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RANDALL L. HANSON
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MEMORANDUM

TO: RANDALL HANSON, TOWN CLERK
FROM: STEPHEN COLYER, PLANNING DIRECTOR
SUBJ: ZONING BOARD OF APPEALS COMPREHENSIVE PERMIT RULES
DATE: JULY 21, 2000

On July 8, 2000 the Zoning Board of Appeals voted to adopt the attached Comprehensive Permit Rules pursuant to MGL Chapter 40B. The rules will be effective as of July 21, 2000 when they have been filed with the Town Clerk.

Please file the document in the appropriate place, and feel free to speak with me if you have any questions.

(Encl.)

SC:COMPREGS5

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RANDALL L. HANSON
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**TOWN OF ANDOVER
Comprehensive Permit Rules
of the
ZONING BOARD OF APPEALS**

Section

- 1.00 Purpose and Context
- 2.00 Definitions
- 3.00 Filing, Time Limits and Notice
- 4.00 Review of Applications and Review Fees
- 5.00 Public Hearing and Decision
- 6.00 Protection of Affordable Dwelling Units
- 7.00 Appeals
- 8.00 Effectiveness

1.00 **Purpose and Context**

These rules establish the procedures for applications to the Zoning Board of Appeals for comprehensive permits under Section VIII.B.2. of the Andover Zoning By-Law, and MGL Chapter 40B, Sections 20-23 (Chapter 774 of the Acts of 1969, the "Act"). The rules are required by MGL Chapter 40B, Section 21, as amended by Stat. 1989, c. 593, and by CMR 31.02.

These rules are to 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. In addition the Board's general rules for conduct of hearings under MGL Chapter 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 Andover Zoning Board of Appeals established under MGL Chapter 40A, Section 12.

(b) "Local board" means any local board or official, including, but not limited to any board of health; planning board; conservation commission; historical commission; fire department; police department; building inspector; board of selectmen; and housing partnership committee.

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 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 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 the information 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 site to be occupied by buildings, by parking, by paved vehicular areas (access roads and driveways), 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.

(i) all plans shall be on sheets 24 inches by 36 inches (24"X36") in size, at a scale of one inch equals forty feet (1" = 40'). Detailed areas may be at one inch equals twenty feet (1" = 20');

(j) applications shall be made on forms provided by or obtained from the Zoning Board of Appeals office;

(k) at least twelve (12) copies of all plans and documents required under this section shall accompany an application for a comprehensive permit;

3.02 The application shall be accompanied by an advertising fee in the amount of \$130.00, and a filing fee based upon the number of proposed housing units of:

- | | | |
|--|---|------------------|
| (a) for limited dividend organizations | - | \$50.00 per unit |
| (b) for non-profit organizations | - | \$25.00 per unit |
| (c) for public agencies and local | - | No per-unit fee |

There shall be no filing fee for any application proposed as a Local Initiative project pursuant to 760 CMR 45.00.

3.03 Within seven (7) days of the filing of an application for a comprehensive permit, the Board shall notify each local board of the application by sending such board a copy of all plans, documents, and other information required by section 3.01 above. An interdepartmental review (IDR) meeting shall be conducted at such time and place determined by the Board through the planning department; but generally such IDR shall be scheduled and conducted in the same manner as normally required for other applications and projects. The Board may request comments, reports or recommendations in writing from local boards which have reviewed the application, and such comments, reports or recommendations shall be included in the record of the proceedings (the hearing).

4.00 Review Fees

4.01 If, after receiving an application for a comprehensive permit, the Board determines that a proper review of the application requires technical assistance unavailable from municipal employees or local boards, or upon advice and recommendation of a local board, the Board may employ or retain outside consultants to perform such reviews. Whenever possible the Board will work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of part or all of the 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 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.

