

COMMONWEALTH OF MASSACHUSETTS

TOWN OF NORWELL



ZONING BOARD OF APPEALS

RULES AND REGULATIONS

AND

GENERAL INFORMATION

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COMMONWEALTH OF MASSACHUSETTS
TOWN OF NORWELL

BOARD OF APPEALS

RULES AND REGULATIONS AND GENERAL INFORMATION

ARTICLE 1. General

§ 301-1.1. Purpose; filing; amendments; references.

- A. The Board of Appeals of the Town of Norwell, Massachusetts, in the Commonwealth of Massachusetts, hereby adopts the following rules for the conduct of its business and for the purposes of General Laws, Chapters 40A and 40B, §§ 21-23. A copy of these rules, and all amendments thereto, shall be filed with the Town Clerk of said town and incorporated as part of § 10-1.C. (Committee records; filing of rules and regulations) of the Norwell Town Bylaw and Rules and Regulations. The Board of Appeals, hereinafter referred to as the Board, may amend these rules and regulations from time to time in the same manner as such rules may be adopted.
- B. **References:** All article, section and sub-section, and paragraph and sub-paragraph headings and references within this document are solely for the convenience of the reader and shall not affect the requirements contained herein.

§ 301-1.2. Powers of the Board of Appeals

The Board of Appeals has the following powers:

- A. To hear and decide **appeals**, in accordance with G.L. c. 40A, §8, and applicable sections of the Norwell Zoning Bylaw.
- B. To hear and decide applications for **special permits**, in accordance with G.L. c. 40A, §9, and applicable sections of the Norwell Zoning Bylaw.
- C. To hear and decide **petitions for variances**, as set forth in G.L. c. 40A, §10, and applicable sections of the Norwell Zoning Bylaw.
- D. To hear and decide applications for a project subject to **Site Plan review**, as set forth in the Norwell Zoning Bylaw, §1500, and applicable sections of the Norwell Zoning Bylaw.

- E. To hear and decide **applications to build or permit low- or moderate-income housing**, in accordance with G.L. c. 40B, §§21-23 and 760 CMR 56.00, et seq. and applicable sections of the Norwell Zoning Bylaw.
- F. To hear and decide written requests for time extensions and modifications of its prior decisions.

§ 301-1.3. Types of appeals, applications and petitions.

Appeals, applications and petitions, all hereinafter generally referred to as Applications, may be filed by an appellant, applicant or petitioner, hereinafter referred to as the Applicant, with the Town Clerk for consideration by the Board of Appeals for any one or more of the following:

A. Appeal: An appeal may be taken by:

- (1) Any person aggrieved by reason of his or her inability to obtain a permit or enforcement action from the Inspector of Buildings, or designee, or from any administrative officer under the provisions of G.L.c.40A, §14, or
- (2) Any regional planning agency in whose area the town is situated, or
- (3) Any person, including an officer or board of the town, or of an abutting city or town aggrieved by an order or decision of the Inspector of Buildings/Zoning Enforcement Officer of said Norwell, a building inspector or other administrative official, in violation of any provisions of G.L. c. 40A or the Norwell Zoning Bylaw. See G.L. c. 40A, §8.

B. Special Permit, including a Section 6 Finding: An Application for a special permit, including a Section 6 finding under G.L. c. 40A, may be filed in cases where the property does not conform to current Zoning Bylaw requirements and/or when specific uses, increases in density or special or related zoning requirements are authorized in the Zoning Bylaw through the special permit process. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the Zoning Bylaw and meet the specific requirements set forth in the Zoning Bylaw and G.L. c. 40A §§9 and 15.

C. Variance: A petition for a variance may be filed when, owing to circumstances relating to soil conditions, shape or topography of specific land or structures and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and when desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw. See G.L. c. 40A, §10.

- D. **Site Plan:** An Application for Site Plan review is required as set forth in § 201-3.4 of the Zoning Bylaw. Such applications may also require additional zoning relief by the Board. The Zoning Bylaw requires simultaneous filing with the Norwell Planning Board and maintenance of a technical review escrow account, managed by the Norwell Planning Office. See Article 8 herein.
- E. **Comprehensive Permit:** An application for a permit for the development of Low- or Moderate-Income Housing issued by the Board pursuant to G.L. c.40B, §§20 through 23 and 760 CMR 56.00 or any amendment thereto. See Article 10 herein.
- F. **Decision Modification:** An Application for modification of a previous decision of the Board, other than a decision approving a low- or moderate-income housing project under G. L. c. 40B §§20 through 23, shall require a new application on the Board's application form describing the proposed modification of the previous decision. An application to modify a decision of the Board rendered under Gen. L. c. 40B §§21-23 shall be made and processed by the Board in accordance with 760 CMR 56.05(11) or any amendment thereto.
- G. **Time Extension:** An Application for a time extension may be filed with the Board in letter form, stating in detail the reason(s) for such a request and providing a new timeline (if applicable) for action by the Applicant. No time extension may be granted, unless the Applicant files such an extension request with the Board of Appeals in writing prior to expiration of the zoning relief previously granted, as follows:
- (1) **Special Permit:** A special permit shall be deemed issued when filed with the Town Clerk; however, shall not take effect and shall not be exercised unless and until the applicant duly records the special permit at the Registry of Deeds, at the applicant's expense and provides evidence of same to the Board of Appeals and the Building Department. The applicant shall exercise any Special Permit granted within two (2) years from the date the decision becomes final, except for good cause as provided for under G.L. c.40A, §9.
 - (2) **Variance:** A variance shall be deemed issued when filed with the Town Clerk; however, shall not take effect and shall not be exercised unless and until the applicant duly records the variance at the Registry of Deeds, at the applicant's expense and provides evidence of same to the Board of Appeals and the Building Department. The applicant shall exercise any variance granted within one (1) year from the date of the grant of the variance or it shall lapse; however, the Board of Appeals may authorize an extension of a variance for up to six-months if a written application to extend is received by the Board of Appeals prior to the expiration of the original one-year period without a new application required. If the application to extend is not granted within thirty days of the date of the application, the variance shall lapse upon the expiration of the original one-year period.

- (3) **Site Plan:** Within one (1) year of the date of site plan approval or, in accordance with the time set forth in its decision, or by extension, whichever is later and not to exceed three years, the applicant shall have completed the work described on the approved plans and substantial use thereof shall have commenced or the site plan approval shall lapse. The Board may grant such additional time as it deems reasonable to complete the requirements of its previous approval. If, however, the applicant has not commenced construction for any reason within such time as set forth in its decision, or by extension, a new application shall be required.
- (4) **Comprehensive Permit:** The Applicant shall exercise the Comprehensive Permit approval by beginning construction within three years or any longer period of time set forth in the Comprehensive Permit decision or in any modification decision issued for same or as it may be extended by operation of law or the Comprehensive Permit shall lapse. The Board may extend the duration of a Comprehensive Permit as provided for under 760 CMR 56.05(11) and (12) and 56.07(4).
- (5) **Litigation:** In the event an Applicant is unable to exercise an approval due to pending legal action, the relief shall be extended as provided by law.

H. Monitoring of Conditions of Approval

- (1) The Board at its sole discretion shall reserve the right to monitor and have its agents or a duly authorized representative inspect progress of all work being performed under its decisions. A construction monitor or other consultant may be engaged at the Board's discretion and work under the direction of the Board at the expense of the Applicant, and as further provided in Articles 8, 9, and 10.
- (2) Enforcement of the conditions set forth in a decision of the Board of Appeals shall rest with the Building Inspector and violations may result in the issuance of a stop work order or withholding of issuance of a Building Permit or Certificate of Occupancy and/or may be the subject of any or all such legal actions or remedies as may be available to enforce such conditions.

ARTICLE 2. Board Organization

§ 301-2.1. Elections.

At the first regularly scheduled meeting following the annual Town Meeting, the Board of Appeals shall elect a Chair, Vice-Chair, and Clerk. The Chair and Vice Chair of the Board shall be selected from its regular members, while an associate or alternate member may serve in the position of Clerk.

§ 301-2.2. Chair.

- A. The Chair shall preside over all hearings and meetings of the Board. Subject to the rules as stated herein, the Chair shall decide all points of order, unless overruled by a majority of the Board in session at the time.
- B. In addition to the powers granted by the General Laws of the Commonwealth and the Zoning Bylaw, and subject to these rules and further instructions of the Board, the Chair shall set the agenda, supervise the work of the Board, arrange for necessary help, and exercise general supervision over the Board's activities.

§ 301-2.3. Vice Chair.

The Vice-Chair shall act as Chair in the event that the Chair is absent, disabled, does not participate in a particular matter or is otherwise unable to perform his or her duties. In the event that neither the Chair nor the Vice-Chair is available for a hearing on a particular matter, the remaining regular member or an associate member and/or special alternate shall be elected as Chair for that hearing or particular matter.

§ 301-2.4. Clerk.

The Clerk shall monitor the preparation of minutes by the Board's administrative assistant to ensure timely approval and filing with the Town Clerk in accordance with the Open Meeting Law. The Clerk is authorized to sign all approved minutes of the Board.

§ 301-2.5. Panel members and hearing chair.

The Board's Chair may appoint an associate member or members to sit on an application as provided for by law.

§ 301-2.6. Associates and alternates.

The Board of Appeals is comprised of three Regular Members and up to five Associate Members. In accordance with G.L. c.40A, §12, the Board's Chair may designate an Associate Member to sit on the Board in the case of the absence, inability to act or conflict of interest on the part of any Regular Member or in the event of a vacancy on the Board of a Regular Member. The Associate Members shall attend the meetings and

hearings of the Board and be prepared to take the place of Regular Member at appropriate times.

§ 301-2.7. Quorum.

A quorum of the Board of Appeals as to a particular matter shall consist of the required number of Members necessary to grant the specific relief requested. For instance, for special permit and variance relief, a quorum shall be three Members as a unanimous favorable vote of three members is required to grant such relief under G.L. c.40A, §9 and §15, respectively; and for comprehensive permit relief, a quorum shall be two Members as a majority favorable vote of three Members is required to grant such relief as provided for under G.L. c.40B, §21.

§ 301-2.8. Hearings, meetings and site walks.

- A. **Public Hearings and Meetings:** Regular hearings and meetings shall be scheduled as appropriate by the Board's Chair and usually two times each month, except in July and August, when the Board traditionally attempts to limit its scheduled meetings. Regular business meetings are usually scheduled at 7:00 P.M. at the Norwell Town Hall with public hearings following at 7:30 P.M. in the Town Hall or other location, as set forth in the public notice for each hearing. Special hearings and meetings may be called at any time to conduct the necessary business and duly advertised public hearings of the Board by the Chair, or Vice Chair or a Regular member in the absence of the Chair. Notice of special hearings and meetings shall be mailed, posted, and/or published as required by law.
- B. **Site Walks:** The Board may also from time to time conduct site walks of property involved in applications pending before the Board. Site walks are not intended to be public meetings and are for informational purposes only. All applicants seeking any zoning relief shall provide the necessary permission to allow Board Members and/or the Board's consultants to enter onto the relevant property upon proper scheduling of the walk with the Applicant and/or property owner. In no event shall the Board's request for a site walk be construed as obligating the Applicant or the Property owner(s) to grant permission to allow any other person(s) (including abutters) to enter the subject property. Allowing members of the public to enter shall be at the discretion of the Applicant and/or Property owners(s).

§ 301-2.9. Legal record.

The Board is required to maintain a record of its proceedings. The Board's written decisions, meeting minutes, the application, correspondence, plans and exhibits submitted to the Board relating to a matter under consideration shall constitute the legal record of the Board's proceedings.

§ 301-2.10. Policies and Advice

- A. **Advice:** Any statement by a Member of the Board or any statement by any other official or employee of the Town shall not be binding on the Board in the proper exercise of its discretionary powers under the Zoning Bylaw or G.L. 40A or c. 40B, §§21-23.

