

Town of Framingham

Zoning Board of Appeals

Comprehensive Permit Rules and Regulations

Adopted: February 19, 2002

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General Provisions

1.1 Authority

These Rules and Regulations are adopted by the Zoning Board of Appeals as authorized by a by M.G.L. c. 40B, § 21, as amended by Stat. 1989, c. 593, and by 760 CMR 31.02.

1.2 Purpose

The purpose of these Rules and Regulations is to establish uniform procedures for conducting the business of the Zoning Board of Appeals under its jurisdiction as a Permit Granting Authority for comprehensive permit APPLICATIONS submitted to the Zoning Board of Appeals under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c. 40B, §§ 20-23, to assure consistency of review criteria, and to provide guidance to the Framingham Boards and Departments who review said APPLICATIONS and provide comments to the Zoning Board of Appeals.

1.3 Context

The purpose of M.G.L. c. 40B, §§ 20-23 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 Department of Housing and Community Development.

1.4 Applicability

Any person or entity applying for a comprehensive permit whether or not governed by any other federal, state, or local regulations, laws, permits, variances, approvals, or programs, shall comply with the provisions of these Rules.

1.5 Definitions

Defined terms are capitalized in these Rules.

1.5.1	APPLICANT	Any person or entity or their authorized representative who files an APPLICATION for a PERMIT under the LAW.
1.5.2	APPLICATION	All plans, forms, reports, studies, or other documents that are submitted to the BOARD under these RULES by an APPLICANT.
1.5.3	BOARD	The BOARD of Appeals of the Town of Framingham.
1.5.4	DECISION	Action by the BOARD on an APPLICATION.
1.5.5	LAW	Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c. 40B, §§ 20-23, as amended.

1.5.6	LOCAL BOARD	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; Fire, Police, Traffic, or other department; Building Inspector or similar official or board, 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.
1.5.7	PARTIES IN INTEREST	The APPLICANT; abutters; owners of land directly opposite on any private or public street or way; and abutters to the abutters within 300 feet of the property line of the APPLICANT as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the BOARD; and the Planning Board of every abutting city or town.
1.5.8	PERMIT	A Comprehensive PERMIT under the LAW.
1.5.9	RULES	The RULES and Regulations for a Comprehensive PERMIT as presented herein.
1.5.10	TOWN	The TOWN of Framingham.

1.6 Amendments to the RULES

The RULES may be amended by a majority vote of the BOARD in a public meeting.

Preliminary Review

2.1 Preliminary Consultations

Consultations between a prospective APPLICANT and the professional staff of the TOWN prior to the filing of an APPLICATION with the BOARD are strongly recommended and can prevent serious delays in the processing of the final APPLICATION.

2.1.1 Any action or communication initiated by the APPLICANT prior to the filing of an APPLICATION with the Town Clerk and the BOARD shall not constitute a PERMIT APPLICATION. The following RULES shall apply to such preliminary consultations.

2.2 Form of Request

At least 4 copies of all materials to be reviewed shall be provided to the Comprehensive Permit Coordinator along with a letter requesting a review. The letter shall include the name, address, and phone number of a person who may be contacted concerning the review. All correspondence and communication must be sent through the Building Department or a copy of said communication must be provided to the Building Department.

2.3 Scope of TOWN Staff Reviews

The appropriate TOWN staff will review preliminary materials in an attempt to avoid unnecessary technical deficiencies in the final APPLICATION and to promote efficiency in the formal review process. Staff will limit their review of such materials to technical issues appropriate to their area of expertise and to assessments of whether the project in question adequately addresses major issues of concern to the TOWN and the neighborhood. In general, staff will complete the preliminary review within 30 days. Staff will not be responsible for assuring the thoroughness, completeness, or correctness of any final APPLICATION. It is the responsibility of the APPLICANT to assure that any APPLICATION to the BOARD is complete and accurate.

- 2.3.1 Through the preliminary review process staff will make recommendations for any fee waivers or additional deposits that may be appropriate. Note that substantial changes in the project may require the alteration of these recommendations at the time of final submission. In all cases APPLICANTS shall contact the Comprehensive Permit Coordinator prior to the final submission to discuss these fees.
- 2.3.2 If any other special permits are required from the BOARD for the project, then these should be discussed with the staff at this time.

