

Settlers Glen – 321B Cranberry Highway – Preliminary List of Requested Waivers 09.30.2020

Comprehensive Permit Rules of The Wareham Zoning Board of Appeals (Adopted February 8, 2006)			
Article 3.01 (f)	Application Requirements	A subdivision plan conforming to the rules and regulations of the Wareham Planning Board.	A waiver is sought for this Article in its entirety to the extent that it would apply additional local requirements to the project site or any portion thereof. Instead, all work will be permitted pursuant to M.G.L. c. 40B and the regulations thereunder, as well as all state and federal regulation which may be applicable to the project site and any portion thereof.
Article 3.01 (j)	Application Requirements	A financial projection of the project (pro forma) that includes a forecast of all income, expenses of the project	Financial information such as a pro forma is not applicable as it is in conflict with 760 CMR 56.05(6) which states that the “Board may request to review the pro forma or other financial statements for a Project only after” certain preconditions have been met. The preconditions stated therein have not been met. A waiver is sought for this Article in its and to the extent that they conflict with M.G.L.c. 40B and the regulations thereunder. In the event of a conflict between the requirements of these Articles and M.G.L. c. 40B and the regulations thereunder, the latter shall control.
Article 3.03 (b)	Application Requirements	Additionally, the application fee shall include \$5,000 to pay for the services of legal counsel for assistance in any project of 25 units or less...	Fees for services for legal counsel are not applicable as it is in conflict with 760 CMR 56.05(5) which states that “Legal fees for general representation of the Board or other Local Boards shall not be imposed on the Applicant”. A waiver is sought for this Article in its and to the extent that they conflict with M.G.L.c. 40B and the regulations thereunder. In the event of a conflict between the requirements of these Articles and M.G.L. c. 40B and the regulations thereunder, the latter shall control.
Article 3.40	Application Requirements	Technical review fees to be including with the Application	According to 760 CMR 56.05(5) a reasonable Technical Review (or Consultant Review) fee is appropriate after the Board’s review of the application and determination. According to this Article, the Technical Review Fee required would be calculated at \$10,000 to be included with the application submission. The applicant seeks a

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			<p>waiver from this initial fee of \$10,000 to be paid at the time of submission of the application until the Boards first hearing on the matter wherein an appropriately reasonable fee can be discussed. The Applicant has submitted an initial payment of \$5,000 as a reasonable initial deposit for Technical Review.</p> <p>A waiver is sought for this Article in its entirety and to the extent that they conflict with M.G.L.c. 40B and the regulations thereunder. In the event of a conflict between the requirements of these Articles and M.G.L. c. 40B and the regulations thereunder, the latter shall control.</p>
Article 3.5	Application Requirements	Acceptance of the complete application packet	<p>Article 3.5. This Article states that “no application shall be “duly submitted” in accordance with the General Laws of Massachusetts until such time as all information required in Paragraphs 1-12 below (Complete Application Packet) has been received by the Board of Appeals . . .” (emphasis added). However, no Paragraphs 1-12 below were included in the Comprehensive Permit Rules of the Wareham Zoning Board of Appeals.</p> <p>A waiver is sought for this Article in its entirety and to the extent that they conflict with M.G.L.c. 40B and the regulations thereunder. In the event of a conflict between the requirements of these Articles and M.G.L. c. 40B and the regulations thereunder, the latter shall control.</p>
Article 3.6(b)	Notification to Other Boards/Copies	In order to facilitate review by the Board and local boards, the applicant shall provide the ZBA office with twenty-five copies of the complete application.	<p>In light of COVID 19, the movement to on line application and on line hearings and in order to protect the environment, the Applicant has provided five complete copies of the application and an link to all the documents on line, in addition to an 11”x17” in set of plans.</p>

