s), the Building Commissioner determines that any additional waiver from local bylaws or regulations is necessary to permit construction to proceed as shown on the Plan, the Applicant requests that the Building Commissioner proceed as follows: The Applicant shall be informed of any additional waiver required and (a) any matter determined by the Building Commissioner to be of a de minimis nature shall be deemed within the scope of the waivers granted by the Comprehensive Permit; or (b) for any matter determined by the Building Commissioner not of a de minimis nature, including but not limited to potential adverse impacts on public health, safety, welfare or the environment, Applicant may submit a request to the Board for a determination under 760 CMR 56.05(11).