



## **Town Of Sandwich Zoning Board of Appeals**

### **Comprehensive Permit Submission Rules Adopted December 12, 2000 Revised September 10, 2002 Revised November 8, 2005**

#### **1.0 Purpose and Context**

These rules establish procedures for applications to the zoning board of appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c. 40B, §§ 20-23. They are required by M.G.L. c. 40B, § 21, as amended by Stat. 1989, c. 593, and by 760 CMR 31.02. The purpose of 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 the Guidelines for Local Review of Comprehensive Permits, published periodically by the Department of Housing. In addition, the Board's general rules for conduct of hearings under M.G.L. c. 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general rules for conduct and these rules, these rules shall govern.

#### **2.0 Filing, Time Limits, and Notice**

- 2.01 The application for a comprehensive permit shall consist of twenty (20) copies of each of the following:
- (A) The application form;
  - (B) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. An applicant proposing to construct or rehabilitate four or fewer units may submit a sketch of the materials in section 2.01(D) below, which need not have an architect's signature. All structures of five or more units must have site development plans signed by a registered architect;
  - (C) A report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood;
  - (D) Preliminary, scaled, architectural drawings. For each building the drawings shall be signed by a registered architect, and shall include

typical floor plans, typical elevations, and sections, and shall identify construction type and exterior finish;

- (E) A 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;
- (F) When a subdivision of land is involved, a preliminary subdivision plan submitted in accordance with the requirements of the Sandwich Planning Board Subdivision Rules & Regulations;
- (G) A preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants;
- (H) Documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01, that is,
  - (1) The applicant shall be a public agency, a non-profit organization, or a limited dividend organization,
  - (2) The project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program, and
  - (3) The applicant shall control the site;
- (I) A list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations; and
- (J) The Site Approval Letter from the subsidizing agency.

2.02 The application shall be accompanied by a filing fee based upon the number of housing units proposed:

- (A) By Limited Dividend Organizations - \$300/2 lots + \$35 for each unit.
- (B) By Non-Profit Organizations - \$50 per unit for the first 50 units, \$10 per unit for each additional unit over 50 units.
- (C) By Public Agencies - \$0 per unit
- (D) Local Initiative pursuant to 760 CMR 45.00. - \$100 per unit for the first 50 units, \$10 per unit for each additional unit over 50 units.
- (E) In addition, the applicant shall be responsible for paying all legal advertisement costs.

2.03 The Board shall notify each local official of the application by sending such official a copy of the list required by Section 2.01(I), above. Based upon that list, it shall also invite the participation of each local official who has a substantial interest in the application by providing such official with a copy of the entire application. All abutters and parties of interest shall be notified of the public hearing, pursuant to the requirements of M.G.L. c. 40A § 11.

### **3.0 Review Fees**

3.01 If, after receiving an application, the Board determines that in order to review that application it requires technical advice unavailable from municipal employees, it may employ outside consultants, including but not limited to legal counsel, engineering consultants, planning consultants, environmental consultants, traffic consultants. Whenever possible it 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 Board may, by majority vote, require that the applicant pay

a reasonable review fee for the employment of outside consultants chosen by the Board alone. In order to facilitate the review of applications, the Board may require that the applicant deposit a lump sum to fund the fees of consultants, said sum to be replenished as may be necessary with any surplus funds to be returned to the applicant.

- 3.02 A review fee may be imposed only if:
  - (A) The work is in connection with the applicant's specific project, and
  - (B) All written results and reports are made part of the record before the board.
  
- 3.03 Contracts for the review of applications are contingent upon prior payment of review fees. Failure to pay such fees may be grounds for denial of a comprehensive permit application.
  
- 3.04 Prior to paying the review fee, the applicant may appeal the selection of the consultant to the Sandwich 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 Board shall be extended by the duration of the appeal. In the event that no decision is made by the Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.
  
- 3.05 Each review fee shall be deposited in a special account established by the Town of Sandwich Treasurer pursuant to M.G.L. c. 44, § 53G. Funds from the special account may be expended only for the purposes described in section 3.02 above.

#### **4.0 Public Hearing and Decision**

- 4.01 The Board shall hold a public hearing on the completed application as set forth in Section 2.01, A thru J above, within thirty days of its receipt, or such other time frame that may be mutually agreed upon by the Board and the applicant. The Board may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials. The hearing shall be held at the date, time and place established by the Chair of the Board.
  
- 4.02 The Board shall render a decision, based on a majority vote of the Board, within forty days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant.
  
- 4.03 With respect to any requested waiver or exemption from local regulations, it shall be the applicant's burden to establish that such waivers or exemptions

are necessary to make the project “economic” as such term is defined under M.G. L. Chapter 40B.

- 4.04 The Board may dispose of the application in the following manner:
- (A) Approve a comprehensive permit on the terms and conditions set forth in the application,
  - (B) Deny a comprehensive permit as not consistent with local needs, or
  - (C) Approve a comprehensive permit with conditions consistent with the requirements of M.G.L. c. 40B

## 5.0 **Project Eligibility**

All applications shall comply with the following:

- (A) 760 CMR 31.01(2) subsections (a) through (f)
- (B) **Developer Qualifications.** The board reserves the right to request the developer to demonstrate qualifications and experience with similar housing development projects and to disclose any and all prior experience with litigation.
- (C) **Consistency with local needs:** The application must demonstrate, using statistics and figures for Sandwich, that the project is consistent with local needs.
- (D) **Allowable land acquisition costs.** To determine the allowable land acquisition costs the Board may consider the lesser of the actual purchase price with legitimate carrying costs, if any, or the fair market “as is” value of the property as determined by a qualified appraiser.
- (E) **Design of Affordable Units.** Market rate units shall be indistinguishable from the affordable units in both the exterior and the interior. The developer may offer interior enhancements for the market rate units.

## 6.0 **Monitoring**

The monitoring agent shall be the Sandwich Housing Authority or the Citizen Housing and Planning Association (CHAPA) or a qualified not for profit agency dedicated to the production and promotion of affordable housing. These agencies will monitor rental units directly. These agencies may subcontract the monitoring of homeownership units.