2.4 Fees

The first such preliminary review by staff shall be free of charge. Subsequent preliminary reviews shall require payment of a fee by the prospective APPLICANT of \$500 at the time of submission. The fee shall be submitted in check form and made payable to "Town of Framingham".

Contents of APPLICATION

3.1 APPLICATION Form

APPLICANTS must submit a Project Eligibility or Site Approval letter from an appropriate state or federal agency. Twelve copies of the letter and twelve (12) full size copies of the APPLICATION (including plan sheets) shall be required at the time of submission of an APPLICATION to the BOARD. One copy of the letter and APPLICATION (including plan sheets) shall be filed with the Town Clerk.

- 3.1.1 An APPLICATION for a PERMIT that lacks information or is incomplete in any manner may be denied or seriously delayed. It is the responsibility of the APPLICANT to assure the accuracy and completeness of all information submitted to the BOARD as part of an APPLICATION. The APPLICANT shall be responsible for factually supporting all points relied upon in the APPLICATION including references for methodologies used in design calculations.
- 3.1.2 In the case where the APPLICANT is a person other than the record owner of the property, the APPLICANT shall obtain the owner's signature on this form indicating that the owner has knowledge of and consents to the APPLICATION. If the APPLICANT is acting in the name of a trust, corporation or company, an authorizing vote shall be attached.

A complete APPLICATION for a PERMIT shall include the following items.

3.2 Certified Abutters List

List of abutters and abutters to abutters that are PARTIES IN INTEREST as defined in these RULES, taken from the most recent tax list of the TOWN and certified by the Town Assessor. The APPLICANT shall pay any charges required by the Town Assessor for the list.

3.3 Use Description

Detailed description of the existing and proposed uses including the proposed distribution of the various land uses; the proposed diversity and approximate cost range for the housing units. Detailed description of any support services provided such as recreation (indoor and outdoor), personal services (health, laundry, etc.), convenience services (retail store, financial, restaurant, transportation), and whether those services will be limited to residents of the development or available to the community at large. The proposed uses and form of ownership of the common facilities, if any.

3.4 Other Permits, Approvals and Variances

A list and copies of variances, permits, and other special permits previously issued by TOWN boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Planning Board, the Conservation Commission, the Zoning Board of Appeals, the Board of Selectmen, the Mass. Highway Department, the Army Corp. of Engineers, and the Mass. Dept. of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

3.5 Recorded Plans and Deeds

A copy of the most recently recorded plan/s and deed/s for the lot/s on which the work will take place bearing the book number/s, page number/s, and date/s of recording/s or registration/s.

3.6 Drainage Calculations

Storm drainage runoff calculations used for the drainage system design must be prepared by and display the seal of a Registered Professional Engineer. These calculations must be based on a recognized standard method (usually the Rational or Soil Conservation Service Methods). The calculations must contain a written summary explaining the rationale of the design so that a lay person can understand the basic design approach and its validity for the site in question.

- 3.6.1 Furthermore, the calculations should be fully documented including copies of charts or other reference sources to make review possible. The pre- and post- development runoff rates must be provided. If applicable, the methods used to comply with the "Stormwater Runoff" design standards of the *Dept. of Environmental Protection's Stormwater Management Policy* shall be described. The use of computer-generated reports is acceptable; however, the source of the software should be identified.
- 3.6.2 Calculations shall be provided to support the sizing of all drainage structures and pipes. Design of the storm drainage system can generally be based on a 10-year storm event; however, the system design shall not result in serious flood hazards during a 100-year storm. If the site plan includes a "reserve parking" area, the storm drainage system design for this area shall be included in these calculations.

3.7 Water Balance Calculations

A yearly hydrologic water balance calculation for pre- and post-development conditions based on annual precipitation that quantifies evapotranspiration, runoff, recharge, and septic flow shall be included.

3.8 Earth Removal Calculations

Calculations for determining the amount of earth to be removed or the amount of fill to be brought to the site shall be prepared by and show the seal of a Registered Professional Engineer.

