

**Town of Wenham
Zoning Board of Appeals**

**Rules and Regulations Governing
Comprehensive Permit Applications under MGL c. 40B**

Section 1. Authorization

These Rules are authorized by MGL c. 40B, sec. 21; MGL c. 44, sec. 53G and 760 CMR 31.02 (3).

Section 2. Procedure

- (a) Twenty copies of the application, including all supporting documentation and the filing fee, shall be submitted to the Wenham Zoning Board of Appeals (the "Board") at a regularly scheduled meeting. Immediately thereafter a dated stamped copy of the filing letter shall be given to the Town Clerk. It is recommended that the applicant meet with the Board or the Board's designee prior to submission to review the application and determine if all the required documents are attached.
- (b) The Board shall immediately transmit copies of the complete application to the Board of Selectmen, Planning Board, Board of Health, Conservation Commission, Police Department, Fire Department, Highway Department, Building Inspector, Affordable Housing Trust, Recreation Department, and School Committee, and any other relevant board, commission, or official, and request written recommendations and an appearance at the hearing on said application. The Board shall take into consideration the recommendations of the local boards and officials.
- (c) The Board shall commence a hearing within thirty days of submission of the application. The length of the hearing shall reflect the size and complexity of the application. The hearing should be terminated when all testimony has been received and all information requested by the Board has been received and reviewed.
- (d) The Board shall issue a decision within forty days after the termination of the hearing and file the decision in the Town Clerk's office within that same time period.
- (e) The board and the applicant may, by mutual written agreement, extend the thirty-day time period in which to hold the hearing and, after close of the hearing, extend the time period in which to render a decision. Such written agreement shall be filed in the office of the Town Clerk.

Section 3. Complete Application and Documentation

It is the intent of the Board to have a complete application and full documentation provided with the application. In addition, the Board may require additional information during the review process, as it deems appropriate.

Section 4. Submittal Requirements

The applicant shall be required to submit the following information:

- (a) A detailed list of all requested exemptions to local requirements and regulations, including local bylaws and regulations;
- (b) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. All structures of five or more units must have site development plans signed and stamped by a registered architect. Structures of less than five units may submit a sketch of the matters referenced herein and in Subparagraph (c) below, which need not have an architect's signature and stamp, subject, however, to the Board's right to require architectural plans, at any time prior to or during the hearing, if deemed necessary by the Board;
- (c) A report, together with a plan(s) if applicable, regarding existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood. The zoning district or districts, if more than one (1) district is involved, shall also be shown on the plan. (If the abutting land is in another district or town, this shall also be shown.);
- (d) Preliminary architectural scaled drawings for building plans including typical floor plans, typical elevations and sections, and identifying construction type and exterior finish, signed and stamped by the architect;
- (e) A tabulation of proposed buildings by type, size (number of bedrooms, floor area), and ground coverage, and summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas;
- (f) Where a subdivision of land is involved, a preliminary or a definitive subdivision plan. If a preliminary plan is submitted, the Board shall have the right to require the applicant to submit any and all information typically required on a definitive plan, if deemed necessary by the Board;

- (g) A utilities plan showing the proposed location and types of sewage, water and drainage facilities including hydrants;
- (h) Documents specified in 760 CMR 31.01 to show the status of the applicant and the acceptability of the site;
- (i) Appropriate documentation evidencing the applicant's control of the site;
- (j) Certified plan of land prepared, by a registered land surveyor or a registered professional engineer;
- (k) A copy of the deed to the applicant's property showing the Registry of Deeds Book and Page number(s). If the property is under a Purchase and Sales Agreement, a copy of said agreement shall also be provided;
- (l) An abutters list certified by the Town's Assessor's Office listing all "abutters" as defined in G.L. c. 40A, sec. 11.

Section 5. Filing Fee

The application shall be accompanied by a filing fee, based on a flat fee and the number of housing units proposed:

\$ 500 base fee, plus \$50 per unit for developments with more than 10 units.

Section 6. Written Authorization

- (a) If the applicant is not the owner of the property, the owner(s) shall provide written authorization for the subject application by the applicant on the application.
- (b) If the individual signing the application is unable to attend any hearing on the application, the Board shall require written authorization from the applicant that the designated representative has consent to represent the applicant or to withdraw the application.

Section 7. Outside Consultants

The Board may hire outside consultants for review and analysis of any application when the Board determines it appropriate. The cost for the outside consultants shall be borne by the applicant. The Board shall follow the requirements of the Uniform Procurement Act, G.L.c.30B, §4, for consultant services less than \$25,000.00.

The Board will select the consultant after reviewing both the bid and any comments received from the applicant pursuant to section 7(e) of these Rules, but it normally will not formally award the contract until the review fee has been paid. If the applicant fails

to pay the review fee within ten days of receiving written notification of selectmen of a bidder, the Board may deny the comprehensive permit.

Pursuant to G.L. c. 44, §53G and G.L. c. 40B, §21, the Board, through this regulation, provides for an applicant's payment of the fees for outside consultants as set forth below:

- (a) When conducting any hearing pursuant to G.L. c. 40B, sec. 21 (the subject of which is hereinafter referred to as a "proposal"), the Board of Appeals may determine that the assistance of outside consultants is warranted due to:
 - (i) the size, scale or complexity of the proposal;
 - (ii) the complexity of particular technical issues;
 - (iii) the number of housing units proposed; and
 - (iv) the size and character of the site,

The Board may require that the applicant(s) pay a review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

- (b) In hiring outside consultants, the Board may engage engineers, planners, traffic consultants, attorneys, housing specialists and financial analysts, and/or other appropriate outside consultants who can assist the Board in reviewing and analyzing the proposal. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue of three or more years of practice in the field as issue or a related field.
- (c) Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special account for this purpose in accordance with the provisions of Chapter 44, Section 53G of the General Laws. Expenditures from this special account may be made at the directions of the Board in connection with the hearing of a specific proposal for which a review fee has been collected from the applicant without further appropriation. Failure of an applicant to pay a review fee shall be grounds for denial of the comprehensive permit.
- (d) Review fees may only be spent for services rendered in connection with the specific proposal from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a proposal, any excess amount in this account,

including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or 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 documentation establishing such succession in interest.

- (e) Prior to paying the review fee, the applicant may appeal the selection of an outside consultant(s) to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant(s) selected has a conflict of interest or does not possess the minimum, required qualifications.
- (f) The written appeal should specify the nature of the conflict of interest and detail the lack of required qualifications. A copy of the appeal shall be simultaneously provided to the Board.
- (g) The time limit for the Board's action on the proposal shall be extended by the duration of any administrative appeal to the Board of Selectmen. In the event that the Board of Selectmen makes no decision regarding the appeal within thirty days following the filing of such appeal, then the selection of the Board of Appeals shall stand.