4.03 A review fee may be imposed only after the Board has complied with the Uniform Procurement Act, MGL Chapter 30B, Sections 1-19, and the following additional requirements:

(a) For services in an amount less than \$10,000.00 the Board shall issue an invitation for bids conforming to the requirements of MGL Chapter 30B, Section 5 or a request for proposals (RFP) conforming to the requirements of MGL Chapter 30B, Section 6, or shall obtain three (3) quotations;

(b) For services in an amount of \$10,000.00 or more, the Board shall issue a request for proposals (RFP) conforming to the requirements of MGL Chapter 30B, Section 6.

(c) For all services, whether in amounts less than or greater than \$10,000.00,

(i) the applicant shall be given three (3) days notice and opportunity to attach written comments to the invitation for bids, or request for proposals, or quotations,

(ii) the applicant shall be given three (3) days notice and opportunity to comment on all bids, or proposals, or quotations prior to the selection of the consultant and the award of a contract.

(d) A bona fide bid or proposal shall include:

(i) the name of each person performing the work,

(ii) the educational and professional credentials of each person performing the work,

(iii) the work experience of each person performing the work,

(iv) a description of the work to be performed,

(v) the hourly rate charged by each person performing the work, and

(vi) all other expenses to be incurred.

4.04 All fees assessed pursuant to this section shall be reasonable in light of:

(a) the complexity of the proposed project as a whole,

- (b) the complexity of particular technical issues,
- (c) the number of housing units proposed,
- (d) the size and character of the site,
- (e) the projected construction costs, and
- (f) fees charged by similar consultants in the area.

As a general rule, the Board will not assess any fee greater than the amount which might be appropriated from town funds to review a similar town project.

4.05 Any invitation for bids or request for proposals shall indicate that award of the contract is contingent upon payment of a review fee. If the applicant fails to pay the review fee within ten (10) days of receiving written notification of selection of a bidder or offerer, the Board may deny the comprehensive permit. (The Board will select the consultant after reviewing both the bid or proposal and any comments received from the applicant pursuant to section 4.03(c)(ii), but it will not formally award the contract until the review fee has been received and paid).

4.06 Prior to paying the review fee, the applicant may appeal the selection of the consultant to the Board of Selectmen. 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. The minimum qualifications shall consist of either an educational degree in or related to the field at issue (traffic, drainage, etc.), or three or more years of practice in the field at issue or a related field. The required time limits for action on the comprehensive permit 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 (1) month following the filing of the appeal, the selection made by the Board shall stand.

4.07 Each review fee shall be deposited in a special account established by the town treasurer pursuant to MGL Chapter 44, Section 53G. Funds from the special account may be expended only for the purposes described in section 4.02, above, and in compliance with the Uniform Procurement Act, MGL Chapter 30B, Sections 1-19. Within thirty (30) days of the completion of the project or of such time as the applicant formally withdraws the proposal, the applicant shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest. The town accountant shall submit annually a report of the special account to the Board of Selectmen and the Town Manager for their review. This review shall be published in the town's annual report.

5.00 **Public Hearing and Decision**

5.01 The Board shall hold a public hearing on the application for a comprehensive permit within thirty (30) days of its receipt. The provisions of MGL Chapter 40A, Section 11 shall apply to the hearing. The Board may request the appearance at the hearing of such representatives of local boards or officials as it considers necessary or helpful in reviewing the application, or the Board may request comments, reports, or recommendations in writing from local boards or officials. The Board shall have the same power to issue permits or approvals as any local board or official who would otherwise act with respect to the application for a comprehensive permit, including but not limited to the power to attach conditions and requirements with respect to height, site plan, size or shape, or building materials as are consistent with the terms of MGL Chapter 40B, Section 21. In making its decision on the application, the Board shall take into account the recommendations of local boards or officials.

5.02 The Board shall render a decision, based on a majority vote of the Board, and shall file such decision in writing with the town clerk within forty (40) days after termination of the public hearing, unless such time is extended by written agreement of the Board and the applicant. Such extension shall be filed with the Town clerk. The hearing is deemed terminated when all public testimony has been received and all information requested by the Board has been received, including the reports of any outside consultants retained for review of the project, and the Board has voted, by majority vote, to close the hearing.

