

**MODIFIED FROM APPLICANT SUBMISSION TO ADD 4TH COLUMN REFLECTING ZBA REVIEW OF PROPOSED WAIVERS ON 5.3.2018
 THE BOARD'S DECISIONS ON THESE REQUESTED WAIVERS ARE PROPOSED AND DO NOT CONSITUTE A VOTE OR FINAL DECISION OF THE BOARD**

**RIVER STONE
 Ward Street and Viking Lane, Hingham, MA
 List of Waivers (Revised 4/17/18)**

Pursuant to M.G.L. Ch. 40B and regulations adopted pursuant thereto the following use, dimensional and other local requirements or regulations shall be waived for the project and other such waivers necessary to construct the project as permitted. Without the requested waivers, the Project could not be constructed. Following please find a table of the waivers necessary to permit the proposed project.

I. Hingham Zoning Bylaw

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018
Table of Use Regulations (Section III-A 1.4-1.1.7) Multi-Unit	Prohibited Use in Residence B	Multi-Unit Dwellings	Granted
Section I-I Site Plan Review Multi-Unit Development	Site Plan Review by Planning Board 2. Procedures 3. Pre-Application Submittal 4. Submittal Requirements (Items c., d., g., h., i., j.) 6. Review Standards and Approval 7. Lapse	Plan review by Zoning Board of Appeals consistent with M.G.L. 40B and regulations thereunder.	#2 Denied as not required #3 Denied as not required #4 (Item c – denied as current plan complies; Items d, g, h & I – denied; Item j – waived as to other local board but not the ZBA] #6 Waived to the extent inconsistent with 40B regulations; #7 Waived
Section IV-A Dimensional Requirements			
F.Y. Setback	Residence B: 35 (ft.)	5.7 ft. (Units 20 & 21 – Units 19-21 less than 35 ft. setback).	Denied
S.Y. Setback	Residence B: 20 (ft.)	10 ft. (Units 18, 19 & 32 - Units 18, 19, 24-27 & 32 all less than 20 ft. setback).	Denied except to the extent expressly waived by conditions
R.Y. Setback	Residence B: 20 (ft.)	5.6 ft. (Unit 9 - Units 1-9 all less than 20 ft. setback).	Denied except to the extent expressly waived by
Section IV-B Special Requirements to Schedule of Dimensional Requirements			
IV-B 6.	Site Plan Review by Planning Board under Section I-I	Plan review by Zoning Board of Appeals consistent with M.G.L. 40B and regulations thereunder.	Denied as not required because ZBA is acting as PB

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018
IV-B.9. Front yard Setback	Setback average of buildings or structures in adjacent lots	5.7 ft. (Units 19, 20 & 21)	Denied as not applicable.
IV-C.5. Density	No more than 1 dwelling per lot	32 dwellings per lot	Waiver will be granted subject to final approved plans
Section IV-E Residential Multi-Unit Development			
IV-E.1.c. Min. Distance between Structures	35 ft.	9.35 ft. (Structures 28-29 & 30-32; all structures with exception of structures 5, 18-22 less than 35 ft.)	Pursuant to c. 40B regulations (760 CMR 56.05(7)) no waivers are required from special permits requirements of the Zoning By-Law.
IV-E.1.f. Side or Rear yard buffer	There shall be provided a landscaped side or rear yard buffer area of at least 50 feet in width adjacent to each property line of the parcel to be developed. All buffer areas shall be planned or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural buffer to a height of ten feet.	5.6 ft. (Unit 9; all units with exception of Units 5, 12, 13, 14, 15, 16, 17, 20, 21, 22, 28, 29 & 30) distance less than 50 ft.)	
IV-E.1.g. Recreational Area	There shall be set aside, suitable prepared, protected and equipped for organized recreational activities, site areas equal to 300 SF per dwelling unit, which are not to be included in	Waiver requested allowing less than 300 square ft. per dwelling unit for organized, recreational activities.	
IV-E.1.j. Sanitary sewer	Must be connected to sanitary sewer system	On-site sewage disposal system	
IV-E.1.l. No space below ground level for dwelling purposes	No space below ground level for dwelling purposes	Finished Basement (optional)	