- B. **Informal Meetings:** The Board will not meet informally with an Applicant or its agents outside of a public hearing. However, work sessions for specific purposes can be schedule with one panel member only (together with any of the Board's consultants or representatives) at the discretion of the panel members to discuss specific engineering, architectural, or other concerns. That panel member should keep notes of the discussion and report back to the full panel within the public hearing.

- C. **Other:** For other policies, regulations, or procedures refer to the Zoning Bylaw of the Town of Norwell, as legally adopted and amended from time to time; Chapters 40A and 40B of the General Laws; and the Town of Norwell Planning Board Rules and Regulations, as legally adopted and amended from time to time.

ARTICLE 3. Pre-Application Process

§ 301-3.1. Requirements by Application Type

- A. **All Applications, except Site Plan and Comprehensive Permit:** Prior to submitting an appeal, application, or petition, the Applicant shall review the proposal and the proposed action, including all plans, specifications, and supporting documents, with the Inspector of Buildings or designee. It is also recommended that the Applicant review the proposal and proposed action with the Town Planner, Conservation Agent, Health Agent, and such other federal, state, and local officials or agencies that have an interest therein. The Applicant shall commence all necessary application filings for such approvals as may be required forthwith.
- B. **Site Plan:** In the case of Site Plan review, simultaneous application to the Planning Board is required in accordance with § 201-3.4 of the Zoning Bylaw.
- (1) It is the Applicant's responsibility to:
- (a) arrange for such meetings or public hearings as may be necessary with Planning Board, Design Review Board, Conservation Commission, Board of Health, and any and all other interested Town boards or commissions, and
 - (b) commence the application process for other necessary permits or approvals by state or federal regulatory agencies, and
 - (c) provide the Board of Appeals with digital and paper copies of any and all recommendations, comments, and approvals made by any such Board or regulatory agency, prior to and in the course of the Public Hearing.
- (2) Failure to obtain necessary approvals or recommendations of other interested boards, commissions, authorities, or agencies could result in delay of the public hearing and the decision process or result in denial for lack of sufficient information.
- C. **Comprehensive Permit:** See Articles 8, 9 and 10 for other rules relating specifically to Comprehensive Permit Applications, not detailed in Articles 1-7 herein. See also G.L. c. 40B, §§20-23.

§ 301-2. Other Approvals

In order to expedite the public hearing process and to protect the public health, safety, and welfare of the Town's residents, *all* Applicants are urged to obtain comments, approvals, and/or sign-offs from the Board of Health and the Conservation Commission, prior to meeting with the Board of Appeals. As the Town's general topography, wetlands, and soil conditions are generally considered to be unique within the local environs, a current wetlands delineation approval by the Norwell Conservation Commission or Conservation Agent certification that the property has no state or local jurisdictional wetlands, is a minimum requirement.

ARTICLE 4. Application Process

§ 301-4.1. Commencement of proceedings

In order to seek a Variance, Special Permit, Site Plan Approval, or Comprehensive Permit, or file an Appeal, the Applicant must provide evidence of proof of sufficient legal control of or interest in the property, which is the subject of the Application; however, a duly issued Project Eligibility Letter shall establish the necessary control as expressly provided for under 750 CMR 56.04(1)(c) for a comprehensive permit application. Acceptable documentation to establish control shall include a current property deed or a current duly executed purchase option, purchase and sales agreement, lease or other sufficient document that establishes a property right or interest and authorization.

§ 301-4.2. Application Forms and Supporting Documents; Miscellaneous Forms; Filing Fee and Technical Review Escrow Schedule

The following exhibits, as may be amended from time to time, include the Board's application forms and supporting document requirements, filing fee schedule, and escrow requirements, which are incorporated herein and made a part of these rules:

- EXHIBIT A: ZBA-1, *Application for Public Hearing*
- EXHIBIT B: ZBA-1A, *Site Plan Review: Supplemental Information*
- EXHIBIT D: ZBA-2 *Public Notice Authorization*
- EXHIBIT E: ZBA-3, *Comprehensive Permit Application*
- EXHIBIT F: ZBA-4, *Public Hearing Continuance Agreement*
- EXHIBIT G: *Application Filing Fee and Technical Review Escrow Schedule*

§ 301-4.3. Notice to Abutters

- A. Abutters and abutters to the abutters within a three-hundred-foot radius of the property lines of the subject property and all parties in interest must receive the required statutory and regulatory notice, in accordance with the applicable provisions in General Laws Chapters 40A, 40B, and 41, prior to any public hearing held by the Board.
- B. Publication of a public hearing notice shall take place in accordance with G.L. c.40A, §11.
- C. Mailing of Notices by the Board to Parties in Interest shall take place in accordance with G.L. c.40A, §11. The term Parties in Interest is defined under G.L. c. 40A, §11 to mean:
 - The Petitioner(s);

- Abutters;
 - Owner(s) of land directly opposite on any public or private street or way; and
 - Abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, even if located in another town; and
 - The Planning Board of an abutting city and town.
- D. The Petitioner shall provide to the Board a Certified Abutter's List from the Town of Norwell Assessor's Office.
- E. Since proper notice includes notification to abutters in a contiguous town, if the property line of the property is within three hundred feet (300') of a town line, the Applicant shall obtain at the Applicant's expense, and provide to the Board a list of abutters, certified by Office of Assessors from the contiguous town or towns, and such list shall be submitted as a required component of the completed Application packet along with the necessary, addressed and postage prepaid envelopes.

§ 301-4.4. Filing the Application

It is the responsibility of the Applicant to submit a completed Application and to provide all of the required supporting documentation and any other information requested by the Board. The Application shall set forth a narrative that details:

- A. The facts of the circumstances relating to the property and the relief sought so that there shall be no ambiguity or uncertainty concerning the intent of the Applicant in seeking approval of the requested action;
- B. The reason(s) for the Application, the background or history of events leading to the request, why the Applicant is qualified for the relief requested, including references to the relevant sections of the Zoning Bylaw, statutory or case law; and
- C. The name(s) of the owner(s) of the property, and, if the property is not owned by individuals, the name and address of all principals involved in the particular matter so that each Member of the Board can determine, prior to any hearing, if a potential conflict of interest exists and so that the Board can determine that proper assent by the owner(s) of the property has been provided.

§ 301-4.5. Supplemental Information

As delay in submitting any documentation or supporting information required by the Board adversely impacts upon the ability of the Board of Appeals to act in a timely manner:

- A. All supplemental information requiring peer review by a consultant to the Board shall be submitted by the Applicant a minimum of fifteen (15) business days in advance of

the scheduled hearing date or it will not be considered by the Board at that meeting. The Applicant shall submit a digital copy as well as the same number of paper copies of supplemental information as that required with submittal of the initial application.

- B. Supplemental information not requiring peer review by the Board shall be submitted by the applicant a minimum of five (5) business days in advance of the scheduled hearing date or, at the Board's sole discretion, such information may not be considered at that meeting. The Applicant shall submit a digital copy, as well as the same number of copies of supplemental information as that required with submittal of the initial application.

§ 301-4.6. Number of Copies

- A. For **private residential property** applications by owners, a minimum of six (6) complete sets of paper copies and a digital set of all documents in pdf or compatible format of the Application with supporting and required documentation, including, without limiting the foregoing, all plans, hereinafter described, are required at the time the original Application and supporting and required documents are filed with and stamped by the office of the Town Clerk. One digital copy of the Application inclusive of all plans, supporting and required documentation shall also be provided in pdf format. Final Plans may be required in a format compatible with the Town's GIS system.
- B. For **commercial property and multi-family housing applications**, requiring review by other Town officials or authorities, a minimum of six (6) complete sets of paper copies and a digital set of all documents in pdf or compatible format of the Application with supporting and required documentation, including, without limiting the foregoing, all plans, hereinafter described, are required at the time the original Application and supporting and required documents are filed with and stamped by the office of the Town Clerk shall be submitted to the Board of Appeals. In addition, one digital copy of the Application inclusive of all plans, supporting and required documentation shall also be provided in pdf format. Final Plans may be required in a format compatible with the Town's GIS system. See below (D) for additional application copy requirements for the Town Clerk and other boards and departments.
- C. For **Comprehensive Permit applications**, a minimum of twenty-four (24) complete copies and a digital set of all documents in pdf or compatible format of the Application with supporting and required documentation, including, without limiting the foregoing, all plans, hereinafter described, are required at the time the original Application and supporting and required documents are filed with and stamped by the office of the Town Clerk. One digital copy of the Application inclusive of all plans, supporting and required documentation shall also be provided to the Board of Appeals in pdf format. The Final Plans shall be provided in a format compatible with the Town's GIS system.

- D. **Additional Application Copies:** The Applicant shall provide such additional full and complete paper copies as may be required in the case of commercial site plan, special permit, variance, comprehensive permit, or other commercial application, if such Application requires action by other Town boards or agencies, as well as a digital set of all documents in pdf or compatible format. It is the responsibility of the Applicant to provide the appropriate number of additional paper copies with digital copies of all documents at the time the Application is filed with the Town Clerk or such application will not be considered as complete, which may result in delay in the public hearing or denial of the application due to incomplete information. The Applicant may obtain further guidance regarding the number of copies required for a specific application from the Building and Zoning Office or other interested federal, state, and local authorities having jurisdiction.

§ 301-4.7. Application Filing Fees, Technical Review, and Construction Monitoring Escrow Funds

- A. **Filing Fee:** When filing the Application, all applicants filing an application with the Board shall pay the filing fee in accordance with the Board of Appeals Application Filing Fee Schedule, attached hereto as EXHIBIT G and made a part hereof, at the time the Application is filed with the office of the Town Clerk. No Application is complete without receipt of the appropriate Application filing fee and failure to provide the fee shall constitute a basis for extending the time frame for opening a public hearing and/or denial of the relief sought as the application is not complete without said fees.
- B. **Escrow Funds:** In the case of a **Site Plan** or **Comprehensive Permit** application, any required Technical Review escrow funds are also due and payable at the time an application subject to such a requirement, is filed with the Town Clerk's office. No Application is complete without receipt of the requisite escrow deposit, payable to the Town of Norwell. At the discretion of the Board, the public hearing may be continued by the Board or relief may be denied in the event that the required review funds are not timely provided.
- C. **Site Plan Escrow:** In the case of Site Plan applications, escrow funds are administered by the Planning Board and managed by the Planning Office, so that all such funds shall be submitted to the Planning Board in accordance with its Rules and Regulations, and Fee Schedule governing such review. See Article 8, Site Plan Requirements, for additional information and requirements.
- D. **Comprehensive Permit Escrow:** Comprehensive Permit escrow funds are managed by the office of the Board of Appeals. See Article 10, Comprehensive Permits, for additional information and requirements.

ARTICLE 5. Pre-Hearing Process

§ 301-5.1. Notice, Hearings and Decision

All appeals, applications and petitions to the Board of Appeals require both public and individual notice to the parties in interest, a public hearing, and a written Decision, in accordance with G.L. c. 40A. Public Hearings are held in accordance with G.L. c. 40A, § 11, at the Norwell Town Offices and are open to the public, as set forth in the Massachusetts Open Meeting Law.

§ 301-5.2. Scheduling a Public Hearing before the Board of Appeals

- A. The Board makes every effort to schedule public hearings for complete applications as quickly as possible. It may take approximately four to eight weeks to schedule a public hearing, after submission of the completed petition, application, or appeal, and such supporting plans and documentation as may be required (the Application package) to the Board of Appeals.
- B. In the case of a Comprehensive Permit (c. 40B) application, a public hearing shall be scheduled within thirty (30) days, as required by law, unless an extension is agreed to between the Board and Applicant.
- C. An Applicant shall review the completed Application package with the Building Inspector/Zoning Enforcement Officer, or designee before filing with the Town Clerk and scheduling of a public hearing. Only the Office of Town Clerk can officially accept and stamp a petition, Application, or appeal. After an Application is officially stamped by and filed with the Town Clerk, the Applicant shall immediately deliver the requisite paper and digital copies of such documents to the Board and other parties, as necessary. Failure to provide either all required information or a completed Application is sufficient grounds for denial of an Application by the Board.

