

REHOBOTH ZONING BOARD OF APPEALS

RULES AND REGULATIONS GOVERNING COMPREHENSIVE PERMITS

1.0 PURPOSE & AUTHORITY:

These rules establish procedures for applications to the Rehoboth Zoning Board of Appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c. 40B, §§20-23. They are required by M.G.L. c. 40B, §21, as amended by Stat. 1989, c. 593, and by 760 CMR 31.02. The purpose of these rules is to facilitate the review and permitting of affordable housing in Rehoboth.

1.2 These rules and regulations may be adopted and from time to time amended by majority vote of the Rehoboth Zoning Board of Appeals members present and voting, provided such adoption or amendment is taken after a public hearing on any proposed changes.

1.3 These rules and regulations are effective when voted, and a copy filed with the office of the Town Clerk, with appropriate endorsements, such as:

Date of adoption

Date filed with Town Clerk

Amendments

2.0 DEFINITIONS

2.1 Board means the Rehoboth Zoning Board of Appeals (Z.B.A.) established under M.G.L. c. 40A, §12.

2.2 Local Board means any local board or official, including, but not limited to any board of survey; board of health, planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; city council or board of selectmen. All boards, regardless of their geographical jurisdiction or their source of authority (that is, including boards created by special acts of the legislature or by other legislative action) shall be deemed local boards if they perform functions usually performed by locally created boards.

3.0 APPLICATION FOR COMPREHENSIVE PERMITS 3.0.A APPLICANT (Petitioner)

An application or petition for a Comprehensive Permit may be brought by a property owner, agent, or prospective purchaser who submits certification (such as an executed purchase and sales agreement) or property interest and authority to file.

3.1 Official Application Form:

Application for Comprehensive Permits shall be made on an official form, (The form shall be furnished by the Town Clerk or the Clerk of the Zoning Board upon request), completely and properly filled out.

3.2 Contents of An Application:

The completed application form, original plan, and nine (9) copies shall be submitted to the Zoning Board with an additional copy filed forthwith with the Town Clerk by the applicant. The following information shall be furnished by the applicant:

3.2.1 A site plan drawn at a scale of 1" = 40', unless another scale is previously requested by the applicant and found suitable by the Board;

3.2.2 A professional engineer or registered architect shall prepare the required plans;

3.2.3 The plan shall be stamped by the registered land surveyor who performed the instrument boundary survey and who shall certify the accuracy of the locations of the buildings, setbacks and all other required dimensions, elevations and measurements, adjacent property wells and septic systems. The plans shall be signed under the penalties of perjury.

3.2.4 The scale, date and north arrow shall be shown;

3.2.5 Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways;

3.2.6 The location of existing or proposed building(s) on the lot shall be shown with the total square footage and dimensions of all buildings, building

elevations, floor plans, (including size and number of bedrooms with floor area) and perspective rendered elevations;

The location of existing wetlands, unique vegetation, (shall be performed by a registered arborist) water bodies, wells, one-hundred year flood plain elevation, and other natural features; streams, wetlands, vistas, slope areas, geological features, unique vegetation, historic features, and others that may be important to the site;

A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, methods, and species of plantings;

Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, and access within the property;

Existing and proposed topographical lines at two-foot contour intervals on the tract and within 50' thereof;

The location and a description of proposed open space or recreation areas;

Existing and proposed street, parking, drainage, and utility systems; prepared by a professional engineer registered in Massachusetts;

The applicant shall submit information regarding: all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding;

Projections of down gradient concentrations of nitrogen, phosphorus, and other relevant chemicals to be disposed of on-site, at property boundaries and at other locations deemed pertinent by the Board, prepared by a hydro geologist or Registered Professional Engineer possessing experience and education in Water Supply Protection and Hydrology.

A locus plan at 1" = 100', 200' or 400' scale showing the location, names, and present widths of the Secondary Streets bounding, approaching or within reasonable proximity of the site, and including the tracts of land, ownership, and topography taken from assessor's plans or field survey if available, or properties there-in.

The application shall also furnish a narrative summary of the vital statistics of the project. Such statistics shall include: Total gross and net square footage,

number of parking spaces, and estimated amounts of water consumption and sewer discharge.

