

Bourne Zoning Bylaw Provisions (Revised September 9, 2021)

As provided for under 760 CMR 56.05(7), the Applicants seek waivers only from the “as-of-right” zoning requirements set forth in the Bourne Zoning By-law (“ZBL”) as set forth below; and, the Applicants note and emphasize that no waiver is needed (or sought) from any special permit requirement set forth under the Zoning Bylaws because 760 CMR §56.05(7) expressly provides that: “Zoning waivers are required solely from the “as of right” requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the district.”

The Applicants request waivers from the Zoning Bylaw as follows:

1. **ZBL §1210. ZBL Compliance.** The Applicants request a waiver from the requirement that the Building Inspector must determine in writing that the Project satisfies all ZBL requirements before issuing a building permit. The Project will conform to the comprehensive permit requirements.
2. **ZBL §1220. ZBL Compliance.** The Applicants request a waiver from the requirement in this provision that Property may not be used unless the Building Inspector certifies that the use complies with the ZBL. The Project will conform to the comprehensive permit requirements.
3. **ZBL §1230. Site Plan/Special Permit.** The Applicants note that this section does not apply to the proposed residential use as, under 760 CMR 56.05(7), special permit requirements do not apply to an application for a comprehensive permit.
4. **ZBL §2220 Use Regulation Schedule. Principal Uses. Residential.** The Applicants request a waiver from the prohibition in §2220 against siting multifamily dwellings in the R-40 District.
5. **ZBL §2460. Setting of Lot Bounds for corners of lots on a subdivision plan endorsed after 1979.** The Applicants request a waiver from the requirement to set bounds as the prior subdivision parcels that make up the Property will be merged into one parcel and bounds are not necessary.
6. **ZBL §2480. Lot shape.** The Applicants request a waiver from the requirement that no lot shall be created so as to be so irregularly shaped or extended that the square of the lot perimeter exceeds thirty (30) times the gross lot area for any lot in excess of 80,000 square feet.
- ~~6.7.~~ **ZBL §2498. Planning Board must determine that the proposal does not circumvent the Subdivision Control Law.** The Applicants request a waiver from any action or determination by the Planning Board as the ZBA must act as the Planning Board under the Subdivision Control Law.

7.8. ZBL §2500 Intensity of Use Schedule. The Applicants request the following dimensional waivers:

Requirement	Proposed	Waiver Requested
Minimum Area – 40,000 s.f. Complies.	100,000 s.f.+	No.
Minimum Frontage – 125’ Complies.	125’ <u>+</u>	No.
Minimum Front Yard - 30 feet.	10 feet <u>30’+</u>	Requested. <u>No.</u>
Minimum Rear Yard – 15 feet	7.8 feet	Requested.
Minimum Side Yard – 15 feet	15’+	No.
Maximum Lot Coverage – 20%	32 <u>9</u> %	Requested.
Maximum Building Height – 35 feet	38.9 feet	Requested
Minimum Usable Open Space – 20%	61 <u>4</u> %	No.

8.9. ZBL §2640 and §2650. Rate of Residential Development and Rate Exemption e.

The Applicants request either a waiver from the application of the rate of residential development set forth under ZL §2640 or an acknowledgment by the ZBA that the affordable housing units to be developed are “Bourne Affordable Housing Units” as defined under ZBL Article V and so the Project is exempt from the rate of residential development under Exemption (e).

9.10. ZBL §3300 Parking Requirements.

- **§3320. Two spaces per dwelling or 102 spaces for 51 units.**

The Applicants request a waiver to allow a total of 89 parking spaces (including 4 handicap and 12 compact spaces) a ratio of 1.6 spaces per unit.

11. ZBL §3450. Lighting.

- **§3453(c). Other Requirements**

The Applicant requests a waiver from the requirement of an illumination ratio (brightest/darkest) of not more than 4:1. The Illuminating Engineering Society recommends a uniformity ratio max:min of 15:1 for parking lots. Due to the maximum coverage requirement of the proposed leachfield, lighting cannot be sited within the parking lot, so the Applicant is unable to reduce the illumination ratio. ZBL §3453(c) does state that the Planning Board may approve alternative arrangements.

10.12. ZBL §3500. Landscaping and Screening.

- **§3512(ii). Plants. Minimum number of trees equals planting area length divided by 30 or shrubs divided by 3.**

The Applicants request a waiver for the parking area. The upper and lower parking area have yes the leaching field and no trees are possible. ~~The lower parking area will retain as much existing vegetation as possible as required under ZBL §3514.~~ Where planting is possible, trees have been added at 20 feet to 30 feet on center.

- **§3513(iv). Planting Areas.**

The Applicants request a waiver to eliminate the requirement for plantings within the parking areas.

- **§3570. Natural Cover Removal Special Permit for exposing 10,000 s.f. of bare earth. Note:** Special permit relief may not be imposed. 760 CMR 56.05(7).

11.13. ZBL §4400. Earth Removal Special Permit.

The Applicants note that this provision would not apply to the Project because all earth removal performed will be incidental to the residential construction, which is exempt from this provision; but, in any event, the Applicants note that no special permit relief may be imposed under 760 CMR 56.05(7).