§ 301-5.3. Public Hearing and Decision Timelines

- A. **Appeals:** All appeals, including denial of a sign permit by the Building Inspector, issuance of a building permit, or other action, shall be timely filed as required by law. The decision of the Board regarding such an appeal must be unanimous to overturn the Building Official and shall be made within one hundred (100) days of the original filing with the Town Clerk (or within any extended time period mutually agreed to between the Board and the Appellant).
- B. **Variations:** A public hearing shall be opened within sixty-five (65) days of the application filing date with the Town Clerk. The decision of the Board must be unanimous for approval of a variance and shall be made within one hundred (100) days of the original filing with the Town Clerk (or within any extended time).

- C. **Special Permits and Section 6 Findings:** A public hearing shall be opened within sixty-five (65) days of the filing date with the Town Clerk. The decision of the Board must be unanimous for approval and made within ninety (90) days of the close of the public hearing.
- D. **Site Plan Approval/Modification:** A public hearing shall be opened within sixty-five (65) days of the application filing date with the Town Clerk. The approval must be by unanimous vote of the Board of Appeals and, if Site Plan Approval is the only action requested, it shall be rendered within ninety (90) days of filing, unless time is extended by mutual agreement between the Applicant and the Board.
- (1) A copy of the approved Site Plan, duly reviewed by the Town's consultant and endorsed by the Board, shall be filed with the Office of the Town Clerk within fifteen (15) days of such approval.
 - (2) However, at the close of the public hearing, if the Applicant's engineer is required to amend the filed plans in order to conform to the Board's approval, such plans shall be prepared forthwith and submitted to the Board for final review by the Town's consultant, prior to such filing.
 - (3) The Applicant shall grant in writing such reasonable time as may be necessary and mutually agreed upon by the Applicant and Board to complete review of such plans for compliance.
 - (4) In the event the Town's consultant is unable to confirm such plans meet the conditions of the Board's approval, reopening of the public hearing or a new public hearing may be required.
- E. **Comprehensive Permit:** A public hearing shall be opened within thirty (30) days of the filing date of the Application with the Town Clerk, unless an extension of time is agreed to between the Applicant and the Board. A hearing shall not extend beyond one hundred and eighty (180) days from the date of opening the public hearing, presuming that the Applicant has made timely submissions of materials in response to reasonable requests of the Board, except with the written consent of the Applicant, unless an extension of time is agreed to between the Applicant and the Board. The Board shall render a written decision within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the Applicant. The Board shall file its decision within fourteen (14) days in the office of the Town Clerk and forward a copy to the Applicant and the Department of Housing and Community Development (DHCD), and to such other parties as may be required. In the event the Applicant does not provide or causes delay in providing information in response to reasonable requests of the Board, the Board may request a reasonable extension of the time frame set forth herein. Such extension shall be consistent with the length of delay caused by the failure to timely submit the requested information. In setting the requested extension time, the Board may also consider any impact to the ability of Board members to attend further hearings. The Applicant shall not unreasonably withhold, delay, or condition its consent to any

request for an extension caused by his/her/its delays in responding to information requests from the Board.

§ 301-5.3. Public Notice and Notification to Parties in Interest

- A. In accordance with provisions of G.L. c. 40A, §11, notice of a Public Hearing must be advertised by publication in *The Patriot Ledger*, *The Mariner*, or a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall (by the Town Clerk) for a period of not less than fourteen (14) days prior to the day of such hearing.
- B. Notice must also be sent by mail, postage prepaid, to “parties in interest” as defined in G.L.c.40A, §11. The cost of newspaper advertising is the obligation of the Applicant and is billed directly to the Applicant. All of the notice requirements set forth in §11, aforesaid, must be observed by the Applicant. The Applicant shall obtain a certified abutters list with labels from the Assessor’s Office to complete the application requirements.

§ 301-5.4. Zoning Bylaw and Documents Availability; Town Website

Copies of the Norwell Zoning Bylaw are available for viewing at the Norwell Public Library or the Building and Zoning Office. Official bylaw copies are available for purchase in paper and/or digital format from the Office of the Town Clerk. All application forms are available at the Building and Zoning Office. Unofficial versions of the Norwell Zoning Bylaw, these rules and regulations, and applications and documents can be viewed or downloaded at www.townofnorwell.net. Reasonable efforts shall be made to periodically update the website to maintain the most current versions of all bylaws, rules and regulations, and application forms on the website.

ARTICLE 6. Public Hearing Process

§ 301-6.1. Notice to Parties in Interest

The Applicant shall provide the Board with a certified abutters list and labels obtained from the Assessor's Office that include all Parties in Interest.

§ 301-6.2. Hearing Procedure

The first order of business at all hearings before the Board of Appeals shall be a review of the Applicant's Submission for sufficiency. (See § 301-6.3 following.)

§ 301-6.3. Applicant's Submission

The Applicant's submission to the Board shall consist of a completed, dated, and signed Application that includes, but is not limited to, the following:

- A. A complete listing with paper and digital copies of all plans, specifications and other documents, data, and submissions, all individually identified by date, title, description for identification purposes, page numbers (1 of 6, 2 of 6, etc.) and all other information reasonably necessary for identification purposes, to be considered by and used for project identification, scope and zoning relief purposes by the Board;
- B. A complete listing of the zoning relief requested in the Application, with the correct zoning provisions referenced;
- C. The name and address of the owner of the property and the title reference for the current Deed to the property;
- D. The name and address of the Applicant *and* the property owner, if a person or entity other than the Applicant;
- E. The assent of the owner(s) to the application (if the owner and the Applicant are not the same); and
- F. The name and address of the attorney, if any, representing the Applicant.

§ 301-6.4. Applicant's Representatives and Presentation

The Applicant and/or the Applicant's designated representative shall present the matter set forth in the Application to the Board and be prepared to answer questions from the Board. If the Applicant designates a representative to act on his or her behalf, the Applicant must, if the representative is not a member of the Massachusetts Bar or a registered professional whose stamp appears on plans filed with the Application, provide written authorization for the person to represent the Applicant to the Board of Appeals in advance of any appearance by that representative before the Board or accompany such representative at the opening of the public hearing.

§ 301-6.5. Examination by the Board

Following the Applicant's initial presentation, Board members shall have the opportunity at any time to ask questions or request such additional information as may be required in their opinion to properly consider the Application before the Board.

§ 301-6.6. Submission of Evidence; Witnesses, Speakers, and Oaths

- A. The Public Hearing is part of a legal process. Any information provided to the Board must be true and accurate and shall be made under oath and be subject to the pains and penalties of perjury.
- B. The Board reserves the right to administer an oath any and all witnesses or speakers at its Public Hearings, at its sole discretion.

§ 301-6.7. Proponents

At the close of the Applicant's presentation, all persons in support of the Application shall be given the opportunity to speak and introduce evidence in favor of the Application. Participation by residents of the town and members of the public who are interested in or concerned about the matter, is encouraged.

§ 301-6.8. Opponents

At the completion of the presentation in support of the Application, all persons not in support of the Application shall be given the opportunity to speak and introduce evidence in opposition to the Application. Participation by residents of the town and members of the public interested in or concerned about the matter is encouraged.

§ 301-6.9. Interested and Concerned Citizens

Participation by residents of the town and members of the public who are interested in or concerned about the particular matter before the Board is encouraged. All interested or concerned persons may, in this segment of the Hearing, be given the opportunity to speak, ask questions (through the Chair), and introduce evidence.

§ 301-6.10. Other Counsel or Representatives

The Board may request the name and address of counsel or representative appearing for any other party interested in the Application.

§ 301-6.11. Reports

Reports, comments, opinions, and recommendations from the Planning Board, Board of Health, Conservation Commission, Design Review Board, the Building Department, and any other Town agents or officials, will be received and considered by the Board. Any information submitted in writing by the respective officials may also be presented by that

official or an authorized representative of that authority to the Board at the public hearing.

§ 301-6.12. Rebuttals

At the discretion of the Chair, those in support and in opposition (if there is any new fact or argument not previously raised) of the Application, may be given the opportunity to give rebuttals prior to close of the public hearing.

§ 301-6.13. Briefs

The Board will, at the close of the evidentiary portion of the hearing, accept briefs and suggested findings of fact and rulings of law (the Briefs) from any party, citizen or group. A minimum of five paper copies and a digital copy of all Briefs shall be required at the time of the filing of a Brief with the Board. One copy of the Brief shall be given to each member and alternate of the panel hearing the case. A copy of all Briefs filed shall be made available for inspection, review, and reference by any party, citizen, or group in the Zoning Office or as posted on the Board's webpages.

§ 301-6.14. Decision

The Board can either deliberate and decide the matter immediately or take the matter under consideration for further deliberation and decision at another properly noticed public meeting of the Board. The Board will render its decision within the time limits set forth in G.L. c. 40A or c. 40B or such time as may be mutually agreed by the Applicant and the Board. Such extension requests shall be confirmed in writing by the Applicant. A member of each panel or designee shall write the decision for each case heard by that panel, but the Board may accept at its sole discretion, a draft decision or draft conditions for reasonable consideration by the Board. In writing its decision, the Board may seek the advice of its consultant(s) or Town Counsel.

ARTICLE 7. Action by the Board

§ 301-7.1. Voting Requirements

- A. The concurring vote of Board Members shall be required as follows:
- The concurring vote of three panel Members to grant variance, special permit, and/or site plan review relief.
 - The concurring vote of three panel Members to overturn a decision of the Building Official.
 - The concurring vote of two panel Members to grant comprehensive permit relief.
- B. The Board shall, in addition, set forth clearly the reason(s) that form the basis for each decision.

§ 301-7.2. Withdrawal

- A. An appeal, petition, or application may be withdrawn without prejudice by the petitioner prior to publication of the notice of a public hearing thereon. Such notice must be received in writing to the Board prior to the publication of the legal notice.
- B. After the notice of the hearing, an application may be withdrawn without prejudice only by request in writing to the Board, and with the unanimous vote of the panel sitting in favor of such withdrawal.
- C. If the application is withdrawn after publication of the legal notice, the filing fee shall be forfeited.

§ 301-7.3. False or Misleading Information

If, during any hearing, it is determined that the Application was submitted with false or misleading information, the Board may consider that fact in determining the credibility of the evidence submitted by the Applicant.

§ 301-7.4. Court; Appeals

A decision of the Board of Appeals may be appealed as provided by law. In the case of zoning relief, the appeal shall be taken to a court of competent jurisdiction within twenty (20) days after the filing of the written decision with the Town Clerk's office, as provided in G. L. c. 40A, §17. In the case of a Comprehensive Permit, the Applicant or an aggrieved person may appeal in accordance with G.L. c. 40B, §§20–23.

§ 301-7.5. Recording of the Decision

- A. After receiving certification from the Town Clerk that no timely appeal has been taken (or if an appeal was filed, that it was dismissed or denied) from a decision of the Board, the Applicant, or his or her agent, successor or assign, shall record (or register, if registered land) a certified copy of the Board's decision, at the Applicant's expense, with the Plymouth County Registry of Deeds (or Recorder of the Land Court, if registered land). A copy of the recorded Decision, together with a copy of the recording fee receipt, shall be returned to the Zoning Office for filing in the official file for the case. No relief granted shall take effect or be exercised unless and until the decision is duly recorded at the Registry of Deeds and that responsibility and cost shall rest with the Applicant.
- B. No action, including the issuance of building or other permits, authorized by the Decision shall be taken until a copy of the recorded Decision, with recordation data set forth thereon, is filed with the Building and Zoning Office and the Building Department. In all instances, the Board of Appeals at its sole discretion shall have the right, but not the obligation, to record its decision in accordance with this section at the Applicant's expense.
- C. Furthermore, no building permit shall issue based upon a comprehensive permit unless and until evidence of final approval of the comprehensive permit project by the project's subsidizing agency is received.