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Article/Article	Subject	Requirement	Waiver Requested/Applicability
Zoning By-Laws of the Town of Wareham Revised October, 2018			
Administration			
142	Conformance	Construction or operations under a building permit or Special Permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within a period of six (6) months after the issuance of the permit, and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.	The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units pursuant to M.G.L. c. 40B and the regulations thereunder. A waiver is sought for this Article in its entirety to the extent it conflicts with M.G.L. c. 40B and said regulations.
Establishment of Districts			
310	Use Regulations	311A use listed as an allowed use in Article 320 may be permitted by right in the district for which it is specified, subject to such requirements as may be set forth in said Article and other Articles of these By-Laws.....314 In addition to use regulations, uses permitted by right or by Special Permit shall be subject to such supplemental regulations as are set forth in Article 5, to such density and dimensional regulations applicable to the district within which the use is proposed as set forth in Article 6 or elsewhere, and to such other provisions as are specified in other Articles of this By-Law, in the Massachusetts General Laws, or in other governmental laws, codes and regulations.	<u>The property is in a MR30 district.</u> The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units. It is not entirely clear reading Article 340.4 and 620 if a two-family dwelling is the same as a duplex unit or if this would be considered a cluster development, or both. To the extent the units are not considered to be a two-family dwelling and is considered a cluster development, the proposed development does not appear to be a permitted use by right in a MR 30 district. A waiver of the requirements of this Article (as well as the relevant dimensional requirements of this district) is thus sought to allow the project pursuant to M.G.L. c. 40B and the regulations thereunder.
321		No land, structure or building shall be used except for the purposes permitted in the district as set forth in this Article unless otherwise permitted in this By-Law. The words used to describe each principal and accessory use contained in Article 350 are intended to be definitions of such uses.	<u>The property is in a MR30 district.</u> The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units. It is not entirely clear reading Article 340.4 and 620 if a two-family dwelling is the same as a duplex unit or if this would be considered a cluster development, or both. To the extent the units are not considered to be a two-family dwelling and is considered a cluster development, the proposed development does not appear to be a permitted

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			use by right in a MR 30 district. A waiver of the requirements of this Article (as well as the relevant dimensional requirements of this district) is thus sought to allow the project pursuant to M.G.L. c. 40B and the regulations thereunder.
432	Buttermilk Bay Overlay District	Prior to the granting of Special Permits and Variances by the Board of Appeals, applicants shall demonstrate that there will be no adverse nitrogen impacts to Buttermilk Bay.	A waiver is sought for this Article in its entirety to the extent that it would apply additional local requirements to the project site or any portion thereof. Instead, all work will be permitted pursuant to M.G.L. c. 40B and the regulations thereunder, as well as all state and federal regulation which may be applicable to the project site and any portion thereof.
440, 442, 443	Groundwater Protection District	The Groundwater Protection District is established as an overlay district whose boundaries are superimposed on all districts established by this By-Law and whose regulations are in addition to any other regulations established by this By-Law. The regulations in this By-Law are not intended to supersede or limit the protections contained in state or federal groundwater protection programs, but to supplement protections contained in other statutes and regulations,	Applicant requests a waiver from the requirement that a permitted use in the groundwater protection overlay district is a use that is permitted in the underlying zoning district. The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units which does not appear to be a permitted use in the underlying MR 30 district. Furthermore, Table 620 indicates that there is “No Regulation” (NR) for Lot Coverage within this district. The lot coverage will be 45.9%. Applicant requests a waiver from the requirement that the maximum lot coverage not exceed 15 percent or 2,500 square feet, whichever is greater.
Article 560/ Division IV Article III By Laws of the Town of Wareham 4/22/2019	Earth Removal Regulations	Except as provided otherwise in this ByLaw, no earth shall be removed without the issuance of a permit from the Board of Selectmen, as the permit granting authority.	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including material removal, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
Dimensional Regulations Article 6			
Article 611 and 620	Dimensional Regulations	All principal and accessory buildings shall be subject to the requirements outlined in Section 620.	A waiver is sought for this bylaw as noted in the Articles below. Instead, all aspects of the site plan and construction, including dimensional regulations, will be approved under M.G.L. c. 40B and the regulations

