



# **COMPREHENSIVE PERMIT RULES AND REGULATIONS**

**Town of Belmont  
Zoning Board of Appeals**

Adopted – May 17, 2004

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## **1. Purpose and Context**

These Rules establish procedures for applications to the Town of Belmont Zoning Board of Appeals for Comprehensive Permits submitted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c. 40B, §§ 20-23. Rules are required by M.G.L. c. 40B, § 21, as amended by Stat. 1989, c. 593, and by 760 CMR 31.02. The purpose of that Act and these Rules is to facilitate the development of affordable housing in Massachusetts. Further explanation of the background and purpose is provided in the regulations of the Housing Appeals Committee, 760 CMR 30.01.

These Rules alone are not sufficient to describe Comprehensive Permit procedures before the Zoning Board of Appeals. They must be read in conjunction with and implemented in a manner consistent with the complete regulations of the Housing Appeals Committee, 760 CMR 30.00 and 31.00 and with the Guidelines for Local Review of Comprehensive Permits, published periodically by the Department of Housing and Community Development. In addition, the ZBA's Rules and Regulations (R&Rs) apply to Comprehensive Permit applications. In case of inconsistency or conflict between those R&Rs and these Rules, these Rules shall govern.

## **2. Definitions**

- a. Local Board - any local board or official, including, but not limited to, the Board of Selectmen, Board of Survey; Board of Health; Planning Board; Conservation Commission; Historic District Commission; Fire, Police, and Public Works Departments; and Building Commissioner. All boards, regardless of their 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.
- b. ZBA – the Town of Belmont Zoning Board of Appeals.

## **3. Application Requirements (760 CMR 31.02(2))**

All applications for a comprehensive permit shall include the following:

- a. 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; stormwater management and supporting calculations, utility connections and capacities, proposed lighting, landscaping improvements and open areas within the site. An applicant proposing to construct or rehabilitate four or fewer units may submit a sketch of the matters in sections 3(a) and 3(c), below, which need not have an architect's signature. All applications of five (5) or more units must have site development

- plans signed by a registered architect and stamped by a Registered Professional Engineer;
- b. Existing Site Conditions Report and Summary of Conditions in the surrounding areas - showing the location and nature of existing utilities, stormwater management, buildings, existing street elevations, traffic and pedestrian patterns and controls, and character of open areas, if any, in the neighborhood. This submission may be combined with that required in section 3(a) above;
  - c. Architectural Drawings - For each building, the drawings shall be signed by a registered architect, and shall include floor plans, elevations, and sections, provision of utilities and services and shall identify construction type and exterior finish;
  - d. Tabulation of Proposed Buildings - by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas;
  - e. Preliminary Subdivision Plan, if one is proposed;
  - f. Utilities Plan - showing the proposed location and types of sewage, drainage, water facilities, including hydrants and other utilities;
  - g. Development Compliance Documents - showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01 as follows,
    - i. the applicant shall be a public agency, a non-profit organization, or a limited dividend organization,
    - ii. the project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program, and
    - iii. the applicant shall control the site;
  - h. List of Requested Exceptions – a complete list of all local requirements and regulations, including local codes, ordinances, by-laws or regulations which the applicant seeks relief from. Failure to list a requirement as being an exception shall result in the applicant's acceptance of such requirement and agreement to comply thereafter.

#### **4. Filing Fee**

All applications shall be accompanied by a filing fee of \$850.00, \$750 to the Town of Belmont for administrative costs and \$100 to the Community Newspaper for public hearing notification.

For projects of 1 – 3 dwelling units, a filing fee of \$425 shall be required, \$325 to the Town of Belmont and \$100 to the Community Newspaper.

## **5. Transmission of Application**

Within fourteen (14) days of filing of the application, the ZBA shall notify each Local Board of the application by sending such Local Board a copy of the list noted in Section 3h above. Within this same time period, the ZBA shall invite the participation of each Local Board by providing such Board with a copy of the entire application and public hearing date.

