RIVER STONE
Ward Street and Viking Lane, Hingham, MA
List of Waivers (Revised 4/17/18)
(Applicant Comments 5/16/18)

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	Applicant Response 5.16.18
Table of Use Regulations (Section III-A 1.4-1.1.7)	Prohibited Use in Residence B	Multi-Unit Dwellings	**Granted**	**OK**
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**	**#2 Agree that review procedures not applicable** **#3 Agree that review procedures not applicable** **#4 (c- Agree that Plan complies, d, g, h & i – disagree as uneconomic, and j – disagree to the extent materials inconsistent with 40B** **#6 & #7 - Agree**
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**	**Disagree; requirement makes project uneconomic**

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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) and less than 10 ft for other structures, including mechanized or motorized equipment that is placed or installed at a fixed location on the ground or at fixed location on a pad, platform or foundation that itself is on the ground which equipment is used to ventilate, heat or cool a building or structure and including retaining wall adjacent to Units 23-25.	**Denied except to the extent expressly waived by conditions**	**Disagree; requirement makes project uneconomic. Waiver has been updated.**
R.Y. Setback	Residence B: 20 (ft.)	5.6 ft. (Unit 9 - Units 1-9 all less than 20 ft. setback) and less than 10' for other structures as defined by the zoning bylaws.	**Denied except to the extent expressly waived by conditions**	**Disagree; requirement makes project uneconomic. Waiver has been updated**
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**	**Agree that Site Plan Review not required**

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018	Applicant Response 5.16.18
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.**	**Agree that Applicant not required to comply with this provision.**
IV-C.5. Density	No more than 1 dwelling per lot	32 dwellings per lot	**Waiver will be granted subject to final approved plans**	**Agree that waiver to be granted based on approved Plan with permissible conditions.**

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.**	**Agree that Special Permit Review not required**
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	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	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	No space below ground level for dwelling purposes	Finished Basement (optional)		

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018	Applicant Response 5.16.18
IV-E.1.m. Street and parking lot grading, surfacing shall comply with the the Subdivision Rules & Regulations	Hingham Planning Board Rules & Section 5 – Specifications for Required Improvements L1. Drainage and Stormwater (4) Min. 2-1/2 feet of cover (5) Gutter mouth stone shall be 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 (7) 24" total depth (8) 12" total depth J3 Roadway Foundation (1) 24" gravel base N3 Driveway Installations (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.**	**Agree that review under Subdivision Rules & Regulations not required; Applicant continues to request waiver from the provisions of which the Board has relied on for guidance in crafting its conditions.**

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018	Applicant Response 5.16.18
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. Photosentive cell.	**Pursuant to c. 40B regulations (760 CMR 56.05(7)) no waivers are required from special permits requirements of the Zoning By-Law.**	**Agree that review under Subdivision Rules & Regulations not required; Applicant continues to request waiver from the provisions of which the Board has relied on for guidance in crafting its conditions.**
IV-E. 2.	Special Permit A2/Site Plan			
IV-E. 4.	Special Permit A2 - N/A			
IV-E. 5.	Affordable Units – 10% affordable units for projects with more than 6 dwelling units	25% affordable units per MGL Ch. 40B		
Section V-A	Off-Street Parking Regulations Aisle Width 24 ft. for 90 degree	20 ft. for 90 degree	**Denied**	**Disagree; requirement makes project uneconomic**
Section V-C	Earth Removal Regulations Special Permit A2 - N/A		**No waiver required from special permits requirements; See condition re earth removal**	**Agree that review under Special Permit provisions not required; see conditions for any specific objections**

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	Applicant Response 5.16.18
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**	**Disagree; requirement makes project uneconomic**
13. Fees	3.2 Any Activity deemed by the Commission as likely to have a significant or cumulative adverse effect upon Resource Areas as defined herein; 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) 13.1 Application Fees: Local Bylaw Fees specified in Appendix A	Waiver of this requirement. Waiver of these requirements. Waiver of this requirement.	**3.2 and 3.3: Granted to the extent request applies to ZBA acting as Conservation Commission but otherwise denied.** **13.1 - Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state Wetlands Act**	**Disagree; the Applicant asks this requirement is waived under Board's authority for review by Board and later review by Conservation Commission.** **Applicant agrees that local fees not applicable.**

Criteria	Requirement	Proposed	ZBA REVIEW 5.3.2018	Applicant Response 5.16.18
Part II. Performance Standards for Resource Areas **19.1 Land Subject to Flooding (Bordering and Isolated Land Subject to Flooding and Vernal Pools)**	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 water once a year. The buffer zone for isolated land subject to flooding shall extend 100 feet from the highest extent of flooding.	Waiver of this requirement.	**c) Denied**	**Disagree; vernal pool has not been legally established and requirement makes project uneconomic**

	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)	Waiver of these requirements.	**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.**	**Disagree; requirement makes project uneconomic**
19.3. Bordering and Isolated Vegetated Wetlands (Wet Meadows, Marshes, Swamps and Bogs)	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)	Waiver of these requirements. Waiver of these requirements.		
22.0 Buffer Zone	d) Performance Standards (1) through (5)	New lawns within 3 feet of Bordering Vegetated Wetland (BVW) for Units 10-13, detention basin.		
23.3 Landscaping	No new lawns or driveways may be constructed within 50 feet of any Resource Area.			
Filling	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).	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.		
Structures	a. The intent of the Conservation Commission is to move all structures and activities as far away as possible from any Resource Area.	Waiver of this requirement.		

