

**TOWN OF MEDWAY
ZONING BOARD OF APPEALS**

**Rules & Standards for Comprehensive Permit Applications
Massachusetts General Laws Chapter 40B
20 September 2004**

At its meeting on 20 September 2004, the Medway Zoning Board of Appeals (the “Board”) adopted the following standards in accordance with Massachusetts General Law Chapter 40B §21, to be applied to all housing development projects proposed in Medway via application for Comprehensive Permit under M.G.L. 40B, “*Low and Moderate Income Housing*.”

The Board recognizes the need to balance harmony with the intent and purpose of local zoning by-laws against the regional need for low and moderate income housing. As such, the following standards seek to:

- Protect the health and safety of the occupants of the proposed housing and of the residents of the Town;
- Promote efficient, economic, coordinated, and orderly development;
- Promote the general welfare and prosperity of Medway’s citizens;
- Promote better site and building design in relation to the surroundings;
- Preserve open spaces; and
- Apply as equally as possible to both subsidized and unsubsidized housing.

	Standard	Purpose
1	Projects shall be restricted to zones which permit residential uses.	To protect the health, safety, and welfare of the occupants of the proposed housing and of the residents of the Town, it makes no economic sense to allow residential land for such development; however, commercially and industrially zoned land is at a premium in Medway. Loss of acreage within these zones specifically for commercial or industrial use would represent a serious loss to the community’s future financial health.
2	Lot Size for projects shall be a minimum 4 acres in an AR 1 zone and 2 acres in any other zone.	To promote better site and building design in relation to the surroundings, land development under M.G.L. Chapter 40B must be properly planned and integrated into the community. This is not possible if projects are allowed on small lots that generally accommodate development to normal zoning standards. Allowing high-density development without this standard, in effect, allows for piecemeal application of the law, which is contrary to its stated

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		purpose. The Board, in selecting relatively small areas as a standard, recognizes the need to balance harmony with the intent and purpose of local zoning by-laws against the regional need for low and moderate income housing.
3	The maximum number of dwelling units permitted for a project shall be the number of buildable square feet of land available divided by 5,000 rounded downward. Wetlands or other protected areas of a parcel shall not be included as buildable land.	To protect the health, safety, and welfare of the occupants of the proposed housing and of the residents of the Town; to promote better site and building design in relation to the surroundings; to preserve open spaces; and to apply standards as equally as possible to both subsidized and unsubsidized housing, some type of development density standard needs to be generally applied to all projects. Density is a cornerstone of community character. The Commonwealth recognizes a minimum of 5,000 square feet under M.G.L. 40A§6. This is the application of that standard. Restricting the calculation to buildable land recognizes that development of these areas is not feasible under any section of Massachusetts General Laws.
4	Wherever the project abuts other residential or residentially zoned property; a 30-foot-wide green belt shall be provided adjacent to such boundary lines.	To promote better site and building design in relation to the surroundings and preserve open spaces, a modest green belt is needed. Projects typically involve one or more multi-family dwellings. In either case, opportunity for the project to be out of character with the surrounding neighborhood is likely. In addition, higher density developments are likely to require special services, facilities, and open areas to be effective living areas.
5	Any proposed new roadway construction associated with the project shall comply with the Town of Medway Planning Board Rules and Regulations for public ways. The Planning Board or their designee shall retain management of all new roadway design and construction under the control of the Zoning Board of Appeals.	The Planning Board Rules and Regulations are expressly designed to protect the health or safety of the occupants of the residents of the town. They also serve to promote better site design. As such, they should not be altered. These regulations also go to ensure longevity of the roadway system and lower long term maintenance costs for the Town. Since the Planning Board has the expertise in this area, they should manage it, however the Board needs to maintain control of the process at all times.

6	All dwelling structures (single or multi-family) shall be separated by a minimum distance of 30 feet from one another. Such distance includes separation from dwellings on abutting properties.	To protect the health or safety of the occupants of the proposed housing and of the residents of the Town and to promote better site and building design in relation to the surroundings, this standard allows a project to be in harmony with the character of surrounding neighborhoods. In addition, the Town is ill-equipped to deal with potential emergencies involving tall structures.
7	No structure shall be taller than the tallest existing dwelling roof line within a 300 feet. Chimneys, antennas, or other appurtenances shall not be considered in the surrounding area for comparison. In no case shall a structure exceed 40 feet in height.	To protect the health and safety of the occupants of the proposed housing and of the residents of the Town and to promote better site and building design in relation to the surroundings, this standard allows a project to be in harmony with the character of surrounding neighborhoods. In addition, the Town is ill-equipped to deal with potential emergencies involving tall structures.
8	Setbacks for the construction on any parcel abutting any adopted Scenic Roads as defined under the Zoning By-Law, shall not be waived. Although multi-family dwelling units may be proposed, building orientation and design along a Scenic Road shall be such that the project portrays the image of traditional colonial style single-family homes to passerby.	To promote better site and building design in relation to the surroundings, this standard allows a project to be in harmony with the character of these specially protected areas of the Town.
9	All affordable units in a project shall be protected as “affordable” for 99 years or longer. In addition, such units will be offered to qualified residents of the Town of Medway prior to being offered to the general public outside of Medway.	To protect the region’s stock of affordable housing, and protect against self-induced population explosion.
10	Profit from such a development is limited by law. Any profit in excess of that predicted by the documentation used as a basis for decision shall be returned to the Town. The Board shall seek to minimize this amount where possible by its decisions and conditions.	Generally, the Town is not interested in the excess profits from a development; the general welfare of Medway’s citizens is better promoted by uniform application of Zoning By-Laws. Therefore, the Board shall strive to keep predicted profits at the minimum allowed by law. The Town is also not well served by allowing excess unpredicted profits to be retained by the applicant, as the Town ultimately bears the cost of housing.
11	Where an application seeks to violate established Zoning By-Laws, the applicant	The general welfare of Medway’s citizens is best promoted by uniform application of

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	must specifically demonstrate that alternatives providing the same proportion of subsidized housing without violating said laws unfeasible or uneconomic.	Zoning By-Laws. Therefore, the applicant is expected to demonstrate that a project more in keeping with the By-Laws is not possible. As health, safety, and welfare concerns are frequently tied to population density and condition of the site, the applicants may have to particularly demonstrate that a smaller project with the same fraction of affordable units are not feasible.
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The Board, in conference with the applicant, may elect to waive or modify these standards in ways not inconsistent with their purposes. In order to do so, the applicant must propose alternative arrangements that are in the best interests of the Town.

Applications for Comprehensive Permit shall be accompanied by a fee according to the following schedule as *approved by the Board on December 5, 2018*:

Number of housing units in proposed development	Application Fee
1-12	\$2,500 + \$50/unit
13-20	\$3,750 + \$50/unit
21-50	\$5,000 + \$50/unit
51-75	\$7,500 + \$50/unit
76-100	\$10,000 + \$50/unit
101-125	\$20,000 + \$50/unit
126-150	\$30,000 + \$50/unit
151-300	\$40,000 + \$50/unit
300+	\$50,000 + \$50/unit

Any additional fees necessary for proper review of the application shall be paid in full by the applicant prior to closure of the Board's public hearing on the application. Should the applicant fail to pay due amounts in full within 90 days, the Board shall close the public hearing and deny the Permit.

The Board may elect to add, delete, or change any standard from time to time as necessary. Such changes require a simple majority vote by the Board at any duly-held public meeting. Changes take effect immediately, but shall be nullified if not filed with Town Clerk within 15 days of adoption.