3.2.17 "LOW INCOME" UNITS, SHALL REMAIN "LOW INCOME" FOR AT LEAST FORTY (40) YEARS

3.3 Layout and Design Standards:

3.3.1 All streets, drainage, water system, sewerage, utilities, grading, and other improvements shall be made in accordance with the Rules and Regulations by the recommendations of other boards, committees, officials and state regulations.

Fencing as required by the Board for safety and or screening.

An upkeep and maintenance plan with supporting legal documents.

All exterior lighting shall be limited to 15 feet in height and shall cast a maximum of 8 foot candles of light on the ground. Lighting shall also be directed not to blind vehicle or pedestrian traffic, adjacent buildings or dwellings within or abutting the site.

All rubbish and trash containers shall be screened from view by fencing or landscaping. Said containers shall have heavy duty plastic tops to reduce noise when being serviced.

Buildings shall be a maximum height of thirty (30) feet.

For attached unit buildings the minimum setback from the property lines shall be two (2) times the height of the building. The setback between separate unit buildings shall be equal to or greater than the height of the highest building.

Utilities shall be underground, starting from the property line.

No parking lot or building construction shall be allowed within 100 feet of a wetland area or within 200 feet of a wetland protected by the Rivers Act (310 CMR 10.00)

All storm water runoff from impervious surfaces shall be recharged on-site unless, in conducting its review, the Board determines that either recharge is not feasible because of unique site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Such recharge shall be

by surface infiltration through vegetated surfaces unless otherwise approved by the Board during the site plan review. If dry wells or leaching basins are approved for use, they shall be constructed after oil, gas and sediment traps have been installed. Drainage from loading areas for toxic or hazardous materials shall be separately collected for safe disposal. All drainage structures including outlets shall have a minimum thirty (30) foot vegetated buffer to wetlands.

Soil shall not be lowered to finished exterior grades less than five (5) feet above maximum groundwater elevation, unless technical evidence is provided to the Board's satisfaction that groundwater quantity or quality will not be detrimentally affected. Technical evidence may include, without limitation, a determination of soils and geologic conditions where evaporation/transpiration occurs.

A paved secondary access roadway shall be provided, if deemed necessary or required by the Z.B.A..

3.3.13 A SAFETY AND EVACUATION PLAN: Ambulance, Civil Defense, Fire, Police, Rescue Departments and Planning Board.

4.0 FEES

All applications shall be accompanied by two certified checks made payable to the order of the Town of Rehoboth. One check shall be for Administrative fees and the second check shall establish an individual special account. Any additional payments required shall be made within 30 days of the billing date.

4.1 Administrative Fee:

The filing fee shall be five thousand dollars (\$5,000.00) for a comprehensive permit application.

Consultant / Legal / Review Fee/Special Account:

4.2.1 Every Comprehensive Permit application shall be required to file the following minimum review fee to establish an individual special account. If, in addition, this minimum amount is not sufficient to cover the entire cost of the review, the Board shall adjust said special account at the applicant's expense. When the special account reaches seventy- five percent (75%) expenditures, the applicant will be required to deposit additional funds for anticipated expenses

as determined by the zoning board. The minimum fee and the adjustment schedule are as follows:

0 - 5 acres = \$5,000

6 - 10 acres = \$7,000

11 - 20 acres = \$9,000

21 + acres = \$11,000

4.2.2 Where specific conditions arising from the land or the nature of the proposal necessitate the assistance of a planning, engineering, traffic, soils, hydrologic or other consultant(s), the Zoning Board may engage such consultant services to assist the Board in analyzing the project to ensure compliance with all relevant laws, ordinances, bylaws, regulations, good design principals, and state-of-the-art technology.

4.2.3 Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special individual account for this purpose. Expenditures from this special account may be made at the direction of the Board, without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay all review fees shall be grounds for denial of the application or permit.

4.2.4 Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including any interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. The applicant must submit a written request for these funds. A final report for said account shall be made available to the applicant, upon request, or to the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with the documentation establishing such succession in interest.

4.2.5 Any applicant may make an administrative appeal from the selection of the outside consultant to the Board of Selectmen, providing that such appeal is made within 14 days of notification of the Board's appointment of the

consultant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications as may be set by the Board. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

4.3 Other Costs and Expenses:

The applicant is responsible for preparing notices and associated costs of mailing to abutters and any parties in interest(as referenced in the Comprehensive Permit Application) by certified mail, return receipt requested. The prepared notice shall be reviewed by the Zoning Board or its agent before being mailed. Return receipts are to be addressed to the Zoning Board. The prepared notices/certified mailing shall be delivered to the Zoning Board agent not less than twenty one (21) business days before the date of the public hearing.