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			thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
Article 611	Minimum Lot Area:	Required: 45,000 SF + 30,000 SF/Unit =585,000 SF =13.43 Acres	Proposed: 156,708 SF 3.6 Acres Waiver requested
Article 611	Minimum Frontage	250 Feet	Proposed: 247.66 – Waiver requested
Article 611	Minimum Front Setback	Required: 20 Feet	Proposed 20 feet – no waiver requested
Article 611	Minimum side/rear setback:	Required: 10 Feet	Proposed: 11 feet – no waiver requested
Article 611	Maximum Height	Required: 35 Feet	Proposed: 28-30 feet – no waiver requested
Article 611	Maximum Building Coverage	Required: No regulation	Proposed: 24% – no waiver requested
Article 611	Minimum Impervious Surface	Required: No regulation	Proposed: 43.4% – no waiver requested
Article 613	One Principal Residence Per Building	In all districts, not more than one principal residential building with accessory structures having a residential use allowed in the respective district shall be erected, placed or converted on any lot, except where multiple family dwellings, apartments or condominiums are allowed by Special Permit, the Special Permit may provide for more than one principal building.	The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units on one existing lot. The lot may be able to be divided into 4 home lots as-of-right. A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including material removal, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
Article 8, 813	Alternative Residential Site Development	812 The Planning Board may grant a Special Permit approving a Residential Cluster Development in all Districts 813 The total number of proposed lots in the development shall not exceed the number of lots which could be developed in the underlying zoning district for single family residential development	The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units on one existing lot as-of-right. The lot may be able to be divided into 4 home lots. A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including material removal, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.

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820	Multiple Family and Apartment Dwellings	A multiple family or apartment dwelling development shall comply with the following provisions, and with all other provisions of this By-Law except as specifically modified by the provisions of this Article	The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units on one existing lot. The lot may be able to be divided into 4 home lots. A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including material removal, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
824 Development Standards – MR-30 & Commercial Districts			
Article 824.1	Development Standards – MR-30 & Commercial Districts	Minimum Lot Area For Multi-family dwelling Required: 5 acres	Proposed 3.6 acres – waiver requested
Article 824.3	Development Standards – MR-30 & Commercial Districts	Number of Multifamily units shall not exceed the number that would be allowed for a single-family residential development. Allowed by right: 4 units	Proposed: 20 units – waiver requested
Article 824.5	Development Standards – MR-30 & Commercial Districts	Screening and Buffers from adjacent properties- Required: 20 feet in width	Proposed: 0 Feet – waiver requested
Article 824.6	Development Standards – MR-30 & Commercial Districts	Outdoor Recreation Area for development over 12 Units – Required: 500 square feet/unit	Proposed: None – Waiver Requested
Article 9	921 Table of Parking Regulations	Require: 2 per dwelling unit = 40	Proposed: 40 garage parking spaces – no waiver requested
Article 10	Landscaped buffers	This Article applies to all new non-residential development and to multi-family residential developments with more than 6 dwelling units. Expansions of any non-residential or multi-family residential project which exceed ten (10) percent of the existing gross floor area or one thousand (1,000) square feet, whichever is less, shall comply with these regulations.	The applicant seeks to construct ten duplex style condominium townhomes for a total of 20 dwelling units on one existing lot. A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, landscape design, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
Article 11	Signs	Requirements for Signs	A waiver is sought for this Article in its entirety to allow