## **6. Review Fees**

- 6.1 If, after receiving an application, the ZBA determines in its sole judgment that, in order to review the application, it requires technical advice unavailable from municipal employees, it may employ outside consultants. Whenever possible, the ZBA shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of part or all of consultant fees by the applicant. Alternatively, the ZBA may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the ZBA alone.
- 6.2 A review fee may be imposed only if:
  - a. the work of the consultant consists of review of studies prepared on behalf of the applicant, and not of independent studies on behalf of the ZBA,
  - b. the work is in connection with the applicant's specific project, and
  - c. all written results and reports are made part of the record before the ZBA.
- 6.3 A review fee may be imposed only after the ZBA has complied with the Uniform Procurement Act, M.G.L. c. 30B, §§ 1-19, and the following additional requirements:
  - a. For services in an amount less than \$10,000.00, the ZBA shall issue an Invitation For Bids (IFB) conforming to the requirements of M.G.L. c. 30B, § 5 or a Request For Proposals (RFP) conforming to the requirements of M.G.L. c. 30B, § 6.
  - b. For services in an amount of \$10,000.00 or more, the ZBA shall issue a RFP conforming to the requirements of M.G.L. c. 30B, § 6.

- c. For all services, whether in amounts less than or greater than \$10,000.00,
  - i. the applicant shall be given five days notice and opportunity to attach written comments to the IFB or RFP,
  - ii. at least three (3) responses to the IFBs or RFPs shall be received by the ZBA, and
  - iii. the applicant shall be given five days notice and opportunity to comment on all responses to the IFBs or RFPs prior to the selection of the consultant and the award of a contract.
- d. A bona fide response to an IFB or RFP shall include:
  - i. the name of each person performing the work,
  - ii. the educational and professional credentials of each person performing the work,
  - iii. the work experience of each person performing the work,
  - iv. a description of the work to be performed,
  - v. the hourly rate charged by each person performing the work, and
  - vi. all other expenses to be incurred.

- 6.4 All fees assessed pursuant to this section shall be reasonable in light of:
- a. the complexity of the proposed project as a whole,
  - b. the complexity of particular technical issues,
  - c. the number of housing units proposed,
  - d. the size and character of the site,
  - e. the projected construction costs, and
  - f. fees charged by similar consultants in the area.

As a general rule, the ZBA will not assess any fee greater than the amount which might be appropriated from town funds to review a similar project.

- 6.5 Any IFBs or RFPs shall indicate that award of the contract is contingent upon payment of a review fee. If the applicant fails to pay the review fee within ten days of receiving written notification of selection of an outside consultant, the ZBA may deny the Comprehensive Permit.
- 6.6 Prior to paying the review fee, the applicant may appeal the selection of the outside consultant to the Board of Selectmen.
  - a. 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.
  - b. 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.
  - c. The required time limits for action upon the application by the ZBA shall be extended by the duration of the appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the ZBA shall stand.
- 6.7 Each review fee shall be deposited in a special account established by the Town Treasurer pursuant to M.G.L. c. 44, § 53G.
  - a. Funds from the special account may be expended only for the purposes described in section 6.2, above, and in compliance with the Uniform Procurement Act, M.G.L. c. 30B, §§ 1-19.
  - b. Within 30 days of the completion of the project or of such time as the applicant formally withdraws the proposal, the applicant shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest.
  - c. The Town Accountant shall submit annually a report of the special account to the Board of Selectmen and Town Administrator for their review. This report shall be published in the Annual Town Report.

## **7. Public Hearing and Decision**

- 7.1 The ZBA shall hold a public hearing on the application within thirty (30) days of its receipt. It may request the appearance at the hearing of such representatives of Local Boards as it considers necessary or helpful in reviewing the application. In making its decision, the ZBA shall take into consideration the recommendations of Local Boards.

7.2 The ZBA shall render a decision, based on a majority vote of the ZBA, within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the ZBA and the applicant. The hearing is deemed terminated when all public testimony and all information requested by the ZBA or allowed to be filed has been received.

7.3 The ZBA may dispose of the application in the following manner:

- a. approve a Comprehensive Permit on the terms and conditions set forth in the application,
- b. deny a Comprehensive Permit as not consistent with local needs, or
- c. approve a Comprehensive Permit with conditions with respect to site plan issues, including but not limited to; height, drainage, utility capacity, size, shape or building materials that do not render the construction or operation of such housing uneconomic.

## **8. Appeals**

8.1 If the ZBA approves the Comprehensive Permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L. c. 40A, § 17.

8.2 If the ZBA denies the Comprehensive Permit or approves the Permit with potentially unacceptable conditions or requirements, the applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c. 40B, § 22.