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018
IV-E.1.m. Street and parking lot grading, surfacing shall comply with the the Subdivision Rules & Regulations	Hingham Planning Board Rules & Regulations - Section 5 – Specifications for Construction of Required Improvements L1. Drainage and Stormwater Management (4) Min. 2-1/2 feet of cover (5) Gutter mouth stone shall be used with two transitional sections of curb (9) Concrete or masonry headwall M1 Culvert Piping (1) Reinforced concrete (2) winged headwall of reinforced concrete L2 Gravel Material for Backfill or Road Base (7) 24" total depth (8) 12" total depth J3 Roadway Foundation (1) 24" gravel base N3 Driveway Installations (Pavement) (1) within 60' of intersection (2) 12" gravel base	Min. 1-1/2 feet of cover No gutter mouth stone Flared end section HDPE pipe Flared end section 12" 8" 12" 26' 8"	Pursuant to c. 40B regulations (760 CMR 56.05(7)) no waivers are required from special permits requirements of the Zoning By-Law.

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018
IV-E.1.m. Street and parking lot grading, surfacing shall comply with the the Subdivision Rules & Regulations	O3 Sidewalks 5 feet wide Min. 5' wide travel way 27" excavation P3 Paved Sidewalks (1) 24" gravel base X3 Street Lighting – Entire Section	4 feet wide Min. 4' 11.5" 8" Light posts at every house. Photosensitive cell.	Pursuant to c. 40B regulations (760 CMR 56.05(7)) no waivers are required from special permits requirements of the Zoning By-Law.
IV-E. 2.	Special Permit A2/Site Plan Review Not Applicable (N/A)		
IV-E. 4.	Special Permit A2 - N/A		
IV-E. 5.	Affordable Units – 10% affordable units for projects with more than 6 dwelling units per acre	25% affordable units per MGL Ch. 40B	
Section V-A V-A.3	Off-Street Parking Regulations Aisle Width 24 ft. for 90 degree	20 ft. for 90 degree	
Section V-C	Earth Removal Regulations Special Permit A2 - N/A		No waiver required from special permits requirements; See condition re earth removal

II. Hingham Wetland Regulations

The project's design will be reviewed and approved by the Conservation Commission in accordance with the Mass. Wetlands Protection Act (MGL Ch. 131 s.40) and its Regulations (310 CMR 10.00). Without the requested waivers, the Project could not be constructed. Following please find a table of the waivers necessary to permit the proposed project:

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018
Part I. Purpose and Procedures			
3.0 Regulated Activities	3.1 Any activity proposed or undertaken within a Resource Area as described in HWR 2.0 et seq.,	Waiver of this requirement.	Denied

<p>13. Fees</p>	<p>3.2 Any Activity deemed by the Commission as likely to have a significant or cumulative adverse effect upon Resource Areas as defined herein;</p> <p>3.3 Any activity, including but not limited to, any and all of the following activities when undertaken to, upon, within or affecting Resource Areas or their wetland values, as determined by the Commission: a) through k)</p> <p>13.1 Application Fees: Local Bylaw Fees specified in Appendix A</p>	<p>Waiver of this requirement.</p> <p>Waiver of these requirements.</p> <p>Waiver of this requirement.</p>	<p>3.2 and 3.3: Granted to the extent request applies to ZBA acting as Conservation Commission but otherwise denied.</p> <p>13.1 - Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state Wetlands Act</p>
<p>Part II. Performance Standards for Resource Areas</p> <p>19.1 Land Subject to Flooding (Bordering and Isolated Land Subject to Flooding and Vernal Pools)</p>	<p>c)The term “vernal pool” shall be included and shall defined as any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, is free of adult fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or vernal pool community species, regardless of whether the wetland site has been certified as a vernal pool by the Massachusetts Division of Fisheries and Wildlife and Fisheries. The buffer zone for vernal pools shall extend 100 feet from the mean annual high-water line defining the depression. The term “isolated land subject to flooding” shall be included and shall be defined as an area, depression, or basin that holds at minimum one-sixteenth acre-foot of water and at least six inches of standing</p>	<p>Waiver of this requirement.</p>	<p>c) Denied</p>