§ 301-7.6. Repetitive Petitions

Repetitive petitions for Special Permits, Appeals, and Petitions for Variances and Applications to the Board of Appeals shall be limited as provided in G.L. c. 40A, §16.

§ 301-7.7. Limitation on Approval/Extensions

If an Application is approved by the Board, all permits necessary for the commencement of the work shall be obtained, and construction shall be commenced within the time specified in the decision or as required under the Zoning Bylaw or otherwise required by law. The effective date of a decision will be suspended during the pendency of an appeal as provided for by law. (See Article 1, § 301-1.3G, Time extension.)

§ 301-7.8. Waiver of Requirements

Notwithstanding the foregoing, the Board may, in its sole discretion, in public session waive any of the non-statutory provisions of this Article 7, or may require additional information as it deems necessary.

ARTICLE 8. Projects Subject to Site Plan Requirements

§ 301-8.1. Documentation Required

- A. **Norwell Planning Board Standards:** All site and property plans shall be drawn to conform to standards established by the Town of Norwell Planning Board. (*Scale 1" = 40', except Locus Plan*) ALL plans shall be dated and include a North Arrow, name, and address of the property owner and designer, and certification of compliance with the Norwell Zoning Bylaw, with all exceptions noted on the plans.
- B. **Property Line Plans:** ALL plot plans and site plans for property line determinations shall be based on an on-the-ground survey prepared by a Professional Land Surveyor, licensed by the Commonwealth of Massachusetts; and referenced to USGS Datum and MassGrid. The licensed professional that prepared the original "plot" sheets shall affix a signed and stamped statement thereon, confirming that all surveying conforms to Land Court Standards. The Board may hire a registered Professional Land Surveyor and/or firm employing such persons to peer review the work at its discretion. The fee for this review would be paid through the Applicant's escrow funding if required by the Board.
- C. **Stamped Plans:** Wherever required, plans shall be stamped and signed by a Registered Professional Engineer and/or Registered Landscape Architect, licensed by the Commonwealth of Massachusetts. ALL architectural plans, for other than one- and two-family residential developments, shall be prepared by a Registered Architect, licensed by the Commonwealth of Massachusetts. *Failure to comply at the time of submission with these requirements is grounds for denial of Site Plan Approval for lack of sufficient information.*
- D. **Plan Sheets** for a proposed project shall include the following, as appropriate:
- (1) Existing Conditions
 - (2) Site Preparation/Demolition
 - (3) Erosion Control/Construction Plan
 - (4) Grading/Limit of Work
 - (5) Site Layout
 - (6) Utilities
 - (7) Drainage and Stormwater
 - (8) Landscaping
 - (9) Details
 - (10) Site Constraints
 - (11) Site Improvements
 - (12) Architectural Drawings
 - (13) Post Development Operations and Maintenance Plan
- E. **Plan Information Requirements** shall include, but not be limited, to the following:

- (1) Locus plan
- (2) Acreage, including total upland area on subject property and total wetlands on subject property and wetlands within 100' of each lot line, as required by the Norwell Zoning Bylaw
- (3) Existing topography at two (2) foot intervals (Detailed topography at one-foot intervals with spot grades may be required for areas with less than 5% slopes or where otherwise required by the Board.)
- (4) Existing and proposed property line monuments
- (5) Lot Lines with Setback requirements
- (6) All existing buildings and structures, whether public or private
- (7) All easements, restrictions, rights-of-way, setbacks, or other constraints
- (8) Existing conditions of the surrounding area to sufficiently determine the impact of the proposed project to the surrounding area
- (9) Adjacent streets and ways, whether public or private
- (10) Ownership and use of all abutting lots with Assessors' map identification, including block and parcel numbers
- (11) Zoning classifications and location of any zoning district boundaries including the Aquifer Protection and/or other Overlay District, Town Zoned 100-year floodplain, wetland resource areas as determined by the Conservation Commission, zoned wetlands, and 100' buffer zone within the locus of the plan
- (12) Dimensional regulations currently in effect shall also be listed including any conflicts
- (13) All landscape and screening features (such as fences, walls, planting areas and walks)
- (14) Location and spacing of existing plant material, including existing tree lines. Include numbers, sizes, and types of plant materials and plants to be removed
- (15) Location of adjacent private water supplies and septic systems within one hundred feet (100') of the project property line
- (16) Distance to nearest Town well/water supply location [if within two thousand five hundred feet (2500')]. Indicate areas that are Zone II or III.
- (17) Location, type, size and age of any underground storage tanks
- (18) 21E status
- (19) Proposed roadways, driveway openings, loading and parking areas
- (20) Proposed treatment of all ground surfaces (paving, gravel, grading, turf, etc.)
- (21) Parking spaces, existing and proposed
- (22) Service areas
- (23) Location and results of soil, permeability, percolation, and water table tests using the Department of Environmental Protection Soil Evaluation procedures under 310 CMR 15.00 et. Seq. (Title 5). Water table determinations by a Certified Soil Evaluator are required under all proposed drainage detention and infiltration facilities, under all buildings, and adjacent to any road cuts and/or any access way greater than three feet (3'). All such tests shall be witnessed by an approved agent of the Board of Appeals and/or Board of Health as applicable.
- (24) Documentation of curb cut approval meeting with MassDOT for site access approval on state highways

- (25) All proposed topography at two (2) foot intervals (Detailed topography at one-foot intervals with spot grades may be required for areas with less than 5% slopes.) or where otherwise required by the Board.
- (26) All proposed buildings and structures, whether public or private
- (27) Proposed easements and/or rights of ways, whether public or private
- (28) Statement and certification on the plan by the Professional Engineer and/or Registered Landscape Architect certifying the Site Plan submitted complies with the Zoning Bylaw
- (29) All facilities and lines for sewage, refuse and other waste disposal, and for surface water drainage, locations of water lines and hydrants, electric, telephone, cable, gas, and other utilities, including all connections to street service, where applicable
- (30) All proposed landscape and screening features (such as fences, walls, planting areas and walks) on lot
- (31) Plant List: Wherever practicable, native species shall be used.
- (32) Location and spacing of proposed plant material, including tree lines
- (33) Signs, both temporary and permanent, existing and proposed
- (34) Walkways and sidewalks with materials to be used
- (35) Open Space uses, existing and proposed
- (36) Snow removal storage areas in accordance with best practices
- (37) Construction and Post-Development Operations and Maintenance Plans
- (38) For new construction, a description of site preparation, erosion and sedimentation control measures, including location and specifications of temporary and permanent measures. A schedule of operations indicating the starting and completion dates for each phase of construction shall accompany each plan
- (39) Proposed curbing type, location, and details
- (40) Proposed street and site lighting and details, including type of fixture and wattage to conform to Dark Skies International standards
- (41) Drainage calculations to comply with DEP stormwater management requirements, stamped by a Registered Professional Civil Engineer licensed by the Commonwealth of Massachusetts
- (42) Calculations of the area for all upland and wetland areas
- (43) Parking and density calculations
- (44) Building and open space calculations
- (45) Impervious area calculations
- (46) State soil series and USDA-NRCS drainage categories
- (47) Proposed buildings and structures showing front, side and rear elevations

F. **Natural Resource Conservation:** The Board suggests that all projects be designed to conserve energy, natural resources, and the environment; that all landscaping be designed to promote water conservation, use of native plant materials in naturalized settings, and minimize open lawn space areas; that the use of plant material requiring irrigation be discouraged; that all lighting design and fixtures comply with Dark Sky International standards to minimize light pollution and conserve energy; and building

design, machinery, equipment, appliances, fixtures, and the like incorporate Energy Star or other energy-conservation technology or standards.

- G. **Stormwater Management:** All submitted project plans shall comply with the Stormwater Management requirements as set forth in Article 9, §§ 301-9.1 and 301-9.2, incorporated into this subsection by reference.

§ 301-8.2. Technical Review

- A. **Consultant Review:** Application submittals may be sent to an independent peer review engineer(s) or such other consultant(s) selected by the Board, as may be required for technical review and assistance to the Board in order to adequately address public health, safety, and welfare, or other local concerns.
- B. **Escrow Requirements:** Technical review of Site Plan Applications and associated escrow review requirements fall within the purview of the Norwell Planning Board with which the Applicant must simultaneously file an application and schedule a meeting in order to obtain comments and recommendations required to be made to the Board of Appeals. Additional information regarding this process can be obtained from the Town Planner, who can also arrange to schedule time for the Applicant to appear on the Planning Board's agenda.
- C. **Construction Monitoring:** The Board may condition its decision to require monitoring of any and all aspects of construction to ensure that construction proceeds in accordance with its decision. Such monitoring shall be at the direction of the Board and at the expense of the Applicant, and subject to escrow requirements.
- D. **Appeal of Decision to Engage Consultants:** In accordance with G.L. c. 44 §53G, any applicant may appeal a decision of the Board to engage any consultant within twenty (20) days of the Board's vote at a public meeting or hearing to employ such a consultant to the Norwell Select Board. The grounds for such an appeal are limited to those set forth in G.L. c. 44 §53G. The failure by the Select Board to render a decision on such administrative appeal within thirty (30) days shall be deemed to be an approval of the determination by the Board.

§ 301-8.3. Performance Guarantees, As-Built Plans, Certificates of Occupancy

- A. **Performance Guarantees:** The Board of Appeals may require the Applicant at its expense to procure and maintain such surety, performance bond(s), or other guarantees as it deems necessary to protect the interests of the Town of Norwell at any point in the construction of an approved project. All such guarantees must be in a form approved by Town Counsel.
- B. **Certificates of Occupancy:** No certificate of occupancy shall be issued until such time as all conditions therefor of the Board's decision are met or in the case of continuing conditions, compliance is maintained.

C. Interim and Final As-Built Plans, and Certifications: Interim and Final As-Built plans, to ensure and confirm construction progress of the proposed project, as set forth in the plans approved by the Board of Appeals, are required and shall meet Town standards as set forth in the Norwell Planning Board Rules and Regulations, as may be amended from time to time, or as set forth elsewhere herein. All such As-Built plans and certifications are subject to the review and approval of the Board's consulting engineer. All As-built plans shall be prepared by a Professional Land Surveyor and Professional Engineer. Plans shall include certifications that the plans comply with the approved plans stamped by the appropriate professionals.

(1) **Interim As-Built Plans** of the project shall be required:

- (a) For any and all foundations, prior to issuance of a building permit;
- (b) For all access roadways, ways, and driveways to service the project, immediately after installation of the base layer of pavement, if required;
- (c) Prior to issuance of any certificates of occupancy, to confirm substantial completion of all drainage, stormwater management facilities, wastewater facilities, utility mains and services, and such other infrastructure as may be required to service the project; or
- (d) At the discretion of the Board's consulting engineer.

(2) **Final As-Built Plans** of the completed project shall include all information shown on the interim As-Built Plans. In addition, such plans shall show all buildings, setbacks, final grades, and roadway profiles, if applicable, and such other features to demonstrate completion of the project in accordance with the approved plans.

§ 301-8.4. Site Plan Changes and Modifications

Any proposed change to an approved Site Plan shall be submitted to the Board of Appeals for a determination whether in its sole judgment such change constitutes a significant modification that requires a new public hearing or whether it may be approved administratively as a field change.

Article 9. STORMWATER MANAGEMENT REQUIREMENTS

Applicable to All Site Plan Review and Comprehensive Permit Applications.

