| **Comprehensive Permit Rules of The Wareham Zoning Board of Appeals (Adopted February 8, 2006)** |
| --- |
| 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 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 $3,500 as a reasonable initial deposit for Technical Review for a development of this size.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. |
| Article 3.5 | Application Requirements | Acceptance of the complete application packet | 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.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. |
| 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.  | 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. |

| **Article/Article** | **Subject** | **Requirement** | **Waiver Requested/Applicability** |
| --- | --- | --- | --- |
| **Zoning By-Laws of the Town of Wareham Revised April 12, 2022, pending amendments October 2022** |
| **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 continuedthrough to completion as continuously and expeditiously as is reasonable. | The applicant seeks to construct three 2-family homes for a total of 6 rental 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 | 310 A 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.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. | **The property is in a MR30 district.**The applicant seeks to construct the 2-family homes for a total of 6 dwelling units. While two family homes are allowed in an MR30 district, the number of homes is restricted under 613 multiple buildings per lot. 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. |
| 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 three 2 family homes for a total of 6 dwelling units which is permitted use in the underlying MR 30 district. However, under 613, multiple two family homes are not permitted on one lot. Furthermore, Table 620 indicates that there is “No Regulation” (NR) for Lot Coverage within this district. The lot coverage will be 49%. 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  10/25/21 | 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. This is a procedural waiver. The estimated fill for the project is 600 cubic yards. |
| **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 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: 165,000 SF + | Proposed: 36,180 SF Waiver requested |
| Article 611 | Minimum Frontage | Required (other residential use) 250 Feet | Proposed: 233.93 Waiver requested |
| Article 611 | Minimum Font Setback | Required: 30 Feet | Proposed 62.9 feet – no waiver requested |
| Article 611 | Minimum side/rear setback: | Required: 20 Feet | Proposed: 28.4 / 23.3 feet – no waiver requested |
| Article 611 | Maximum Height | Required: 35 Feet | Proposed: 27 feet 9 inches– no waiver requested |
| Article 611 | Maximum Building Coverage | Required: 25% building coverage | Proposed: 14.3% no waiver requested |
| Article 611 + 620  |  MaximumImpervious Surface | Required: No regulation | 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 three 2-family buildings for a total of 6 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, 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. |
| 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 three 2-family homes for a total of 6 rental 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, 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 <1 acres (36,180 square feet) 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: 1 unit | Proposed: 6 units – waiver requested |
| Article 824.5 | Development Standards – MR-30 & Commercial Districts | Screening and Buffers from adjacent properties- Required: 20 feet in width | Proposed: 14-16 Feet – waiver requested |
| Article 824.6 | Development Standards – MR-30 & Commercial Districts | Outdoor Recreation Areafor development over 12 Units – Required: 500 square feet/unit | Proposed: 6 units – No waiver Requested |
| Article 9  | 921Table of Parking Regulations  | Require: 2 per dwelling unit = 12 | Proposed: 16 surface 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 three 2- family buildings for a total of 6 rental dwelling units on one existing lot. No waiver is sought for this bylaw because Article 10 does not apply as the Applicant has a residential project of three multifamily dwelling u nits and does not include “more than three (3) multi-family dwelling units” |
| Article 11 | Signs | Requirements for Signs | No waiver is sought for this Article since all signage will be on the dwelling units to identify them by street number.  |
| 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. We note that the development is less than one acre therefore MS4 standards do not apply  |
| Article 14  | Administration |  | 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.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. |
| Article 15 | Site Plan Review | Rules and regulations governing special permit requests | Procedural Waiver: 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. |

|  |
| --- |
| **By-Laws of the Town of Wareham -Revised 10/25/21** |
| 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 1-6 | 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.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. |
| 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… | 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. 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. 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.The applicant also requests a waiver of the sewer connection fees for the two affordable units. |
| Division V | Article XI Stormwater management | B. Purpose. (1) The purpose of this bylaw is to regulate discharges to the municipal separate storm sewer system (MS4) to protect the Town of Wareham's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment….. | The applicant requests a waiver from requirement of obtaining a permit stormwater management permit and request any storm water permit or approvals required f be granted by the Zoning Board of Appeals. Procedural waiver.  |