

Comprehensive Permit Rules of the Sherborn Zoning Board of Appeals
(Adopted August 28, 2001, Amended September 14, 2016)

1.00: Purpose and Authority

These rules establish procedures for applications to the Sherborn Zoning Board of Appeals for comprehensive permits sought under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), Massachusetts General Laws chapter 40B, Sections 20-23. Chapter 40B, Section 21 provides in pertinent part that, "The board of appeals shall adopt rules, not inconsistent with the purpose of this chapter, for the conduct of its business pursuant to this chapter and shall file a copy of said rules with the city or town clerk." The regulations implementing Chapter 40B at 760 CMR 31.02(3) provide in pertinent part that, "Rules adopted by a Board shall be presumed to be consistent with M.G.L. c. 40B to the extent that they conform to such model rules [issued by the Housing Appeals Committee]."

2.00: Definitions

- (a) *Board* means the zoning board of appeals established under M.G.L. c. 40A, Section 12.
- (b) *Local board* means any local board or official; including, but not limited to any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; city council or board of selectmen. All boards, regardless of their geographical jurisdiction or their source of authority (that is, including boards created by special acts of the legislature or by other legislative action) shall be deemed local boards if they perform functions usually performed by locally created boards.

3.00: Filing, Time Limits, and Notice

3.1: The application for a comprehensive permit shall consist of:

- (a) Preliminary site development plans, at an approximate scale of 1 = 40' showing the site boundaries and area, 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 or recreation areas within the site. Topographic features such as wetlands should be shaded for emphasis. All structures of five or more units must have site development plans signed by a registered architect. An applicant proposing to construct four or fewer units may submit a sketch of the matters set forth in sections 3.01(a) and 3.01(c) below, which need not have an architect's signature;
- (b) A report on existing site conditions and a summary of conditions in the surrounding areas, showing topography, the location and nature of existing buildings, existing street elevations, existing easements or rights of way, DEP water supply protection areas, traffic patterns and character of open areas, if any, in the neighborhood and at least within 100 feet of the proposed site;

(c) 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;

(d) A tabulation of proposed buildings by designation (market or subsidized, owned or rented; open or age restricted), type (single family, townhouse, condominium, duplex, multifamily), size (number of bedrooms, bathrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking (including number of parking spaces per unit) and other paved vehicular areas and by open areas;

(e) Where a subdivision of land is involved, a preliminary subdivision plan that complies with the rules and requirements for preliminary subdivision plans promulgated by the Sherborn Planning Board;

(f) A preliminary utilities plan showing the proposed location and types of sewage, drainage, cable, electric, gas, and water facilities, including dry wells, hydrants and drinking water wells;

(g) Preliminary plans showing the proposed water source(s) for fire protection and/or sprinkler system(s);

(h) Where already available, percolation test results and a wetland resource delineation plan;

(i) Identification of any significant historical, archaeological, habitat, or endangered species or similar features on or adjacent to the site;

(j) Documents showing that the applicant fulfills or has complied with the requirements of 760 CMR 31.01;

(k) A list of requested exceptions to local requirements and regulations, including but not limited to the Sherborn Zoning By-law, the Sherborn Planning Board subdivision rules and regulations, the Town of Sherborn Wetland By-law, the rules and regulations of the Sherborn Board of Health, the Town of Sherborn Groundwater Protection By-law and the other general by-laws of the Town of Sherborn. The applicant should also provide a narrative summary of any Conservation Commission · approvals or Board of Health approvals that have been or are intended to be sought;

(l) For applications under the New England Fund (NEF) and Affordable Housing Programs (AHP), a narrative description containing at minimum, a description of the developer's qualifications, a proposed marketing and home buyer selection plan, proposed restrictions on transferability, a proposed regulatory agreement and monitoring program, the proposed profit limitation for limited dividend organizations, and any proposed easements or access of the public to the site. For applications under NEF or AHP, or equivalent programs the Board may require pro forma financial statements or such additional information as it deems necessary to properly address issues of design, programmatic issues, finances and monitoring. See *Stuborn Ltd. Partnership v. Barnstable*, No. 98-01 (Mass. Housing Appeals Committee, March 5, 1999);

- (m) The names of all abutters as determined from the most recent Assessors' List;
- (n) Ten copies of the application, and five copies of any subsequent or supplemental materials filed in connection therewith, shall be provided to the Board.