§ 301-9.1. Requirements and Purpose

- A. The most recent Massachusetts Department of Environmental Protection (DEP) Stormwater Management Regulations are applicable to all projects, Site Plan Review Applications and to all Comprehensive Permit Applications filed under G.L. c. 40B, §§20-23.
- B. The Town of Norwell Stormwater Management and Erosion Control Regulations shall apply to all Site Plan Review Applications. Comprehensive Permit projects are also subject to the Stormwater Management and Erosion Control Regulations as provided under the EPA NPDES MS4 General Permit Requirements
- C. The purpose of this section is to require that all future Comprehensive Permit projects and Site Plan Review projects conform to the performance standards of the EPA MS4 Permit, Department of Environmental Protection's Stormwater Management Regulations or best management practices, whichever is more stringent, as may be amended from time to time.
- D. These Regulations require that there shall be no net increase in runoff allowed post-construction for the 1, 2, 10, 25 and 100-year 24-hour storm and that a project's storm drainage capacity shall be designed and constructed to manage flooding during these same storm events. No design shall result in erosion, or on- or off-site flooding for the 1, 2, 10, 25, and 100-year 24-hour storm events. The rainfall amounts used in the drainage analysis shall be based on the "Northeast Regional Climate Center Atlas of Precipitation Extremes for the Northeastern United States and Southeast Canada" (Cornell Rainfall).
- E. Each proposed Site Plan and Comprehensive Permit (c. 40B) project shall be confirmed, prior to any site clearing or construction of the project, to be in conformance with EPA and DEP Regulations, as set forth below, so as to protect future residents of the project, nearby residents, adjacent roadways, wetlands, drinking water supplies, and ground water supplies from post-construction increases in flooding and pollution.

§ 301-9.2. Documentation and Plans

- A. **Design Report:** The proposed stormwater management system design shall be documented in a report submitted at the time of application. The report shall include all drainage calculations, proposed maintenance and operation requirements, and in the case of a homeownership project, provide a copy of the instrument(s) proposed to create an owners' association, which shall own and maintain the system, to allow the

Board to evaluate the adequacy of the proposed design. The DEP Stormwater Report Checklist shall be included in the submittal.

- B. Major Site Features:** So that drainage calculations and impacts can be properly understood and evaluated, the plan shall depict the location of major site features, such as existing stone walls, fences, buildings and all buildings within 50' of property limits; large trees, rock ridges and outcropping, bodies of water, natural waterways, the limits of all wetlands on and within 100 feet of the project; all streams, including perennial and intermittent streams and other water bodies, located on the property and within 200 feet of the project, as approved by the Conservation Commission or Department of Environmental Protection; flood plains located on the property and within 200 feet of the project; and all existing culverts and drains on the property and within 200 feet of the project. The Board may require survey of culverts or other stormwater controls beyond 200 feet if they are a control point for analysis of flooding.
- C. Staking:** The proposed buildings, wastewater disposal area, stormwater management areas, and the access way or driveway centerline shall be staked sufficiently for review of the location of proposed improvements. All stakes shall be in place at the time of the Board's site visit. Additional staking of other utilities, easements, and other areas may be required at the Board's discretion.
- D. NRCS Soils Classifications:** The location of the general soil classification boundaries identified by the Natural Resources Conservation Service shall be provided. Soils shall be confirmed by on-site soil testing performed by a soil evaluator licensed in the Commonwealth of Massachusetts. If differing soil conditions are encountered than those indicated in Natural Resource Conservation Service Mapping, the soil classification boundaries should be modified accordingly.
- E. Soil evaluations, percolation tests, and permeability testing:**
- (1) Soil test data shall be provided for areas proposed for wastewater disposal systems or drainage.
 - (2) Test locations shall be indicated on the plans and standard soil evaluation logs and percolation test forms provided.
 - (3) A minimum of two soil tests including permeability tests at the location of stormwater management systems used for infiltration purposes shall be performed. Additional testing may be required for larger systems or where variable soil conditions and/or ledge is present.
 - (4) Soil permeability testing required for infiltration systems unless otherwise agreed to use the Rawls rate upon the advice of the peer review consultant.
 - (5) Soil testing at a minimum of every 250 feet, unless the Board agrees, with the advice of the peer review consultant that a different minimum is appropriate, along the access drive/roadway and at proposed cuts of three (3) feet or greater and at other locations requested by the Board, in order to demonstrate suitable soils for site construction.

- (6) Soil testing shall be witnessed or confirmed by the Board's technical consultant or an agent of the Board within thirty (30) days of the submission of a plan or such extension of time as the Board and Applicant may agree upon.

F. Plan Information: The plan shall show the following information:

- (1) Where access roadways are proposed, a profile and plan shall be included. On the profile plan the proposed centerline grades shall be depicted in bolded lines, all appropriately designated, and showing grade elevations at every fifty (50) foot station, except on vertical curves where grade elevations shall be shown at every twenty-five (25) foot station and at P.V.C. and P.V.T.
- (2) Proposed system of drainage, including, but not limited to, swales, catch basins, manholes and proposed rim elevations, inverts and pipe sizes, and stormwater management systems such as detention or retention basins and under drains. (See the General Rules and Regulations of the Norwell Permanent Drainage Committee in the Town By-Laws, which are printed in the Norwell General By-laws, as revised through November 1970, and any subsequent revisions thereto.)

G. Profile plans of proposed access ways shall be drawn as follows:

- (1) A horizontal scale of one inch (1") equals forty feet (40').
- (2) A vertical scale of one inch (1") equals four feet (4').
- (3) Existing centerline in fine solid black line.
- (4) Existing right, side line in fine dotted black line.
- (5) Existing left, sideline in fine dashed black line.
- (6) All existing intersecting walks and driveways.
- (7) Elevations referred to NGVD or NAVD as established by the U.S. Coast and Geodetic Survey.
- (8) Rates of gradient (% slope) shown by figures for roadways and drainage.

H. Calculations: It shall be demonstrated through a volume calculation that there shall be no net loss of soil materials from the site. This calculation shall be set forth in a note on the post-construction conditions sheet and shall be certified and signed and stamped by the professional engineer.

I. Construction details and specifications shall be shown on a separate sheet(s) as part of the submission and shall be certified and signed and stamped by the professional engineer.

§ 301-9.3. Drainage Specifications

Every project shall conform to the following drainage requirements in order to satisfy all of the performance standards of the Department of Environmental Protections' stormwater management regulations, in order to prevent onsite and offsite flooding.

§ 301-9.4. Drainage Design

All drainage systems, including, but not limited to storm drains, culverts, swales, paved waterways, ditches, retention and detention systems, ponds, basins, check dams, drainage systems, stormwater treatment systems and related construction, grading and installation including, but not limited to, riprap, fore bays, catch basins, gutters, manholes, and drain pipes shall be designed, installed, maintained and replaced to provide adequate disposal of surface and subsurface water, including control of erosion, flooding, and standing water from or in the project and adjacent land. All drainage systems shall adhere to the standards set forth below.

§ 301-9.5. General

- A. All drainage systems shall be designed to meet the performance standards of the DEP stormwater management regulations. Drainage systems shall be designed to be consistent with ASCE technical references, as applicable. Hydrologic designs shall be based on NRCS TR55 and TR20 methodology.
- B. The design of the stormwater management systems for the project shall demonstrate that, post construction, there shall be no increase in runoff rate for the 1, 2, 10, 25, and 100-year 24-hour storm events. In addition, the design of the stormwater management systems for the project shall demonstrate that post construction, there shall be no increase in flooding due to an increase in the total volume of runoff for the 1, 2, 10, 25, and 100-year 24-hour storm events measured at the nearest downstream restriction such as a confined low area, culvert, wetland, pond, etc. Stormwater quality systems shall meet 80% TSS removal per DEP requirements. In Zone 2 and water supply tributary areas, stormwater quality systems shall meet 90% TSS removal.

§ 301-9.6. Data Submission

The Applicant shall provide a digital and four paper copies of the following data to the Board to allow the Town's engineering consultant to evaluate the proposed stormwater runoff designs:

- A. Sub area delineation at a minimum scale of 1 inch = 100 feet. A minimum scale of 1 inch = 40 feet shall be required for smaller sites or if plans are unclear at 1 inch = 100 feet.
- B. The Sub area plan shall include any offsite area, which flows onto the site and shall include off-site areas, if required, to identify defined control point(s) including culverts, weirs, etc.
- C. Pre- and post-construction cover types shall be identified on the sub-area plan.
- D. Post construction site design shall be indicated on the post construction sub area plan.
- E. The plan shall indicate conceptual proposed buildings, drives, grading, clearing limits, etc.

- F. Test pit logs and test pit locations shall be provided. The locations shall be shown on the plan.
- G. Test pits shall be required at the location of stormwater management systems to determine seasonal high groundwater and soil type.
- H. Permeability testing may be required for systems utilizing infiltration as a component of peak runoff-rate control.
- I. All soil testing shall be performed by a responsible professional and witnessed by an agent of the Board.
- J. NRCS soil types shall be identified on the sub area plan.
- K. Soil type divides shall be modified if appropriate based on actual field test data.
- L. Pre and post development runoff flow paths and control points shall be indicated on the sub area plans.
- M. Drainage reports shall be provided as follows:
- N. Reports shall be bound and clearly present all assumptions used to develop the data together with final results.
- O. References used to develop the report and justify assumptions used shall be included in the report.
- P. A schematic of the runoff model including subareas, ponds, reaches, etc. as applicable, shall be provided in the report.
- Q. Runoff hydrographs together with input data shall be provided for both pre and post construction.
- R. Routing hydrographs with all structure data, (i.e., stage, storage, and discharge) shall be provided to justify the assumptions for structures.
- S. A summary table indicating pre and post development peak discharge rates and total volume of runoff at each control point and flood elevations as applicable shall be included in the report.
- T. TSS Form(s) and supporting documentation, as applicable.
- U. Storm sewer networks shall be sized using the Rational Formula. Computations shall be presented in tabular format with area, rational runoff coefficient (C) including total impervious tributary area, rainfall intensity, flow (Q), pipe diameter, length, slope, inverts, rims, inlet capacity, actual and full pipe capacity, actual and full flow velocity. Pipe capacity shall convey the 10-year storm without surcharge. Inlets shall pass the 10-year storm with no more than 0.2 feet of surcharge at low points. The storm sewer design shall be consistent with assumptions in hydrology models relative to drainage subareas. In some cases, a greater design storm will be required for consistency between analyses.