<p>19.3. Bordering and Isolated Vegetated Wetlands (Wet Meadows, Marshes, Swamps and Bogs)</p> <p>22.0 Buffer Zone</p> <p>23.3 Landscaping</p> <p>23.6 Filling</p> <p>23.7 Structures</p>	<p>water once a year. The buffer zone for isolated land subject to flooding shall extend 100 feet from the highest extent of flooding.</p> <p>d) Performance standards. When a Land Subject to Flooding, (Bordering or Isolated), or Land within a minimum distance of 100 feet of Land Subject to Flooding (Bordering or Isolated) is determined to be significant to a wetland value, the following regulations shall apply: (1) through (8)</p> <p>d) Performance Standards, when a vegetated wetland, whether Bordering or Isolated, or land within a minimum distance of 100 feet of a vegetated Wetland is determined to be significant to a wetland value, the following regulations shall apply: (1) through (6)</p> <p>d) Performance Standards (1) through (5)</p> <p>No new lawns or driveways may be constructed within 50 feet of any Resource Area.</p> <p>a) No fill shall be placed in any Resource Area or any buffer zone so as to alter the flow of surface water in a way that the Conservation Commission feels will adversely affect the wetland values of the Resource Area(s).</p> <p>a. The intent of the Conservation Commission is to move all structures and activities as far</p>	<p>Waiver of these requirements.</p> <p>Waiver of these requirements.</p> <p>Waiver of these requirements.</p> <p>New lawns within 3 feet of Bordering Vegetated Wetland (BVW) for Units 10-13, detention basin.</p> <p>Fill placed within buffer zone to Bordering Vegetated Wetland (BVW) for the construction of a portion of Roadway C, Units 10-14, 18, detention basins, retaining wall, drainage structures.</p> <p>Waiver of this requirement.</p>	<p>19.1(d), 19.3(d), 22(d), 23.3; 23.6, 23.7(a),(b)&(c) – Waivers of these provisions denied unless, and only to the extent of, express conditions of Comprehensive Permit that act as waivers or partial waivers.</p>
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<p>Appendix A – Filing Fee Schedule</p>	<p>away as possible from any Resource Area.</p> <p>b. The Commission may at its discretion allow a proposed structure on a wall-type foundation within 100 to 50 feet of the Resource Area, as defined in HWR 2.0 (1-5), if satisfied that mitigation required in the Order of Conditions is sufficient to protect the Resource Area.</p> <p>c. No mitigation is sufficient to allow a structure on a wall-type foundation less than 50 feet from a Resource Area, as defined in HWR 2.0 (1-5).</p> <p>Filing fee schedule - Fees under local Bylaw</p>	<p>Waiver of this requirement.</p> <p>16 feet from Bordering Vegetated Wetland (BVW) (Units 10-13).</p> <p>Waiver of required fees.</p>	<p>See note above as to 23.7(b) and (c)</p> <p>Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state Wetlands Act</p>
<p>Appendix B – Guide to Permitting under the Wetlands Protection Act and the Town of Hingham Wetlands Bylaw</p>	<p>Paying fees - Fees under local Bylaw</p>	<p>Waiver of required fees.</p>	<p>Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state Wetlands Act</p>

III. Hingham Wetlands Protection Bylaw – Article 22

The project’s design will be reviewed and approved by the Conservation Commission in accordance with the Mass. Wetlands Protection Act (MGL Ch. 131 s.40) and its Regulations (310 CMR 10.00). Without the requested waivers, the Project could not be constructed. Following please find a table of the waivers necessary to permit the proposed project:

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018
<p>Section 2: Regulated Activities</p>	<p>2A Except as permitted by the Commission or as otherwise provided in this By-Law, no person shall remove, fill, dredge, alter or build upon or within one hundred (100’) feet of any resource area</p>	<p>Within 100 feet of Bordering Vegetated Wetland (BVW) for the construction of a portion of Roadway C, Units 10-14, 18, detention basins, retaining wall, drainage structures.</p>	<p>Partial waiver granted only to the extent of express conditions of Comprehensive Permit</p>

	2B Except as authorized by the Commission, no activity or alteration shall be permitted within a fifty (50') foot Buffer strip between any wetland resource, bordering vegetated wetland, coastal dune or bank, and/or isolated vegetated wetland and any proposed site disturbance.	Within 50-foot buffer strip of Bordering Vegetated Wetland (BVW) for the construction of Units 10-13, detention basins, retaining wall, drainage structures.	Partial waiver granted only to the extent of express conditions of Comprehensive Permit
	2C Except as authorized by the Commission, no activity or alteration shall be permitted within one hundred (100') feet of a vernal pool, whether it be certified or uncertified but accompanied by credible evidence of its viability as a vernal pool. The one hundred feet (100') around the defined vernal pool boundaries shall be known as "Vernal Pool Protection Zone."	Work within 100 feet of a potential vernal pool for the construction of a portion of Roadway C, Units 10-14, 18, detention basins, retaining wall, drainage structures.	Denied and subject to express conditions of Comprehensive Permit
Section 5: Authorization of Commission to Deny Project	The Commission is empowered to deny permission for any removal, dredging, filling or altering on subject lands within the Town if, in its judgement, such denial is necessary to preserve the environmental quality and to protect the wetland and water quality values of either or both the subject lands and contiguous lands. Due consideration shall be given to possible effects of the proposal on all values to be protected under this By-Law and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the Public Hearing.	Waiver of this requirement.	Denied
Section 7B: Filing Fees	Fees under local Bylaw.	Waiver of required fees.	Denied as not required
Section 8: Establishment of Surety Bonds	The Commission may require the posing of security, running to the Town, including, without limitation, a letter or credit, cash, and Bond with surety, in such form and amount and with such conditions as may be determined in the sole opinion of the Commission, after	Waiver of this requirement.	Granted

