

# TOWN OF LINCOLN

## Comprehensive Permit Rules Zoning Board of Appeals

### Section

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#### 1.00: **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, sections 20-23. They are required by M.G.L. c. 40B, section 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 Executive Office of Communities and Development. 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.

#### 2.00: **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**

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

- (a) 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 matters in sections 3.01 (a) and 3.01 (c), 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;
- (b) 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. This submission may be combined with that required in section 3.01(a), above;
- (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 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) where a subdivision of land is involved, a preliminary subdivision plan;
- (f) a preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants;
- (g) documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01, that is,
  - (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) a list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations.

3.02: The applicant shall submit 12 copies of the application. The application shall be accompanied by a filing fee based upon the number of proposed housing units of \$100 per unit.

3.03: Within seven days of filing of the application, the Board shall notify each local official of the application by sending such official a copy of the list required by section 3.01(h), above. Based upon that list, it shall also, within the same seven days, 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.

#### **4.00 Review Fees**

4.01: 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. 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.

4.02: 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.

4.03: If the applicant fails to pay the review fee within ten days of receiving written notification of selection of a consultant, the Board may deny the comprehensive permit.

4.04: Prior to paying the review fee, the applicant may appeal the selection of the 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 Board 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 Board shall stand.

4.05: Each review fee shall be deposited in a special account established by the municipal treasurer pursuant to M.G.L. c. 44, section 53G. Funds from the special account may be expended only for the purposes described above.

#### **5.00: Public Hearing and Decision**

5.01: The Board shall hold a public hearing on the application within thirty days of its receipt. 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, or
- (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.

#### 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 unacceptable conditions or requirements, the applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c. 40B, section 22.

Passed by the Lincoln Board of Appeals May 28, 2002

A True Copy Attest:

Town Clerk