§ 301-9.7. Construction Plan/Erosion and Sedimentation Control Plan

Prior to the close of the Public Hearing the Applicant shall submit a Construction Plan/Erosion and Sediment Control Plan that is subject to peer review. Said plan shall be prepared by a Registered Professional Engineer and shall be signed and stamped by said engineer. The Construction Plan shall contain the following information and requirements:

- A. The Applicant shall provide to the Zoning Board the name, address, telephone number and e-mail address of the project manager or other responsible party on site who will be responsible for construction activities. This must be provided at least 48 hours prior to any land disturbing activity on site.
- B. The location of any and all construction areas shall be delineated.
- C. The location of vehicle parking and location of equipment storage during construction, together with the location for wash down of vehicles and equipment.
- D. Construction equipment shall not be parked or stored adjacent to any drainage channel, drainage inlet, or wetland buffer area as set forth under the Mass. Wetlands Protection Act and local Norwell Wetland Protection Bylaw and Regulations. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage channels and inlets and such wetland buffer areas.
- E. Limits of clearing and grading in relation to the existing trees and the property lines shall be shown on the plan.
- F. The calculations for stormwater run-off from the property for all storm events, up to and including a 10-year storm events, shall be provided and the runoff for same shall be shown to be fully contained on site during construction so as to eliminate flooding from site runoff. The design shall accommodate any existing runoff onto the property.
- G. The total amount of land disturbance shall be quantified for the entire project, including, but not limited to, any disturbance that will be caused by the work, lot clearing, foundations for any structure, septic work, parking areas, landscaping, etc. The amount of bare earth that will be exposed at any one time during development of the project (roads, lots and any other clearing) and the length of time it will be exposed shall also be quantified.
- H. The methods that will be employed to protect areas with exposed earth during development and to prevent erosion and control sedimentation during and after the construction. This shall include a detailed description of the procedures that will be employed to maintain the site in good condition during and after construction, including all operations and maintenance procedures and plans, vegetation controls and erosion and sediment control measures (e.g., siltation fences and hay baling and filter bags for catch basins and a specific program for cleaning and repairing catch basins).
- I. Methods for construction within a flood plain to flood-proof all structures and replace all flood storage capacity to control run-on and runoff in the event of 2-year through 100-year storm events so as to result in no net increase in runoff during such events.
- J. Methods for the preservation and protection of waterways, flood plains, open space/conservation areas.
- K. Location of all other conservation measures, permanent and temporary, including, but not limited to, dikes, water diversions, terraces, dams, reservoirs, water conduits, grassed waterways and plantings of drought resistant grass, shrubs and trees, temporary seeding, mulching, dust control, diversion dams, sediment traps, snow fence, silt fence, mulch logs, filter fabric or filter bags in catch basins and stabilized construction entrance.

- L. Location of specific major structures controls (i.e., where the stabilization practices will be placed, surface water locations, soil disturbance areas, drainage patterns and during and following grading).
- M. The location for the stockpiling of topsoil, loam, gravel and any other materials, together with a plan to contain same so as to prevent erosion and runoff in the event of 2-year through 10-year storm events. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long-term stockpiles (i.e., over 30 days) shall be shaped stabilized and circled by siltation fence or mulch logs and shall be stabilized by temporary seeding or netting. Such stockpiling shall not exceed a duration of more than three (3) years from the date of endorsement.
- N. Any soil or earth material brought to the Property during construction shall be approved by the Board's engineer, prior to its arrival.
- O. All earth removal shall comply with the Regulations and the Town of Norwell's Earth Removal bylaw requirements and receive the necessary permits and approvals thereunder.
- P. All areas to be protected from encroachment from construction shall be marked on the ground as shown on the approved Subdivision Plan and these barriers shall be maintained by the developer throughout the construction phase of the project.
- Q. Satisfactory inlet protection shall be provided for the drainage system until all work has been completed and vegetation established.
- R. The Construction Plan must account for the timing and sequence of installing all conservation measures in order to provide for maximum control of erosion and sedimentation in the event of a 2-year through a 10-year storm event during construction.
- S. A copy of the NPDES plan and permit, if applicable, for construction sites with one acre or more of total disturbed area, inclusive of lot development, shall be provided by the Applicant to the Zoning Board for review and approval prior to the start of construction.
- T. All stormwater management facilities shall be constructed and stabilized to contain the runoff from a 2-year storm event through and including a 100-year storm event prior to paving and connection of the storm drain system. This requirement shall be a mandatory condition of approval and a note setting forth this requirement shall be placed upon the plan.
- U. In the event that a temporary stormwater management basin is proposed, it shall be shown in detail on the plan and shall be constructed and stabilized to contain the runoff before paving of any roadway that will contribute to the runoff occurs. This requirement shall be a mandatory condition of approval and a note setting forth this requirement shall be placed upon the definitive plan. Temporary basins shall be designed with devices to draw down the basins between storms after sediment has settled.
- V. Tree stumps, limbs, brush and all construction debris shall be legally disposed of, off-site unless ground or chipped for on-site use as sediment control.
- W. Hours of construction shall occur only during the following times:
Monday – Friday: 7 a.m. to 6 p.m., or dusk whichever is earlier
Saturday: 8 a.m. to 5 p.m., or dusk whichever is earlier

Sunday: None

- X. Any blasting operations shall require proper permits and shall not be undertaken on any weekend or holiday.
- Y. Excavation dewatering shall be in a workman like manner and such water shall be free of suspended solids before being discharged into either a wetland or any stormwater drainage system. This condition applies to all forms of dewatering including pumping and trenching.
- Z. Catch basin grates shall be set flush with the binder course and then reset so as to be flush with the topcoat when installed.
- AA. A program for sweeping of the streets, cleaning and repairing of catch basins and other drainage structures and mowing of all drainage structures that are to be stabilized with seeding.
- BB. All construction activities associated with the endorsed plan shall be conducted in a workman-like manner. During construction all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads.
- CC. Construction, once commenced, shall progress through to completion of the development as approved as continuously and expeditiously as possible and in accordance with the construction sequence and timetable approved at the pre-construction meeting.

§ 301-9.8 Operations and Maintenance Plan

Eight paper copies with one digital copy of the proposed Operations and Maintenance Plan for the proposed stormwater drainage system shall be provided by the Applicant with the drainage report.

§ 301-9.9. Minimum Design Criteria for Stormwater Basins and Subsurface Systems

- A. The minimum design and construction requirements for open stormwater basins shall be as follows:
 - (1) Side slopes for stormwater basins shall be constructed with 4:1 side slopes per ASCE Design and Construction of Urban Stormwater Management. Retaining walls are specifically prohibited.
 - (2) The top of the berm width shall be 10 feet with 15 feet of clear access per DEP requirements.
 - (3) Clogging protection – Trash grates per ASCE Design and Construction of Urban Stormwater Management shall be used and no outlet smaller than 2 inches shall be used.
 - (4) Maximum depth in a 2-year storm event shall not exceed 2 feet.
 - (5) Maximum depth in a 100-year storm event shall not exceed 4 feet.
 - (6) Berms shall be built into natural landscape if possible and as much as possible.
 - (7) Excavation shall be prohibited if the water table is within two feet of existing grade.
 - (8) An interim as-built of drainage system, including basins, shall be completed prior to the sub-base for the roadway being laid.

- B. The minimum design and construction requirements for subsurface stormwater infiltration systems shall be as follows:
- (1) The design shall conform to DEP Regulations for trenches for all types of subsurface infiltration systems.
 - (2) For infiltration systems up gradient of existing septic systems groundwater mounding analysis may be required at the Board's discretion.
 - (3) Subsurface infiltration systems should be set back a minimum of 20 feet from lot lines. The Board at its sole discretion may require groundwater mounding analysis to demonstrate no impact to abutting properties.
 - (4) The plans and supporting documentation shall detail how the system will be maintained including proposed maintenance access measures.
 - (5) The plans and supporting documentation shall detail how the system will be replaced and how runoff will be controlled during system repair and replacement.
- C. Subsurface detention systems are not identified in the DEP Regulations. Where used as a component in the stormwater management system the Applicant shall provide documentation of the suitability of system components to meet the requirements of the specific application. The minimum design and construction requirements for subsurface stormwater detention systems shall be as follows:
- (1) Subsurface detention systems should be set back a minimum of 20 feet from lot lines. The Board may at its sole discretion require data to demonstrate that the systems do not allow infiltration of groundwater into the system or if there is a recharge component of the system a mounding analysis to demonstrate no impact to abutting properties may be required.
 - (2) The plans and supporting documentation shall detail how the system will be maintained including proposed maintenance access measures.
 - (3) The plans and supporting documentation shall detail how the system will be replaced and how runoff will be controlled during system repair and replacement.

§ 301-9.10. Minimum Design Criteria for Drainage Pipes

The minimum design and construction requirements for drainage pipes shall be as follows:

- A. Cover shall be a minimum of 2.5 feet and have a maximum depth of 8 feet.
- B. Slope shall have a minimum slope of 0.5% and not exceed a maximum of 15 feet per second velocity flowing full.
- C. Design Calculations: No surcharge in system shall be allowed for a ten-year (10) storm event.
- D. Downstream system determination shall be made and reviewed and approved by the Town's engineering consultant. If the downstream system is inadequate to handle the proposed runoff or the existing runoff, the system shall be upgraded.
- E. Minimum actual velocity in trunk lines shall be 2 feet per second.

F. Maximum actual velocity in pipes shall not exceed 12 feet per second.

§ 301-9.11. Drainage Easements

Easements for all surface and subsurface drainage structures shall be provided, as necessary, in a form acceptable to the Board and Town Counsel. Such easements shall be recorded prior to issuance of any building permit. If the proposed project is for homeownership, any such easement is to ensure that individual unit owners shall properly maintain or allow proper maintenance, repair and replacement of said structures and shall run to a Homeowners Association. See § 301-9.12 of this article.

§ 301-9.12. Unit Ownership Projects Only: Homeowners Association Required to Own, Maintain, Repair and Replace Drainage Systems

All requirements set forth in this section shall be memorialized in the Condominium Documents and the Master Deed and shall be the obligation of the Applicant until such time as these obligations and responsibilities are accepted by the activated Homeowners' Association. If any drainage structures are to be installed, then the Homeowners' Association documents shall include, in addition to affordable housing and other requirements imposed by the Board's decision, the following minimum requirements:

- A. **Membership Shall Be Mandatory:** All owners of units within the project shall be required to be members as a condition of approval.

- B. **Ownership of Drainage Improvements:** The Homeowners Association shall be the owner of the drainage structures and shall hold all of the necessary easements and fees to all of the drainage structures, including detention basins or ponds, retention basins or ponds, combination detention/retention basins or ponds, catch basins, pipes, swales, berms, riprap, check dams, drainage catchment areas and other drainage structures and equipment and to all areas that must be used to access the drainage systems and equipment to effect maintenance, repairs and replacement.

- C. **Management of Drainage:** The Homeowners Association shall be responsible for repairing, maintaining, and replacing the drainage systems within a project. As a condition of approval of the proposed project, the Homeowners' Association, in the opinion of the Board, shall be sufficiently funded initially by the Applicant, and then require monthly or yearly funding by individual unit owners to allow for sufficient funding of initial and projected repair, maintenance, and replacement costs.

- D. **Status Reports:** The Homeowners Association shall be responsible for written notification to the individual unit owners twice per year to provide a report on the status of drainage funding, including: (1) the yearly cost of drainage maintenance and repairs for that calendar year; (2) the yearly cost of drainage maintenance and repairs projected for the following ten calendar years; and (3) the projected date for replacement of drainage systems and the projected cost of same. In addition, at the

same time, the Homeowners Association shall write to the individual unit owners and remind the individual unit owners of any obligations that the owners may have to maintain drainage swales or berms or other structures located on any individual lots, whether by periodic mowing or clean outs and by not planting trees and other landscaping in drainage swales. Individual unit owners shall also be instructed as to best management practices that require the access ways to be maintained in a clear, swept condition to avoid damage to drainage structures.

§ 301-9.12. Other Requirements, including Installation, Gas and Sand Traps, Excavation and Gravel Removal

- A. **Installation.** Installation of drainage shall be under the supervision of the Town's engineering consultant. Any and all drainage basins shall be constructed and an interim, surveyed as-built shall be provided and confirmed to be accurate and in accordance with the approved design before any building permits are issued.
- B. **Gas and Sand Traps.** Gas and sand traps shall be required to be constructed by the Applicant to prevent pollution of ponds, lakes, rivers, and/or streams, and the Town's drinking water supply.
- C. **Excavation.** No excavation or removal of gravel, topsoil, or other matter shall take place except:
 - (1) Within the right of way for normal access way construction.
 - (2) For the digging of a cellar hole, water well, or trench for utility installation.
 - (3) Normal grading and filling around the units to beautify the land or to satisfy Board of Health requirements, and subject to the approval of this Board.
- D. **Gravel Removal Permit.** No gravel or other earth materials shall be removed from any site without a Gravel Removal Permit under Division 2 Chapter 62, Soil, Loam, Sand or Gravel Removal, of the Town Code, except as specified in Chapter 62.
- E. **Stormwater Management as a Component of the Proposed Project:** All stormwater management requirements are but one of the many components of the overall Site Plan Review requirements set forth in Article 8 and of the overall Comprehensive Permit requirements set forth in Article 10 of these Rules and shall be considered as such in the evaluation of any and all projects subject to these requirements.