3.9 Traffic Study

A traffic impact study may or may not be required depending on the BOARD's assessment of the circumstances at or near the development site. However, a traffic impact study will be required for all APPLICATIONS where the proposed uses will, in the opinion of the BOARD, be likely to produce an average of 400 additional trip ends per weekday based on the most recent edition of the Institute of Transportation Engineers' publication Trip Generation. To avoid lengthy delays in the processing of an APPLICATION, consultations should be made by the APPLICANT with the Planning Department during the preliminary review process to determine the scope of the traffic impact study. In general, a traffic study shall examine and include the following:

3.9.1 EXISTING TRAFFIC CONDITIONS including roadway geometries, traffic volumes, safety, delays, and levels of service for roads and intersections (whether in Framingham or another town) affected by the proposed development.

- 3.9.2 ACCURATE TRAFFIC GENERATION ESTIMATES of future traffic conditions including trip generation, trip distribution, volume to capacity ratios, and levels of service for existing roads and intersections (whether in Framingham or another town) affected by the proposed development at the time of anticipated completion and 5 years beyond anticipated completion. Impacts of other previously approved projects and of projects pending approval shall be taken into consideration (consult the Planning Department for list of such projects). Approach and departure route assignments shall be based on existing traffic patterns, minimum time paths, "journey to work" data, market studies, or a combination thereof. All traffic information shall include data for both AM and PM peak hours, weekend peaks, as well as average daily data. Sight distances for turning movements to and from the development as well as within the development must be analyzed using AASHTO (American Association of State Highway and Transportation Officials) standards. The adequacy of vehicular queuing storage at the development entrances shall also be demonstrated. The impact of any planned phasing of the project shall be discussed.
- 3.9.3 MITIGATION MEASURES that could be taken to reduce the impacts of the proposed development and their estimated cost. These should include capacity enhancements such as added turn lanes, signalization, and improvements to intersections and medians. The traffic study shall make specific proposals for mitigation measures to be implemented by the APPLICANT. The potential for driveway connections to neighboring lots must be explored. The study should take into account those improvements that are planned and/or currently implemented by the TOWN or the State.

3.10 Letter Authorizing Completion of Improvements

A letter authorizing TOWN representatives to enter on the development site to complete the streets and ways, services and other aspects of the plan or plans for which the APPLICANT seeks a PERMIT, if the developer does not complete them according to his obligations.

3.11 Mortgage Holders

A list of mortgage holders that shall be kept current during the period of development.

3.12 Site Plan

All plans shall be legibly drawn to fully detail and explain the intentions of the APPLICANT. Site plans shall be drawn at a standard scale (1 inch = 20, 40, or 50 feet) except when noted otherwise. All plans shall include a reasonable numbering system for lots, buildings and housing units. Each plan sheet shall feature a north arrow, a legend identifying any representative symbols used on the sheet in question, an appropriate title block in the lower right hand corner, and the seal of a Registered Professional Engineer, Registered Land Surveyor, Registered Landscape Architect, Registered Professional Architect, or some combination of these as appropriate to the data on the sheet.

3.12.1 Organization of Plan

The individual components of the site plan (i.e. Record Plan, Natural Features and Existing Conditions Plan, Site Development Plan, Landscape Plan, Erosion and Sediment Control Plan, etc.) may be presented on one or more plan sheets as necessary to present clear and legible plans. Match lines shall be placed in plan locations that feature a minimum of information. Sufficient overlap between plan sheets shall be provided to permit easy reading of plans across match lines. Unless

other arrangements are made with staff during the preliminary review process, the site plan shall consist of the following:

3.12.1.1 A Title Sheet showing:

- 1. A locus plan showing an area a minimum of one mile diameter at a scale of 1" = 1200' with major features, buildings, brooks, streams, rivers and other landmarks shown with sufficient clarity to show the relationship of the proposed development to the community, its facilities and major features.
- 2. The general layout of the development drawn to a scale suitable to fit the entire development onto the title sheet and showing existing and proposed approximate layouts of streets and ways, lot boundary lines, lot numbers, existing street names and identification of proposed streets and ways, areas to be developed, open space, areas to be left undeveloped within the development boundaries, and all zoning district boundaries within or adjacent to the site.
- 3. Names and addresses of the owner of record, the subdivider, the engineer and the land surveyor, the book and page number of the recording of the deed or the Land Court certificate.
- 3.12.1.2 Design Certifications Each plan sheet shall show the seal of a Registered Professional Engineer, Registered Land Surveyor, Registered Landscape Architect, Registered Professional Architect, or some combination of these as appropriate to the data on the sheet.
- 3.12.1.3 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.
- 3.12.1.4 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;
- 3.12.1.5 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;
- 3.12.1.6 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;
- 3.12.1.7 Where a subdivision of land is involved, a preliminary subdivision plan;
- 3.12.1.8 An Erosion and Sedimentation Control Plan showing adequate erosion and sediment control measures during and after construction including the following:
 - a) Sediment basins if used.
 - b) Type of mulching, matting or temporary vegetation.
 - c) Location of hay bales and siltation control fences.
 - d) Size and location of land to be cleared at any given time and length of exposure time.
 - e) Method of covering soil stock piles.

http://www.framinghamma.gov/DocumentCenter/Home/View/4904

- f) Any other methods to be used during construction to control erosion, sedimentation and siltation.
- g) Documentation of proper construction and erosion control sequencing from the point of implementation to removal.
- h) A note on the Erosion and Sedimentation Plan shall state that the developer is required to clean up any sand, dirt, or debris which erodes from the site onto any public street or private property, and to remove silt or debris that enters any existing drainage system including catch basin sumps, pipe lines, manholes and ditches.

3.12.1.9 A Landscape Plan showing:

- a) General site features such as lot lines, existing and proposed structures, parking areas, curbs, walkways, loading areas, land contours, water bodies, wetlands, streams, ledge outcroppings, and large boulders so that it may be easily related to the other plans.
- b) Landscape treatments planned for the site and existing vegetation to be retained.
- c) A planting table with the botanical and common name of each species, its height (at planting), its spread (at maturity) and the quantity intended to be planted, along with the symbols used to represent the plants on the plan.
- d) A typical detail of a tree well, tree planting, and specialty planting area if applicable.
- e) The limits of work beyond which no disturbance during construction will be permitted; a plan note shall require that the limits of work be staked out at the site and they must be maintained at all times; in the vicinity of trees the limits of work shall follow the drip line of the trees.
- f) The perimeter of any existing wooded areas on the site shall be shown; existing wooded areas intended for preservation shall be noted; the location, size, and proposed fate of any existing trees larger than 16" in diameter shall be shown.

3.12.1.10 Site Utilities

- a) The location of any existing and proposed outdoor lighting installations and signs.
- b) Proposed boundaries of each development phase clearly showing the specific limits of construction for each phase; interim curbing, pavement and landscaping shall be shown as needed between phases.
- c) Location and type of stormwater drainage facilities including notes on the construction materials of any pipes, culverts, catchbasins or any other system component. Sufficient information relating to placement of the drainage system components (rim and invert elevations, pipe slopes, amount of cover, etc.) shall be shown so that the operation of the system can be evaluated. Any drainage ponds to be constructed shall be shown fully dimensioned. If a "Reserve Parking" area is proposed, the plan shall show the stormwater drainage structures intended for construction should the reserve parking area be built in the future.

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- d) Location of any underground storage tanks for fuel or other chemical storage, including the tank types, capacities, and condition.
- e) Location and type of existing and proposed water and sewer services to serve the facility (including abandoned wells). If the site is to utilize an on-site well, its proposed location must be shown in addition to its setbacks from any building, structure. If public water or sewer services are to be utilized, then the mains that will service the site must be shown and identified.
- f) All fire hydrants on the site or off the site but within 500' of the principal building on the site. If no fire hydrants are located within 500' of the principal building on the site, then a note shall appear clearly explaining how the APPLICANT will provide fire protection to the site. The location of any proposed municipal fire alarm boxes or other warning systems and any proposed fire lanes shall be clearly shown and identified. Any underground conduit for municipal fire alarm connections shall be shown.
- g) The location and type of any other underground utilities including but not limited to electric, gas, telephone, or cable television services. Any emergency power facilities should also be shown.