	<p>recommendation by its Town Counsel. Such security shall secure faithful and satisfactory performance on work required by any final "Order of Conditions" but shall not be an amount greater than the estimated cost of the work required for the restoration of affected lands and properties of the work is not performed as required.</p>		
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IV. Hingham Board of Health Supplementary Rules and Regulations for the Disposal of Sanitary Sewage

The project's design will be reviewed and approved by the Board of Health in accordance with the Mass. DEP Environmental Code Title 5 (310 CMR 15.00). Without the requested waivers, the Project could not be constructed. Following please find a table of the waivers necessary to permit the proposed project.

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018
IV. Application requirements	<p>2. "...an application fee must be paid at the time of submission of the application.."</p> <p>3. "...the Applicant shall also deposit with the Health Department a the time of the application the sum set forth in the Board's Schedule of Fees..."</p>	<p>Waiver of required fees.</p> <p>Waiver of required fees.</p>	<p>Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state regulations</p>
	<p>8. "...project exceeds seven thousand five hundred (7500) gallons of sewage per day..."</p> <p>9 "...All percolation test results and groundwater elevation observations shall be considered valid for 2 years.."</p> <p>10.x "...any or all other data required by the Town or Hingham Board of Health..."</p> <p>11. "...If, upon review of the foregoing, the Executive Health Officer or the Board determines that further information is needed before the application will be deemed complete, then he may</p>	<p>9,900 gallons of sewage per day.</p> <p>All percolation test results and groundwater elevation observations shall be considered valid for duration of the project.</p> <p>Waiver of this requirement.</p> <p>Waiver of this requirement.</p>	<p>8. Denied</p> <p>9. Denied</p> <p>10. Denied</p> <p>11. Waiver granted as to Board of Health or Health Officer but denied to extent of conditions of Comprehensive Permit</p>

	<p>additional testing..”</p> <p>12. “..should the Applicant’s initial deposit required under paragraph 3 of this Section be insufficient to pay the Consultant’s fees to witness tests or review the Additional Studies required by the Board, the board in its discretion may require additional amounts as may be necessary..”</p>	Waiver of required fees.	12. Waiver granted as to Board of Health but denied to extent of conditions of Comprehensive Permit
V. Permit Restrictions	<p>A permit will become void automatically and without further action or notice if the work under the Permit is not Completed within twelve months from the date of issue of such Permit. Further, any Permit issued can be revoked by the Board of Health after notice to the Licensed Disposal Installer (DWI) if conditions set forth in the application have changed prior to or during work under the Permit. Permits may be extended upon written request is the sole discretion of the</p>	Waiver of this requirement.	Denied
VI. Design Requirements for Sewage Disposal Systems and Plants	<p>3. “..shall be located no greater than 200 feet from the structure to be served by..”</p> <p>5. “ No Sewage Disposal System or Plant shall be constructed within one hundred (100) feet of the normal annual high water level of any great pond, brook, river, swamp, or of a wetland as defined by Massachusetts General Law Chapter 131, Section 40 or the Town of Hingham Wetlands Protection By-Law..”</p> <p>6. “ No Sewage Disposal System or Plant shall be constructed within four hundred (400) feet of a public water supply well or wellfield, as defined in Massachusetts drinking water regulation, 310 CMR 22.02 or surface water supply as defined herein or within two-hundred and fifty (250) feet</p>	<p>466 ft. (Unit 19 – Units 1, 2, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 greater than 200 feet).</p> <p>Waiver of this requirement.</p> <p>Waiver of this requirement.</p>	<p>3. Partial waiver granted only to the extent of express conditions of Comprehensive Permit</p> <p>5. Denied as not applicable to Project</p> <p>6. Denied</p>