	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. 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).	Waiver of this requirement. 16 feet from Bordering Vegetated Wetland (BVW) (Units 10-13).	**See note above as to 23.7(b) and (c)**	**Disagree; requirement makes project uneconomic**
Appendix A – Filing Fee Schedule	Filing fee schedule - Fees under local Bylaw	Waiver of required fees.	**Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state Wetlands Act**	**Applicant agrees that local fees not applicable.**
Appendix B – Guide to Permitting under the Wetlands Protection Act and the Town of Hingham Wetlands Bylaw	Paying fees - Fees under local Bylaw	Waiver of required fees.	**Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state Wetlands Act**	**Applicant agrees that local fees not applicable.**

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	Applicant Response 5.16.18
Section 2: Regulated Activities	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	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.	**Partial waiver granted only to the extent of express conditions of Comprehensive Permit**	Disagree; requirement makes project uneconomic.
	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,	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**	Disagree; requirement makes project uneconomic
	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	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**	Disagree; requirement makes project uneconomic
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	Waiver of this requirement.	**Denied**	Disagree; requirement makes project uneconomic

Section 7B: Filing Fees	Fees under local Bylaw.	Waiver of required fees.	**Denied as not required**	Applicant agrees that local fees not applicable.
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 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.	Waiver of this requirement.	**Granted**	Agreed.

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	Applicant Response 5.16.18
IV. Application requirements	2. "..an application fee must be paid at the time of submission of the application.." 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..."	Waiver of required fees. Waiver of required fees.	**Denied as not required as all local fees included in 40B application fee; but no waiver of fees under state regulations**	Applicant agrees that local fees not applicable.
	8. "..project exceeds seven thousand five hundred (7500) gallons of sewage per day..." 9 "..All percolation test results and groundwater elevation observations shall be considered valid for 2 years.." 10.x "..any or all other data required by the Town or Hingham Board of Health..." 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 require additional testing.."	9,900 gallons of sewage per day. All percolation test results and groundwater elevation observations shall be considered valid for duration of the project. Waiver of this requirement. Waiver of this requirement.	**8. Denied** **9. Denied** **10. Denied** **11. Waiver granted as to Board of Health or Health Officer but denied to extent of conditions of Comprehensive Permit**	Disagree; requirement makes project uneconomic Disagree; requirement makes project uneconomic Disagree; requirement makes project uneconomic Agreed.

	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.."	Waiver of required fees.	**12. Waiver granted as to Board of Health but denied to extent of conditions of Comprehensive Permit**	Agreed that Board of Health Fees waived; remaining objections in conditions.
V. Permit Restrictions	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 Board.	Waiver of this requirement.	**Denied**	Disagree as inconsistent with 40B regulations.

VI. Design Requirements for Sewage Disposal Systems and Plants	3. "..shall be located no greater than 200 feet from the structure to be served by.."	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).	**3. Partial waiver granted only to the extent of express conditions of Comprehensive Permit**	**Disagree; requirement makes project uneconomic**
	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.."	Waiver of this requirement.	**5. Denied as not applicable to Project**	**Agree that Sewage Disposal System or Plant provision is not applicable.**
	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 of any private potable well or one hundred (100) feet of any private nonpotable well.."	Waiver of this requirement.	**6. Denied**	**Disagree; requirement makes project uneconomic**

VI. Design Requirements for Sewage Disposal Systems and Plants	7. No Leaching Facility shall be constructed within: a) Twenty-five (25) feet of any surface or subsurface Drain when the Drain elevation is higher than the proposed Leaching Facility. (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. (c) One hundred (100) feet of any surface or subsurface Drain which discharges into a Protected Water Body. (d) Two hundred fifty (250) feet of any surface or subsurface Drain which discharges into a surface Water Supply or tributary thereto. 8. ".. shall be designed to discharge more than 110 gallons of design flow per day per 12,500 sq. ft. in Lot area.." 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..."	Waiver of this requirement. Waiver of this requirement. Waiver of this requirement. Waiver of this requirement. 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. 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.	**7(a)(b)(c)(d) – Denied as no demonstration by Applicant that waiver required to permit the construction and operation of the Project** **8. Partial waiver granted only to the extent of express condition of Comprehensive Permit** **9. Denied as no demonstration by Applicant that waiver required to permit the construction and operation of the Project**	Disagree; requirement makes project uneconomic Disagree; requirement makes project uneconomic Disagree; requirement makes project uneconomic

VI. Design Requirements for Sewage Disposal Systems and Plants	10. ".. the area between the trenches shall not be used for part of the reserve area..." 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 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.."	As allowed in Title V: Area between trenches can be used for reserve area. 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.	**10. Granted** **11. Denied. Based on application submissions no waiver required to permit the construction and operation of the Project**	Agree. Agree that Applicant will meet Title V and that final plans will comply to the extent possible after final testing and design.
	14. " the bottom of the cellar floor must be at least 18" above the Maximum Groundwater Elevation..." 17. " the stone used in a leaching area shall not be less than 8 inches deep beneath the bottom of the distribution lines.." 18. Tees and Wyes will not be permitted in the leaching area. 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..."	Waiver of this requirement. As allowed in Title V: Stone 6 inches deep. As allowed in Title V: Tee and Wye connections permitted in leaching areas. New Sewage Disposal System or Plant to be operational prior to occupancy permits.	**14 & 17 - Denied as no demonstration by Applicant that waiver required to permit the construction and operation of the Project** **18. Granted** **22. Partial waiver granted only to the extent of express condition of Comprehensive Permit**	Disagree; requirement makes project uneconomic. Agree. Disagree to the extent objected to the Applicant's responses to conditions.

VII. Wastewater Treatment Plants	Entire Section	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).	**VII. Denied**	Disagree; requirement makes project uneconomic

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.**

Applicant Response: Agreed that local fees not applicable where Board exercising authority over such boards; Disagree to the extent fees applied inconsistently with 40B.

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.**

Applicant Response: Disagree to the extent denial is inconsistent with final plans.