3.12.1.11 Waste Disposal Facilities

- a) Type and location of any solid waste disposal facilities. Dumpsters shall be screened with a stockade fence.
- b) Perimeter outline of any existing or proposed on-site sewage disposal systems including any required reserve areas.

3.13 Architectural Plans

- 3.13.1 Architectural Floor Plan shall be shown for each floor of each building whether such building is existing or proposed so that compliance with the parking requirements of the Framingham Zoning Bylaw may be discerned. Each Floor Plan must identify the proposed use or uses to be conducted on the floor in question. Each Floor Plan must be dimensioned to show the net floor area. The Floor Plan shall be drawn at a scale of ¼"= 1'.
- 3.13.2 Building Elevations The front, sides, and rear elevations of each building shall be shown at an appropriate scale generally not less than 1/8" = 1'.elevation plans for all buildings and housing units at an appropriate scale generally not less than 1/8"=1', prepared by a Registered Architect. If buildings and housing units will be constructed repetitively, a typical floor and elevations plan shall suffice.
- 3.13.3 Plan Notes shall be provided that: 1) forbid the use of fill containing hazardous materials, 2) require the marking of the limits of work in the field prior to the start of construction or site clearing, 3) require the cleaning of catch-basin sumps and stormwater basins following construction and annually thereafter, 4) restrict the hauling of earth to or from the site to the hours between 9 a.m. and 4 p.m. on weekdays if earth materials are intended to be removed from or brought to the site, 5) describe the materials to be used in the construction of impermeable surfaces such as sidewalks and driveways.

3.14 Proof of Compliance

Documents showing that the APPLICANT fulfills the jurisdictional requirements of 760 CMR 31.01, that is,

- a) the APPLICANT shall be a public agency, a non-profit organization, or a limited dividend organization,
- b) the project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program (see footnote 3), and
- c) the APPLICANT shall control the site.

3.15 Waivers & Exceptions

A list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations.

3.16 Filing Fee

The APPLICATION shall be accompanied by a filing fee based upon the cost of review and processing the APPLICATION plus the number of proposed housing units. The fees are as follows: Limited Dividend Organization - \$1,000.00 for 50 units or less with an additional charge of \$10.00 per unit after 50; Non-Profit Organizations, Public and Local Agencies - \$500.00 for 50 units or less with an additional charge of \$7.00 per unit after 50.

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Review of APPLICATION

4.1 BOARD and Departmental Review

Upon submission of an APPLICATION, the BOARD will distribute copies of the APPLICATION package to the following LOCAL BOARDS, with a request for review and comment:

Planning Board

Conservation Commission

Board of Health

Historical Commission

Public Works

Engineering

Planning & Economic Development

Housing Authority

Police

Fire

Superintendent of Schools

Any advice, opinion, or information given to the APPLICANT by a BOARD member, or by any agency, official, or employee of the TOWN shall be considered advisory only and not binding on the BOARD.

4.2 Review Standards

The purpose of these review standards is to:

- A. Encourage a more efficient and uniform review process by clearly specifying local requirements in advance of APPLICATIONS for comprehensive PERMITS under the Chapter 4OB process;
- B. Assure that APPLICATIONS demonstrate the maximum benefit in providing housing for families of low and moderate-income;
- C. Equitably distribute affordable housing developments throughout the TOWN, so as to avoid concentrations of affordable housing in anyone area;
- D. Assure the long-term viability of affordable housing developments through well-designed projects that function properly and that are provided with adequate utility infrastructure;
- E. Minimize impacts to abutting properties and neighborhoods;
- F. Assure site design that provides affordable housing yet preserves environmental features, woodlands, wetlands, and areas of scenic beauty and that preserves sites and structures of historical importance;
- G. Provide affordable housing without imposing an unnecessary increased financial burden on the citizens of the TOWN because of demands for additional municipal serviced or public improvements or due to revenue forgone because of the loss or displacement of the as-of-right use; and

H. Provide affordable housing without threatening the ability of the TOWN to provide bona fide infrastructure and public services to existing and future development on other sites.