ARTICLE 10. Comprehensive Permit, G.L. c. 40B §§ 20-23

§ 301-10.1. Purpose; applicability of other rules and regulations.

- A. The rules and regulations in this Article 10 (“Rules”). establish procedures for applications to the Board of Appeals for Comprehensive Permits, under G.L. c. 40B, §§20–23 (the “Act”), and its associated state regulations (“State Regulations”) as set forth under 760 CMR 56.00, and as the State Regulations may be amended from time to time, and as authorized therein.
- B. The purpose of the Act and the State Regulations and the Rules is to facilitate the development of Low- or Moderate-Income Housing as defined under the Act and State Regulations.
- C. In addition, the Board’s general Rules and Regulations adopted under G.L. c. 40A for other applications shall also apply to Comprehensive Permit applications; but, in the case of an inconsistency or conflict between those general Rules for conduct and this Article 10, this Article 10 shall govern.

§ 301-10.2. Definitions

As used in this article, the following terms shall have the meanings indicated:

BOARD means the Zoning Board of Appeals of the Town of Norwell, established under G.L. c. 40A §12.

LOCAL BOARD means all local boards and officials, including, but not limited to: The Board of Health; Planning Board; Conservation Commission; Historical Commission; Design Review Board; Groundwater Protection; Lands & Natural Resources; Water Commissioners; Norwell Affordable Housing Partnership, Affordable Housing Trust; Norwell Housing Authority; Highway Surveyor/Director; Permanent Drainage Committee; Commission on Disabilities; Fire Department; Police Department; Inspector of Buildings and Zoning Enforcement Officer; ADA Coordinator; Transportation Enhancement Committee; North River Commission; the Select Board; and/or any authorized agents or designees thereof. 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.

LIMITED DIVIDEND ORGANIZATION means any Applicant that (1) proposes to sponsor housing under G.L. c. 40B, §§20-23, and satisfies all of the following:

- (1) is not a public agency;
- (2) is eligible to receive a subsidy from a state or federal agency after the Comprehensive Permit issues; and

- (3) unless otherwise provided for by a federal act or regulation, agrees to comply with the requirements of the Subsidizing Agency relative to a reasonable return for building and operating the Project. See § 301-10.3 following.

§ 301-10.3. Minimum Jurisdictional Requirements for Filing an Application

The Applicant shall meet the following minimum jurisdictional requirements of 760 CMR 56.04(1) in order to be eligible to submit a Comprehensive Permit application to the Norwell Board of Appeals, specifically:

- A. the Applicant shall be a public agency, a non-profit organization, or a limited dividend organization, **and**
- B. the project shall be fundable by a subsidizing agency under a low- and moderate-income housing subsidy program. The Project Eligibility Letter issued by the funding agency shall be included with the Application at the time it is filed. No Application shall be considered complete without that document, as the Board does not have jurisdictional authority without such evidence. The Board may review documentation to ensure that the applicable subsidizing agency has performed the due diligence required under 760 CMR 56.00, or amendments thereto, **and**
- C. the Applicant shall control the site (which shall include having control over the means of access thereto). The Applicant shall provide the Board with documentation to demonstrate that the Applicant possesses the necessary control over the site and the site access to develop the project as proposed in the Application. Such Site Control documentation shall include, but not be limited to, the following:
 - (1) Proof of current ownership of any and all parcels that may constitute the proposed project site shall be provided by the Applicant, including certified copies of recorded deeds and/or certificates of title for all parcels pertaining to the proposed development, establishing clear and proper title, and means of access, if not otherwise owned, *or*
 - (2) Valid copies of such Offer(s) to Purchase and/or Purchase & Sale Agreement(s) and/or lease agreement(s) relating to any and all parcels that may constitute the proposed project site. The applicant shall provide certified copies of recorded deeds and/or certificates of title for all parcels pertaining to such Purchase & Sale Agreement(s) relating to the proposed development, establishing clear and proper title, and means of access, if not otherwise owned, *and*
 - (3) In all instances, if the proposed development includes more than one parcel of land, than the applicant shall be required to produce evidence satisfactory to the Board of Appeals as to the manner in which the proposed parcels shall be merged, showing any grants, easements, or other restrictions that may encumber or affect the proposed development or future use of the land.
 - (4) To comply with paragraph 3 above, prior to any land disturbance, the Applicant shall be required to provide a Plan of Land drawn from an on-the-ground boundary survey showing metes and bounds, prepared, stamped, and signed by a

Registered Land Surveyor, licensed in the Commonwealth. Such plan shall be approved by the Planning Board, if required, and recorded at the Plymouth County Registry of Deeds or Land Court, as appropriate. In no instance shall any building permit be issued without evidence thereof.

§ 301-10.4. Elements of the Complete Application

Further, as listed in 760 CMR 56.05(2), the Applicant shall provide the Board with the following supporting information and documentation delineated herein in order for an application to be deemed complete:

- A. **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; as well as buildings on all abutting property to the proposed development, including abutters separated by a public way.

All Projects with five or more units shall have site development plans prepared and stamped by a registered architect and professional engineer and other professionals, as appropriate.

Every project shall be designed to meet the performance standards of the Department of Environmental Protection's *Stormwater Management Standards and its Stormwater Handbook*, EPA MS4 Permit requirements and all relevant regulations and rules related thereto. There shall be no net increase in runoff rate. Any increase in runoff volume shall not result in on- or off-site flooding. The storm drainage system capacity shall be designed to handle two-year through 100-year storm events without creating a net increase in run-on or runoff. See Article 9, Stormwater, herein.

- B. **Existing Site Conditions Plan with Narrative Report:** A report on existing site conditions and a summary of conditions in the surrounding areas, including but not limited to existing topography and geographic features, such as wetlands, soil types, groundwater elevations, ledge, boulders, flood zones, zoning district lines, zoning overlay districts, easements, rights-of-way, encumbrances, limitation or any other natural or imposed restriction or constraint that may affect the proposed construction or site development; the location and nature of existing buildings, existing street elevations, traffic patterns, and character of open areas, if any, in the neighborhood.

A table shall be placed on the plans and within the application narrative that sets out the zoning district(s) in which the property is located and the as of-right zoning requirements and whether the project will comply with each requirement and, if not, the waiver requested.

- C. **Preliminary, Scaled, Architectural Drawings:** For each building, the drawings shall be prepared by a registered architect, and shall include typical dimensioned floor plans, typical elevations referenced to actual site elevations with ground grade, floor elevation and top of building elevations, and sections, and shall identify construction

type and exterior finishes; All architectural drawings shall be coordinated with the Site Development Plans of the proposed project. If there is any discrepancy or inconsistency between the Site Development Plans and the Architectural Drawings submitted as respects number of units, size of units, number of rooms or other quantitative irregularities that the Board of Appeals at its sole discretion may consider significant, the application may be considered incomplete until any such discrepancy is resolved.

- D. **Tabulations** of Proposed Buildings by type, size (number of bedrooms; floor area in square feet) and ground coverage, and a summary showing the ground area and percentage of the tract to be occupied by buildings, by parking, and other paved vehicular areas, wetlands and upland area, and by open areas; Any and all rooms that may be used as a bedroom, including but not limited to studies, offices, dens or any other room not intended for use as a kitchen or living room (limited to one each), or bathroom(s), shall be counted as a bedroom for the purpose of this Tabulation. Any room that is larger than would normally be anticipated in a dwelling unit of the size proposed or that could reasonably be subdivided into a separate usable living space shall also be counted as a bedroom for the purposes of such Tabulation.
- E. **Preliminary Subdivision Plan**, where a subdivision of land is involved;
- F. **Preliminary Utilities Plan** showing the proposed location and types of all public utilities, including, but not limited to, sewage, drainage, electrical, cable, telephone, gas, and water facilities, including hydrants;
- G. **Traffic Survey** indicating existing and proposed conditions, and plans showing intersection site distances and the proposed width and grades of ways, and cross sections of ways and utilities;
- H. **Stormwater Management**: All submitted project plans shall comply with the Stormwater Management requirements as set forth in Article 9, §§ 301-9.1 and 301-9.2, incorporated into this subsection by reference.
- I. **Waivers**: The Applicant shall provide a specific list of requested exceptions to local requirements and regulations, including local codes, ordinances, bylaws, rules, or regulations. See also § 301-10.8 of this article. A request for a so-called Blanket Waiver without delineating the sections of the bylaws, rules and regulations shall not be accepted.
- J. **Abutters List**, certified by the Assessor's office;
- K. Proof of filing of a Project Notification form with the Massachusetts Historical Commission for the site;
- L. If relevant, proof of filing of a Conservation and Management Permit with the Massachusetts Natural Heritage and Endangered Species Program for the site;

- M. A narrative description of how the project complies with MassHousing's and the Commonwealth's "Smart Growth" policies, as well as a description of energy saving safeguards and calculations of the climate impacts of the development;
- N. A narrative description of how the project complies with the Massachusetts Governor's Executive Order 385, "Planning for Growth";
- O. **Pro Forma:** As provided for under 760 CMR 56.05(6), As provided for under 760 CMR 56.05(6), the Board may request to review a Pro Forma detailing the projected costs and revenues of the proposed project. The original complete *pro-forma* shall be provided together with a comparative pro forma that details why a proposed condition or conditions or a proposed denial of a waiver or waivers will render the project uneconomic.

The Board will examine the projected costs and revenues of the proposed project *and all assumptions and the basis and sources for the projections* made in the pro forma. Subject to the final approval of the subsidizing agency, the Applicant shall limit its costs to actual investment in the property. Acquisition costs shown in the *pro-forma* shall be limited to the lesser of the existing, as-is, fair market value of the property (i.e., the value under existing Bylaws and regulations without the benefit of waivers or variances) or the amount of last arm's length sale (with all reasonable and demonstrable carrying costs), whichever is less. Additionally, the Applicant shall fully disclose any costs ascribed to related entities. Profits generated by any related entities in the development of any aspect of the project shall not be allowable as project costs.

All *pro formas* submitted should be signed and dated by the applicant or its agent and include the following statement, "To the best of the applicant's knowledge, the pro forma submitted herein is accurate and complete as of the date executed."

- P. A copy of the Subsidizing Agency appraisal shall be submitted with the Application.
- Q. The applicant shall provide review fees to the Board in accordance with the provisions of MGL c. 44 sec 53g. The Applicant shall also provide escrow to the Board for expense pertaining to review of legal documents and to provide legal opinions for legal issues that may arise during the public hearing (other than general representation).
- R. The Project Eligibility (Site Approval) letter from MassHousing or other legally authorized agency. In accordance with 760 CMR 5606(3), the Board will not open a public hearing, except upon a complete application, including each of the items enumerated in this section, the filing fee from § 310-10.6, and the project review fee from § 310-10.7.
- S. **Other Applications and Submissions:** The Applicant shall provide a complete copy of any and all materials, plans, and applications submitted by the Applicant to any

prospective subsidizing agency or source or other authority having jurisdiction in this proposed project, including, but not limited to applications for site approval or project eligibility, groundwater discharge permit, or other permits or approvals necessary to its construction.

- T. **Permits, Approvals, and Grants:** The Applicant shall provide forthwith, upon receipt, copies of any approvals, permits, or grants necessary to construct this proposed project, as may be granted by any authority having jurisdiction therefor.
- U. **Development and Marketing Team:** The Applicant shall provide a list of each member of the development and marketing team, including all contractors and subcontractors, to the extent known at the time of Application. The Applicant shall also be required to disclose its relationship to all such entities.
- V. **Prior Development Projects:** The Applicant shall provide a list of all prior development projects completed by the Applicant with a brief description of each.