	<p>private potable well or one hundred (100) feet of any private nonpotable well..”</p> <p>7. No Leaching Facility shall be constructed within:</p> <p>a) Twenty-five (25) feet of any surface or subsurface Drain when the Drain elevation is higher than the proposed Leaching Facility.</p> <p>(b) Fifty (50) feet of any surface or subsurface Drain when the Drain elevation is equal to or lower in elevation than the proposed Leaching Facility.</p> <p>(c) One hundred (100) feet of any surface or subsurface Drain which discharges into a Protected Water Body.</p> <p>(d) Two hundred fifty (250) feet of any surface or subsurface Drain which discharges into a surface Water Supply or tributary thereto.</p> <p>8. “.. shall be designed to discharge more than 110 gallons of design flow per day per 12,500 sq. ft. in Lot area..”</p> <p>9. “ less than five (5) feet below the bottom of the Leaching Facility except that if the percolation rate of the soil in the Leaching Area is between 2 and 5 minutes per inch, at least six (6) feet...”</p>	<p>Waiver of this requirement.</p> <p>Waiver of this requirement.</p> <p>Waiver of this requirement.</p> <p>Waiver of this requirement.</p> <p>426 gallons/day/12,500 sq. ft. in lot area Total lot area = 290,365 sq. ft./12,500 sq. ft = 23.23; 9,900 gal/day/23.23 = 426 gallons/day/12,500 sq. ft.</p> <p>As allowed in Title V: Maximum Groundwater Elevation 5 feet below bottom of leaching facility for soil with perc rate between 2 and 5 minutes per inch.</p>	<p>7(a)(b)(c)(d) – Denied as no demonstration by Applicant that waiver required to permit the construction and operation of the Project</p> <p>8. Partial waiver granted only to the extent of express condition of Comprehensive Permit</p> <p>9. Denied as no demonstration by Applicant that waiver required to permit the construction and operation of the Project</p>
	<p>10. “.. the area between the trenches shall not be used for part of the reserve area...”</p> <p>12.a) “ and where at least 5 feet of the underlying naturally occurring pervious strata is above the Maximum Groundwater Elevation, except that at least 6 feet of the underlying naturally</p>	<p>As allowed in Title V: Area between trenches can be used for reserve area.</p> <p>As allowed in Title V: Maximum Groundwater Elevation 5 feet below bottom of leaching facility</p>	<p>10. Granted</p> <p>11. Denied. Based on application submissions no waiver required to permit the construction and operation of the Project</p>

<p>VII. Wastewater Treatment Plants</p>	<p>occurring pervious strata must be above the Maximum Groundwater Elevation if the percolation rate of the pervious material is between 2 and 5 minutes per inch..”</p> <p>14. “ the bottom of the cellar floor must be at least 18” above the Maximum Groundwater Elevation...”</p> <p>17. “ the stone used in a leaching area shall not be less than 8 inches deep beneath the bottom of the distribution lines..”</p> <p>18. Tees and Wyes will not be permitted in the leaching area.</p> <p>22. “ a new Sewage Disposal System or Plant must be constructed prior to the commencement of the construction of the Structure it is to serve...”</p> <p>Entire Section</p>	<p>Waiver of this requirement.</p> <p>As allowed in Title V: Stone 6 inches deep.</p> <p>As allowed in Title V: Tee and Wye connections permitted in leaching areas.</p> <p>New Sewage Disposal System or Plant to be operational prior to occupancy permits.</p> <p>Waiver of these requirements. Wastewater treatment plant if required to be permitted under Mass. DEP Environmental Code Title 5 (310 CMR 15.00) or the Mass. DEP Groundwater Discharge Permit (314 CMR 5.13).</p>	<p>14 & 17 - Denied as no demonstration by Applicant that waiver required to permit the construction and operation of the Project</p> <p>18. Granted</p> <p>22. Partial waiver granted only to the extent of express condition of Comprehensive Permit</p> <p>VII. Denied</p>
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- V. The Project shall be exempt from the filing fee requirements established by the Zoning Board of Appeals, Board of Health, Planning Board, Conservation Commission, or other Town entity, except for fees specifically relating to Comprehensive Permit Applications. **Denied as not required as all filing fees under local regulations pursuant which Zoning Board is acting as other local boards are included in 40B application fee; but no other fees waived.**
- VI. The Project shall be exempt from any other applicable zoning or related municipal ordinances so far as the same may be at variance with the Project or the Site Development Plans or the Architectural Plans as filed. **Denied**