4.3 Location and Impact of 40B Developments

- A. Impact on sensitive areas: Affordable housing developments shall avoid impacts to the extent possible on environmentally sensitive areas such as flood plains, wetlands. groundwater recharge areas, aquifer areas contributing to municipal water supplies or recreational water bodies, or to significant woodlands, sensitive wildlife habitat areas, hillsides or other sensitive natural features.
- B. Impact on historic resources: Affordable housing developments shall avoid adverse impacts on historic sites and structures; shall not demolish historic structures or defile historic sites; and shall integrate and restore historic resources into the housing site plan.
- C. Impact on infrastructure: Developments shall avoid areas which have public infrastructure or services incapable of serving the increased density of such developments without imposing significant increased public expense that would otherwise be unnecessary for uses built at densities permitted as of right (for example inadequate roads, utilities or schools). APPLICANTS may downsize their projects or improve the infrastructure to meet these criteria.
- D. Site suitability: Affordable housing developments shall strive to avoid sites which are clearly better suited for uses permitted as-of-right by zoning and planned for those sites by the TOWN in terms of roads, utilities, infrastructure and site characteristics.

4.4 Project Size

The maximum number of housing units (affordable and market-rate) in any comprehensive development is recommended to be 175 units on any lot or any combination of contiguous lots.

4.5 Adequate Access

There shall be at least two means of egress to the property, each with a 50 foot right-of-way. The principal means of egress shall have pavement width and grade dimensions adequate in the view of the Framingham Police and Fire Chiefs for the safe passage of public safety vehicles. The second means of egress may be reserved for emergency vehicles only.

4.6 Affordability Criteria

Comprehensive permit developments shall include at least 20% affordable units, as defined by Chapter 4OB. The deed rider on the development shall specify that the units shall remain subject to the affordability guidelines in perpetuity. Affordable units in a development shall be the same as the market rate units in terms of floor area, interior and exterior finishing and bedroom mix.

4.7 Local Preference

The development plan shall provide that all legally permissible efforts shall be made to provide 70% of the affordable units to eligible residents of the TOWN.

4.8 Special Needs Preference

At least 5% of an units shall be designed for, and preference given to, persons with special needs.

4.9 Parking

Parking for the development shall be provided at the rate of two parking spaces per housing unit. Additional parking spaces shall be provided for a community center if available, at the ratio of one parking space for each two occupants of the center.

4.10 Water and Sewer Service Availability

The Director of Public Works shall identify the impact of the development on the availability of TOWN water and sewer services and whether such services can be provided without adversely impacting other existing and new users in the TOWN.

4.11 School Impacts

The Superintendent of Public Schools shall identify what impact the development will have on school facilities availability and use and on staffing levels.

4.12 Public Safety

The Police Chief and the Fire Chief shall identify the impact that the development will have on facilities, equipment and staffing needs.

4.13 Site Amenities

The design of the development shall respect the natural and historic characteristics of the site and shall preserve and enhance to the maximum extent possible, site amenities.

4.14 Buffers

The development should be buffered from abutting properties to the maximum extent feasible. A buffer of at least 40 feet in width should remain in undisturbed vegetation or, if previously disturbed, in new landscaping. Solid fencing should be provided where this is considered necessary to protect abutters from adverse impacts resulting from the development.

4.15 Open Space

A minimum of 50% of the site should remain in open space, either in an undisturbed landscape or as improved park or recreational land. This land shall be protected in perpetuity by a conservation easement held by the TOWN Conservation Commission or by a local land trust such as the Sudbury Valley Trustees, where appropriate. To the maximum extent possible, the site plan shall interconnect off-site and on-site recreational trail systems, both existing trails and new trails.

4.16 Review Fees

4.16.1 If, after receiving an APPLICATION, the BOARD determines that it requires technical advice unavailable from municipal employees, the BOARD may employ outside consultants (such as engineers, planners, lawyers, hydrogeologists, or others). Such consultants shall assist the BOARD in plan review, impact analysis, inspection or other technical or legal assistance necessary to ensure compliance with all relevant laws and regulations prior to action by the BOARD. Such assistance may include, but shall not be limited to, analyzing an APPLICATION, providing legal counsel for DECISIONS and covenants, and monitoring or inspecting a project or site during construction or post-construction for compliance with the BOARD's DECISIONS or regulations. Such consultants shall be selected and retained by the BOARD, with the actual and reasonable costs for their services to be paid by the APPLICANT. A review fee may be imposed only if:

- a) The work of the consultant consists of review of studies prepared on behalf of the APPLICANT, and not of independent studies on behalf of the BOARD;
- b) The work is in connection with the APPLICANT's specific project, and
- c) All written results and reports are made part of the record before the BOARD.
- 4.16.2 Submittal. Consultant Review Fees shall be submitted upon receipt of notice of estimated consultant review cost (based upon a fee schedule of estimated consultant costs) for deposit in an account established pursuant to Chapter 593 of the Acts of 1989, M.G.L. c. 44, s. 53G (593 Account). Consultant review work shall not commence until the fee has been paid in full.
- 4.16.3 Consultant Selection. Those projects deemed by the BOARD to require review by outside consultants shall be delivered to the selected consultant or consultants, who shall submit a cost for the requested consultant services to the BOARD. To the extent possible, the BOARD shall select consultants that are not working for an APPLICANT currently before the BOARD.
- 4.16.4 Replenishment. When the balance in an APPLICANT'S 593 Account falls below twenty-five percent (25%) of the initial Consultant Review Fee, as imposed above, the BOARD may require a supplemental Consultant Review Fee to cover the cost of the remaining project review.
- 4.16.5 Monitoring and Inspection Phase. As a condition of approval of a PERMIT, the BOARD may require a Supplemental Consultant Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.
- 4.16.6 Management of Consultant Review Fees. The Consultant Review Fee is to be deposited into a special account (593 Account) as set forth in G.L. c. 44, s. 53G.
- 4.16.6.1 Outside consultants retained by the BOARD to assist in the review of an APPLICATION shall be paid from this account.
- 4.16.6.2 Consultant Review Fees shall be turned over by the BOARD to the Town Treasurer for deposit into a 593 Account.
- 4.16.6.3 A copy of the latest statement from the banking institution handling the 593 Account shall be forwarded from the office of the Town Treasurer to the BOARD Office as soon as it is received for timely and accurate accounting.
- 4.16.6.4 The Town Treasurer shall prepare a report on activity in the 593 Account on an annual basis. This report shall be submitted to the Board of Selectmen and the Town Manager for their review. The final report on the 593 Account shall be printed in the Annual Report of the Town of Framingham.
- 4.16.6.5 An accounting of an APPLICANT's funds, held in the 593 Account, may be requested by the APPLICANT. The BOARD Office, through the Town Treasurer, shall respond to the request in a timely fashion.
- 4.16.6.6 Excess consultant review fees in the 593 Account, including any accumulated interest, shall be returned to the APPLICANT, or the APPLICANT's documented successor in interest, at the conclusion of the review process as determined by the BOARD.
- 4.16.7 Selection Appeal. The APPLICANT shall be notified of the consultant selection prior to initiation of consultant efforts. As provided in M.G.L. Chapter 44, § 53G, the APPLICANT may administratively appeal the selection of the consultant to the Framingham Board of Selectmen, on grounds that the proposed consultant selected

has a conflict of interest or that the proposed consultant does not possess the minimum required qualifications of an educational degree or three (3) or more years of practice in, or closely related to, the field at issue. Such an appeal may be initiated by the APPLICANT filing notice with the Town Clerk within seven (7) calendar days of notice of the selection. The consultant selection made by the BOARD shall stand if one (1) month passes without decision by the Board of Selectmen on said appeal. The required time limits for action upon an APPLICATION by the BOARD shall be extended by duration of the administrative appeal. This appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.

4.16.8 Remedy. Failure of an APPLICANT to pay the consultant review fee determined by the BOARD, or to replenish the special account when requested, may be grounds for disapproval.

Public Hearing and DECISION

5.1 Public Hearing

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.

5.2 DECISION

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.

- 5.2.1 The BOARD may dispose of the APPLICATION in the following manner:
 - a) Approve a PERMIT on the terms and conditions set forth in the APPLICATION,
 - b) Deny a PERMIT as not consistent with local needs, or
 - c) Approve a 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.

5.3 Appeals

If the BOARD approves the PERMIT, any person aggrieved may appeal within the time period and to the court provided in M.G.L. c. 40A, § 17. If the BOARD denies the 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, § 22.