§ 301-10.5. Town Authority and Departmental Review; Application Copies

- A. As required by 760 CMR 56.05(3), within seven days of receiving a complete application, the Board shall notify each Local Board of its receipt by sending a copy of the submitted Application with a list of waivers of local rules and regulations requested by the Applicant.
- B. At the same time, the Board shall invite each Local Board to review the Application and provide its written comments on any local concerns that relate to its powers and authority or such other concerns it may have relating to waivers, requested by the Applicant or, which in the opinion of the Local Board, may otherwise be required to construct the project as proposed.
- C. In order to allow timely review, the Applicant shall provide a digital copy with a minimum of twenty-four (24) paper copies of the complete Application and, further, such additional copies as may be required for review by boards, officials, and departments. In addition, for copying purposes, the Applicant shall provide one unbound copy of the Application with an 11" x 17" or smaller sized copy of all plans (with match lines).

§ 301-10.6. Application Filing Fees

As permitted by 760 CMR 56.05(2), the Board may require the payment of a reasonable filing fee with the application, if consistent with subdivision, cluster zoning, and other fees reasonably assessed by the municipality for costs designed to defray the direct costs of processing market rate applications, and taking into consideration the statutory goal of G.L. c.40B, §§20-23, to encourage affordable housing development. See Exhibit G, *Application Filing Fee and Technical Review Escrow Schedule*.

§ 301-10.7. Technical Review; Escrow; Consultant Selection and Appeal

- A. **Technical Review Escrow:** The escrow for technical review fees is intended to cover the Town's cost of hiring outside consultants, including but not limited to surveyors, engineers, landscape architects, architects, legal counsel (but not including general representation; however, including review of legal documents such as easements, trusts, HOA, etc.), financial, real estate, and/or other professionals to review the project.
- (1) **Escrow Deposit:** The initial escrow deposit amount required to be paid by the Applicant for a Comprehensive Permit shall be in accordance with the current fee schedule (See Form G).
 - (2) **Escrow Replenishment:** Whenever the account falls below 50% of the requirement set by the Board, the applicant shall deposit an additional amount sufficient to return the account to the required level. Any unexpended monies in the escrow account may be returned to the applicant only after all obligations are satisfied.
 - (3) **Escrow Adjustments:** However, at the sole discretion of the Board, if circumstances warrant, the initial escrow deposit and replenishment schedule may be adjusted for good cause by majority vote of the Board. Such request shall be made by the Applicant in writing and shall be considered at the same time the Board chooses its technical review consultant.
- B. **Technical Review:** In hiring outside consultants, the Board may engage engineers, architects, scientists, financial analysts, special counsel, planners, urban designers or other appropriate professionals to assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.
- C. **Technical Review Consultant Selection:** All Professional Engineers, Land Surveyors, Landscape Architects, and other similar professionals shall hold a valid license issued by the Commonwealth of Massachusetts. Technical Review Consultants engaged on behalf of the Town of Norwell shall be paid from Technical Review Escrow funds furnished by the Applicant. Such consultants shall be chosen in accordance with applicable provisions of G.L. c. 30B, §§1-19 and c. 44, §53G, as required.
- D. **Appeal of Technical Review Consultant Selection:** An Applicant may appeal the selection of the outside consultant to the Select Board.
- (1) Such appeal must be made in writing and may be taken only within twenty (20) days of the Board's vote at a public meeting at which the Applicant or its representative is present or after the Board has mailed or hand-delivered notice to the Applicant of the selection.

- (2) 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. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.
- (3) The required time limit for acting upon an Application by the Board shall be extended by the duration of the administrative appeal.
- (4) In the event that no decision is made by the Select Board within twenty (20) business days following the filing of the appeal, the selection made by the Board shall be final.

F. **Escrow Accounting:** Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c. 44, §53G. 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 for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the Applicant.

G. **Refund of Unused Escrow:** At the completion of the Board's review of a project, any excess amount in the account 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 Applicant's successor in interest. For the purpose of this paragraph, any person or entity claiming to be an Applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

§ 301-10.8. Review of any Conditions claimed by the Applicant to be Uneconomic: Pro Forma and Escrow Requirements

- A. It shall be the Applicant's burden to demonstrate to the satisfaction of the Board that the imposition of one or more proposed conditions or the denial of a waiver of any particular local regulation, bylaw, or ordinance or the denial of a combination of waivers would render the project uneconomic.
- B. In order to assist the Board in the determination of whether or not proposed conditions or failure to grant waivers would render the project uneconomic, as asserted by the Applicant, as provided under G.L. c. 40B, §§20 –23, the Board may require a pro forma review; if so, the Applicant shall provide additional peer review escrow funds to perform that review.

§ 301-10.9. Public Hearing and Decision

- A. The Board shall open the public hearing on the Application within thirty (30) days of its receipt, unless an extension of time is mutually agreed to. The Board may request

the appearance at any 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.

- B. The Board shall render a decision by majority vote, as required under G.L. c.40B, §21, within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the Applicant. The hearing shall be terminated when all public testimony has been received and all information reasonably requested by the Board, including such requirements as may be set forth in the Project Eligibility Letter of the subsidizing agency, has been received, subsequently reviewed by its consultant, and those results discussed at a public hearing without further questions being raised.
- C. As provided in 760 CMR 56.05(8)(a), the Board shall file its decision within fourteen (14) days of its vote with the office of the Town Clerk, forward a copy to the Applicant or its designated representative, and to the Department of Housing and Community Development.

§ 301-10.10. Changes in the Application

- A. In the event that, during the public hearing, the Applicant proposes any substantial change in its Application or project plans, then, under 760 CMR 56.04(5), the Applicant shall give notice to the Subsidizing Agency.
- B. In the event of material or substantial changes, the Board may request, and the Applicant shall provide, any and all information specified in § 301-10.4, hereof deemed by the Board to be necessary to evaluate such changes.
- C. In the event of a material or substantial change, any and all plans and supporting information shall be provided to all of the local entities identified in § 301-10.5 above.
- D. If the Applicant submits a revised plan for the Board's consideration, and said plan is the plan that is the subject of the Board's hearing and deliberation, then the Application shall be deemed to be revised, subject to the foregoing provisions.

§ 301-10.11. Appeals

The Board's decision may be appealed by a person aggrieved as provided for under G.L. c.40B, §§21 and 22.

§ 301-10.12. Other Provisions

- A. **Ground Disturbance and Commence of Construction:** In no event shall any site work preparation or other on-site construction work commence until such time as the

Board of Appeals has reviewed and approved final construction plans for consistency with the original decision and notified the Applicant thereof in writing. The Applicant shall provide an adequate number of approved plan copies, signed by the Board of Appeals, for distribution to the Norwell Building Inspector and such other Local Boards as may require an approved final plan copy. For homeownership projects, it is a further requirement that all condominium and affordable housing documents be filed with and approved by the Board of Appeals (1) prior to land disturbance, and (2) issuance of any building permit.

- B. **Issuance of Building Permit(s):** No building permit shall be issued until such time as the Applicant is in compliance with the Conditions of the Comprehensive Permit Decision *and* these Rules and Regulations, as may be amended from time to time by the Norwell Board of Appeals.
- C. **Terms and Conditions of the Comprehensive Permit:** Any Comprehensive Permit issued with or without Conditions specific to the proposed project, sited in whole or in part within the Town of Norwell, shall be valid only for the Applicant to which it has been issued or to an entity to whom the permit has been properly transferred as provided for under 760 CMR 56.05(12). An approved Comprehensive Permit, and any extension, modification or renewal thereof, shall take effect and shall be exercised only after it and approved final plans have been recorded at the Plymouth County Registry of Deeds or the Land Court. However, the date of such recording will not change the expiration date of the Board's decision.
- D. **Project Modification:** Any change in plans or in the scope of the project for which a Comprehensive Permit has been issued shall be submitted to the Board of Appeals, which shall, in accordance with 760 CMR 56.05(11) and 760 CMR 56.07(4) determine whether such change constitutes a significant modification that requires a public hearing.
- E. **Performance Guarantees:** The Board of Appeals may require the developer at its expense to procure and maintain such surety, performance bond(s), or other guarantees as it deems necessary to protect the interests of the Town of Norwell at any point in the construction of an approved project. All such guarantees must be in a form approved by Town Counsel.
- F. **Certificates of Occupancy:** No certificate of occupancy shall be issued until such time as all conditions of the decision therefor are met. Certificates of occupancy shall be issued so that no more than three market-rate units are permitted for every affordable unit so permitted.
- G. **Interim and Final As-Built Plans, and Certifications:** As-Built plans to ensure construction progress of the proposed project, as set forth in the plans approved by the Board of Appeals, are required and shall meet Town standards as set forth in the Norwell Planning Board Rules and Regulations, as may be amended from time to time, or as set forth elsewhere herein. All such As-Built plans and certifications are

subject to the review and approval of the Board's consulting engineer. All As-built plans shall be prepared by a Professional Land Surveyor and Professional Engineer. Plans shall include certifications that the plans comply with the approved plans stamped by the appropriate professionals.

H. Interim As-Built Plans of the project shall be required:

- (1) For any and all foundations, prior to issuance of a building permit;
- (2) For all access roadways, ways, and driveways to service the project, immediately after installation of the base layer of pavement;
- (3) Prior to issuance of any certificates of occupancy, to confirm substantial completion of all drainage, stormwater management facilities, wastewater facilities, utility mains and services, and such other infrastructure as may be required to service the project; or
- (4) At the discretion of the Board's consulting engineer.

I. Final As-Built Plans of the completed project shall include all information shown on the interim As-Built Plans. In addition, such plans shall show all buildings, setbacks, final grades, and roadway profiles, if applicable, and such other features to demonstrate completion of the project in accordance with the approved plans.

J. Monitoring of Affordability: The Board of Appeals shall reserve the right to appoint a local affordable housing authority or agency for monitoring of affordability requirements to the extent authorized under G.L. c.40B.

ARTICLE 11. Severability

If any provision of these Rules and Regulations is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of these Rules and Regulations, it being hereby expressly declared that these Rules and Regulations and each provision thereof would have been adopted irrespective of the fact that any one or more other provisions be declared invalid or unconstitutional. Further, if any provision of these Rules and Regulations is for any reason held to be in excess of the authority of the Board of Appeals, such provision shall not affect any other part of these Rules and Regulations.

Norwell Board of Appeals
CERTIFICATE OF VOTE

At a public hearing of the Board of Appeals, held at 7:05 PM on March 22, 2023, at the Norwell Town Hall, duly notice in accordance with the Open Meeting Law, all regular and associate members of the Board present, upon a motion duly made and seconded: **VOTED** unanimously to adopt the above rules, entitled: "Rules and Regulations and General Information," Pages 1 through 53 inclusive with Exhibits A through G, referenced in § 301-4.2, Application Forms and Supporting Documents, incorporated herein by reference, in accordance with G.L. c. 40A, §12, effective April 30, 2014, as ratified on June 25, 2014, and as further modified at its public hearing on March 22, 2023, and direct that a copy shall be immediately filed with the Town Clerk to incorporate into Division 2 § 10-1.C. (Committee records; filing of rules and regulations) of the Norwell General Bylaw.



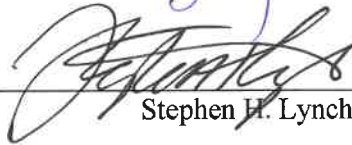
Lois S. Barbour, Chair



Philip Y. Brown, Vice Chair



Ralph J. Rivkind, Clerk



Stephen H. Lynch, Associate

A TRUE COPY,
ATTEST:

By: 
Town Clerk

TOWN OF NORWELL
TOWN CLERK

2023 APR -6 PM 3:21

RECEIVED