5.0 REVIEW PUBLIC HEARING AND DECISION

5.1 Review by Other Town Agencies:

Prior to its formal review, the Zoning Board shall distribute copies of the plans and supporting documents and information (within 5 business days of the receipt of the completed application) to the following town departments: Building Inspector, Conservation Commission, Planning Board, Department of Public Works, Board of Health, Police, Fire, Ambulance, Rescue and Departments and Zoning Officer. These departments shall have forty -five (45) days to review and submit written comments to the Board. Failure of the various Boards and Commission to make comments within the forty five (45) day time frame shall be deemed lack of opposition thereto.

5.2 The Board shall hold a public hearing on the application within forty five (45) days of its receipt. It may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.

5.3 The Board shall render a decision, based on a majority vote of the Board, within forty Five days (45) after termination of the comprehensive permit hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received, all information requested by the Board received, and the hearing closed by the chairman of the Z.B.A..

5.4 The Board may dispose of the application in the following manner:

- a. approve a comprehensive permit on the terms and conditions set forth in the application,
- b. deny a comprehensive permit as not consistent with local needs, or
- c. approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials and Z.B.A. rules and regulations, that do not render the construction or operation of such housing uneconomic.

6.0 APPEALS

6.1 If the Board approves the comprehensive permit, any citizen aggrieved, may appeal within the time period to the court provided in M.G.L. c.40A, §17.

6.2 If the Board denies the comprehensive permit or approves the permit with unacceptable conditions or requirements, the applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c. 40B, §22. (H.A.C.)

7.0 Effective Date

7.1 Recording:

No comprehensive permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk, that twenty (20) days have elapsed after the filing of the decision and no appeals has been filed, is recorded in the Registry of Deeds and is indexed under the name of the owner of record of the land.

7.2 Proof of Compliance with Conservation Commission and Board of Health

No comprehensive permit shall take effect until copies of the Board of Health and Conservation Commission written decision of approval or a determination of applicability or order of conditions and until the Rehoboth Board of Health

certifies the wells and septic systems and they all meet the relevant sections of title V. bearing the date filed with the Town Clerk, is recorded in the Registry of Deeds and is indexed under the name of the owner of record of the land.

8.0 PERFORMANCE GUARANTEE

As a condition of the Comprehensive Permit, the applicant shall post a bond, or other form of surety, as a safeguard for performance, and/or a penal sum in a form and amount acceptable to the Board, prior to the expiration of the twenty (20) day appeal period, unless the Board shall specify otherwise. If the applicant is not the owner and must purchase the property in question in order to assume such obligations, or if another form of ownership or control is in force, such person or entity shall comply with the provisions of this subsection within twenty (20) days following the date of such purchase or control. If said performance guarantee shall lapse before completion and certification of final inspection by the Board, a new guarantee shall be filed expeditiously by the application/controller of the land and/or project. (Sum of bond shall be determined by the engineer or engineers as set forth by the Z.B.A. to be the total of cost of roadways, septic system, parking areas and such estimated by our engineer.)

9.0 SEVERABILITY OF PROVISIONS

The provisions of these Rules and Regulations are severable. If any provision of these Rules and Regulation is held invalid, the other provisions shall not be affected thereby. If the application of these Rules and Regulations, or any of its provisions to any person or circumstances is held invalid, the application of these Rules and Regulations and their provisions to other persons and circumstances shall not be affected thereby.

10.0 WAIVER OF FULL COMPLIANCE

Full compliance with these rules and regulations may be waived by the Zoning Board, provided such waivers are deemed to serve the public interest and are not conflicting with Chapter 40B M.G.L. Requested waivers shall be submitted in writing at the time of the application.

11.0 VIOLATIONS

Written notice of any violation of these Z.B.A. adopted rules and regulations shall be provided by the Building Inspector to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including

cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than 30 days be allowed for either compliance or revitalization of a plan for longer-term compliance. In the enforcement of these Z.B.A. rules and regulations, the Building Inspector shall notify the Health Inspector of any violations and seek the Health Inspector's and/or Agent's assistance.