5.03 The Board may dispose of the application for a comprehensive permit 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 project or such housing uneconomic.

6.00 **Protection of Affordable Dwelling Units**

It is the intent of the Board to ensure to the maximum extent possible long term protection of affordable dwelling units created through a comprehensive permit. Dwelling units created and designated affordable shall be maintained as such and may not be converted, sold, or rented as market rate units during the time period established under the subsidy program, but in no case less than fifteen (15) years. The Board may negotiate longer periods of time, including perpetuity, with the applicant under such terms as may be agreed upon between the parties; and unless otherwise prohibited the Town of Andover shall be given opportunity to secure the affordable dwelling units prior to expiration of the subsidy program or the conversion of such units to market rate.

7.00 **Appeals**

7.01 If the Board approves the comprehensive permit, any person aggrieved may appeal the decision within the time period and to the court provided in MGL Chapter 40A, Section 17.

7.02 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 MGL Chapter 40B, Section 22.

8.00 **Effectiveness**

These rules are hereby adopted by the Andover Zoning Board of Appeals and made effective on July 21, 2000. The rules and any subsequent amendments made thereto shall be filed with the Andover Town Clerk.

Date: 7/21/2000

Daniel S. Casper
Daniel S. Casper, Esq., Chairman

Adopted by vote of the Board July 8, 2000



MEMORANDUM

TO: Daniel S. Casper, Chair
Kaija Gilmore, Inspector of Buildings

APPROVED
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FROM: Barbara Burke, Zoning Secretary

MAR 06 2003

DATE: February 25, 2003

ZONING BOARD
OF APPEALS

RE: FILING FEES FOR COMPREHENSIVE PERMITS

On July 8, 2000 the Board voted to approve the Andover Zoning Board of Appeals Comprehensive Permit Rules in which the fees for filing a comprehensive permit application are outlined. Subsequently, on March 1, 2001, the Board voted to amend the Andover Zoning Board of Appeals Fee Schedule, which also addresses the fees for filing a comprehensive permit. Due to an inconsistency between these two documents, it is necessary to further amend both of them so that they accurately represent the cost of filing such an application with the Board.

The following filing/processing, registry and advertising fees for the Zoning Board should be voted to be amended in both the Fee Schedule and the Comprehensive Permit Rules as indicated below to cover the full cost. Please recommend this for the Board's immediate action, preferably at the March 6, 2003 meeting, so that we may implement the changes as soon as possible.

FILING FEE:.....\$500.00 +
(a) \$50 / unit – limited dividend organizations
(b) \$25 / unit – non-profit organizations
(c) \$0 / unit – public agencies and local initiatives

ADVERTISING FEE:.....\$140.00

REGISTRY FILING FEE*: (for all ZBA decisions)

RECORDED LAND.....\$30.00*

REGISTERED LAND.....\$50.00*

(Price is for first 4 pages each additional page is \$1.00 payable by applicant)
* **Subject to change** to reflect fees as charged by the Registry at the time of recording.

(i) all plans shall be on sheets 24 inches by 36 inches (24"X36") in size, at a scale of one inch equals forty feet (1" =40'). Detailed areas may be at one-inch equals twenty feet (1" =20');

(j) applications shall be made on forms provided by or obtained from the Zoning Board of Appeals office;

(k) at least twelve (12) copies of all plans and documents required under this section shall accompany an application for a comprehensive permit;

3.02 The application shall be accompanied by an advertising fee in the amount of \$140.00, a Registry of Deeds recording fee* of either \$30 or \$50 (Registered Land) plus \$1 per additional page beyond 4 pages, and a filing fee of \$500 plus an additional fee based upon the number of proposed housing units of:

(a) \$50.00 per unit - for limited dividend organizations

(b) \$25.00 per unit - for non-profit organizations

(c) No per-unit fee - for public agencies and local

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MAR 06 2003

ZONING BOARD
OF APPEALS

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