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			project signage as shown on the project plans submitted herewith. The applicant requests a waiver from the requirement of obtaining a separate sign permit for any such signage. Instead, the project, including all signage, will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.
Article 12	Performance Standards	Land Clearing and Grading	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including design standards, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations
Article 14	Administration		<p>A waiver is sought for these Articles in their entirety and to the extent that they conflict with M.G.L.c. 40B and the regulations thereunder. In the event of a conflict between the requirements of these Articles and M.G.L. c. 40B and the regulations thereunder, the latter shall control.</p> <p>Instead, all such work will be authorized as part of the M.G.L. c. 40B Comprehensive Permit for this project. Furthermore, any proposed modifications, amendments or updates would require a formal request and approval of the 40B Comprehensive Permit for the project.</p>
Article 15	Site Plan Review	Rules and regulations governing special permit requests	A waiver is sought for this Article in its entirety to the extent that it would apply additional local requirements to the project site or any portion thereof (including, without limitation, the need to obtain Special Permits and/or comply with local regulations and/or performance standards) that differ from those state and federal requirements as may be applicable to the project. Instead, all work will be permitted pursuant to M.G.L. c. 40B and the regulations thereunder, as well as all state and federal wetland protections as may be applicable to the project site and any portion thereof.

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By-Laws of the Town of Wareham -Revised April 22, 2019			
Division IV Article II	Street Regulations	Street Regulations Governing Construction Rules and Regulations for Construction within the Streets under Jurisdiction of the Town of Wareham Permits Sections 1	<p>The applicant requests a waiver from requirement of obtaining a permit from the Board of Selectmen for construction within the street layouts of the Town of Wareham and request any permits or approvals required for construction within the street layouts be granted by the Zoning Board of Appeals. Additionally, waivers are requested from any bylaws, rules or regulations related to the construction within the street layouts, other than technical engineering matters for the design and construction of same, for the project.</p> <p>Instead, all aspects of the site plan and construction, including sewer construction and connection, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.</p>
Division V	Use of Public Sewers, Building Sewer Connections	No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written a written permit from the Commissioners...	<p>Section 1. Applicant requests a waiver from the requirement of obtaining a written permit from the Commissioners for any connections with or opening into, use, alteration or disturbance of any public sewer or appurtenance.</p> <p>Section 2. Applicant requests a waiver from the requirement of submitting an application for a residential service to the Commissioners. Regarding the above requested waivers from Division V Articles, the applicant is simply requesting a waiver from the necessity of applying to the Commissions for the approval of construction and maintenance of the sewer design. Please note that the Applicant will comply with all technical requirements related to the municipal sewer system.</p> <p>Instead, all aspects of the site plan and construction, including sewer construction and connection, will be approved under M.G.L. c. 40B and the regulations</p>

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			<p>thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.</p> <p>The applicant also requests a waiver of the sewer connection fees for the five affordable units.</p>
Division VI Article I	Wareham Wetland Protective By-Law	The purpose of this By-Law is to protect the wetlands of the Town of Wareham n by controlling activities deemed to have a significant effect upon wetland values, including, but not limited to, the following: public or private water supply, ground water, flood control, erosion control, storm damage, water pollution, and wildlife habitat (collectively, the “interests protected by this By-Law”)	A waiver is sought for this Article in its entirety to the extent that it would apply additional local requirements to the project site or any portion thereof (including, without limitation, the need to obtain Special Permits and/or comply with local regulations and/or performance standards) that differ from those state and federal requirements as may be applicable to the project. Instead, all work will be permitted pursuant to M.G.L. c. 40B and the regulations thereunder, as well as all state and federal wetland protections as may be applicable to the project site and any portion thereof.
Rules & Regulations Governing the Subdivision of Land, March 2013	Section II Plans Not Requiring Approval Under The Subdivision Control Law	Any owner of land in the Town of Wareham who believe that a plan of said land does not constitute a subdivision, as defined herein, and thus does not require approval under the Subdivision Control Law, and who desires to record said plan with the Plymouth County Registry of Deeds or to the Land Court , may submit said plan for endorsements by the Planning Board. ...	A waiver is sought for this Article in its entirety to the extent that it would apply additional local requirements to the project site or any portion thereof. Instead, all work will be permitted pursuant to M.G.L. c. 40B and the regulations thereunder, as well as all state and federal regulation which may be applicable to the project site and any portion thereof.