3.02: The application shall be accompanied by a filing fee based on the type of organization seeking the comprehensive permit:

- (a) For Limited Dividend Organizations - \$750.00, plus the cost of the Board's out of pocket expenses, not to exceed \$500.00.
- (b) For Non-Profit Organizations - \$250.00, plus the cost of the Board's out of pocket expenses, not to exceed \$500.00.
- (c) For Public Agencies or Local Initiative Programs - No filing fee required; applicant to reimburse Board's out of pocket expenses, not to exceed \$500.00.

3.03: The Board shall forthwith, at least within seven days of the filing of the application, notify the following local boards; Board of Selectmen, Planning Board, Conservation Commission, Board of Health; of the filing of the application and provide them each with one of the received copies. The Board shall invite the recommendations of and/or participation of a representative or representatives of each local official board at any hearing to be held in connection with said application. It shall also provide a copy of the application to any other local board that it deems necessary or helpful in making its decision on the application and likewise invite its recommendations and/or a representative or representatives of such board to the hearing or hearings held on said application.

4.00: Review Fees

(a) When receiving an application for a comprehensive permit, or when conducting inspections in connection therewith, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts, or because the Board or Town may lack the necessary expertise to perform the work required in connection with the permit being sought. The Board may require that the applicant pay a "project review fee" consisting of the reasonable costs of the Board for the employment of outside consultants engaged by the Board to assist in the review of a proposed project.

(b) In hiring outside consultants, the Board may engage engineers, planners, lawyers, hydrologists, landscape architects, or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, regulations, or applicable ordinances or by-laws. Such assistance may include, but is not limited to, analyzing an application, monitoring or inspecting a project or site, advising the Board on compliance with applicable laws, regulations or by-laws.

(c) Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who will establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation.

Expenditures from this special account shall be made only for services rendered in connection with a specific project for which a project fee has been or will be collected from the applicant. Accrued interest may also be spent for the purposes set forth in this section. Failure of an applicant to pay a review fee shall be grounds for denial of the application, unless the applicant demonstrates that imposition of the requested review fee would make the project uneconomic.

(d) At the completion of the Board's review of the project, and payment by the Board of any outside consultants, any remaining amount in the special account, including any remaining interest, shall be returned to the applicant or the applicant's successor in interest. A final report in accordance with M.G.L. c. 44, Section 53G of all the expenditures made from the special account shall be prepared and also made available to the applicant or to the applicant's successor in interest.

(e) Any applicant may take an administrative appeal to the Board of Selectmen of the selection by the Board of an outside consultant. Such appeal must be made in writing and taken within twenty (20) days of the applicants' notice of the Board's selection. The grounds for such an appeal shall be limited to the claim that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist 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 related field. The required time limit for action by the Board shall be extended for the duration of any administrative appeal made pursuant to this section. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

(f) As a general rule, the Board will not assess any fee greater than the amount which the Planning Board might have authority to assess an applicant before it, for review of a similarly sized project.

5.00: Public Hearing and Decision

5.01: The Board shall hold a public hearing on the application within thirty days of its receipt. As set forth above, it may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.

5.02: 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. The hearing is deemed terminated when all public testimony has been received and all information requested by the Board has been received.

5.03: 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;

(c) Approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials that do not render the construction or operation of such housing uneconomic or,

(d) Make any other disposition allowed by MGL c.40B and its associated regulations as then in force and effect.

6.00: Appeals

6.01: If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L. c. 40A, Section 17.

6.02: If the Board denies the comprehensive permit or approves the permit with conditions or requirements unacceptable to the applicant, the applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c. 40B, Section 22.

7.00: Applicability; Severability

These Rules and Regulations shall be applicable to any application for a comprehensive permit submitted after these Rules and Regulations have been filed with the Town Clerk. To the extent that the Housing Appeals Committee, in the course of an appeal properly before it, finds that a particular local rule set forth herein.-is not consistent with M.G.L. c. 40B, said Committee shall apply its Model Rules on that issue alone to the application, and shall apply the remainder of these rules to the application.