

**LIST OF REQUESTED WAIVERS**  
**FROM APPLICABLE TOWN OF SOUTHBOROUGH BYLAWS AND REGULATIONS**  
***Comprehensive Permit – 120 Turnpike Road, Southborough***

**Property:** **120 Turnpike Road,  
Southborough, MA (Parcel ID  
M/B/L: 37-120-4-0)**

**Zoning Districts:** **Highway Business;  
Residence A**

**TOWN OF SOUTHBOROUGH ZONING BYLAWS**

	Regulation Reference	Regulation	Waiver Request and Justification for Granting Waiver
1.	§ 174-6, Applicability.	No land in any district shall hereafter be used or occupied and no building or structure shall hereafter be occupied, used or erected or the use of buildings and land altered except as set forth in the following Schedule of Use Regulations or as specifically regulated or provided otherwise under other sections hereof, provided that the accessory uses and buildings not enumerated in the schedule but necessarily or customarily incidental to a principal use, including the signs otherwise allowed, shall be deemed to fall into the same category as such principal use. Streets and easements for public services are a permitted use in all districts, except the Wetland and Floodplain Districts.	The Applicant seeks a waiver from this section as the proposed development will be in the Highway Business district, which does not allow multifamily dwellings. The purpose of M.G.L. ch. 40B is to allow the construction of multifamily dwellings where local zoning does not necessarily permit it.
2.	§ 174-8, Schedule of Use Regulations.		
	§ 174-8(A)	No building or structure shall be constructed and no building, structure or land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located or set forth as permissible by special permit in said district and so authorized.	The Applicant seeks a waiver from this section as the proposed development will be in the Highway Business district, which does not allow multifamily dwellings. The construction of multifamily dwellings is the purpose of M.G.L. ch. 40B.
	§ 174-8(B)	Further, no building shall be constructed and no building, structure or land or any part thereof shall be used and no lot shall be changed in size or shape unless in conformity with the dimensional regulations set forth for each district.	The Applicant seeks a waiver from this section as the proposed development intends to have zoning nonconformities. Zoning nonconformities are expected

			and are routinely accepted as the purpose of M.G.L. ch. 40B is to construct multifamily dwellings in areas where zoning typically would not allow. The proposed 40B building is nonconforming as to frontage and height, but there are other nonconformities throughout the site, which are more specifically detailed in the remainder of this waivers list.
3.	§ 174-8.5, BH Highway Business District.		
	§ 174-8.5(C) § 174-8.5(C)(10)	(C) Uses permitted by special permit are as follows: (10) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.	The Applicant seeks a waiver from this section because the proposed development includes the construction of two (2) ten-car parking garages to the southern and eastern sides of the proposed multifamily building. The additional twenty parking spaces are needed to ensure the proposed development has adequate parking for its tenants.
	§ 174-8.5(D)	Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.	The Applicant seeks a waiver from this section as multifamily dwelling use is not allowed in the Highway Business District. Zoning nonconformities are expected and are routinely accepted as the purpose of M.G.L. ch. 40B is to construct multifamily dwellings in areas where zoning typically would not allow.
	§ 174-8.5(E)	Development standards are as follows:	
	§ 174-8.5(E)(2)	Minimum frontage: 200 feet.	The Applicant seeks a waiver from this section to allow 0 feet of frontage for the 40B lot, shown on the site layout

			plan as Lot 4B. The Applicant cannot create Lot 4B with conforming frontage, without in turn creating nonconformities in Lot 4A. The Applicant will convey a driveway easement across Lot 4A to and from Route 9 / Turnpike Road.
	§ 174-8.5(E)(4)	Maximum height: 45 feet, three stories.	The Applicant seeks a waiver from this section to allow 66 feet / five stories. The Applicant has reduced the original proposed height of the 40B building from 6 stories to 5 stories after listening to abutter and Board of Appeals concerns. Applicant cannot further reduce the height of the proposed building without reducing unit count.
	§ 174-8.5(E)(6)	Residential dwellings. Residential dwellings in the Highway Business District must comply with RB District standards.	The Applicant seeks a waiver from this section as the proposed building cannot comply with RB District standards without compromising the unit count of the development and its economic viability. Zoning nonconformities are expected and are routinely accepted as the purpose of M.G.L. ch. 40B is to construct multifamily dwellings in areas where zoning typically would not allow.
4.	§ 174-10, Site Plan Approval.		
	§ 174-10(A)	The purpose of the site plan review procedure is to encourage a desirable and compatible character of development within the Town of Southborough and to assure safety, promote logic, imagination and innovation in the design process while	The Applicant seeks a waiver from this section to the extent the proposed development does not comply with all zoning requirements. To the extent possible, the Applicant

	<p>complying with all zoning requirements. The requirements of this section shall be applicable to the following:</p> <ol style="list-style-type: none"> <li>(1) Any nonresidential development that results in an increase in on-site parking.</li> <li>(2) All modifications to existing development projects which fall within the applicability of the Town's regulations for parking and loading (§ 174-12) or landscaping (§ 174-13).</li> <li>(3) Any change in use or reactivation of a facility that has not been in use for a period of two years.</li> <li>(4) Multifamily housing for the elderly.</li> <li>(5) Adaptive reuse of historic buildings.</li> </ol>	will aim to assure safety, promote logic, imagination, and innovation.
§ 174-10(D)(1)	<p>Site plan approval shall be granted by a majority vote upon determination by the Planning Board that the following are complied with. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment; shall provide adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Southborough Planning Board's Rules and Regulations for the Subdivision of Land; shall be so designed that for the given location, type and extent of land use, the design of building form, building location, egress points, grading and other elements of the development shall be so as to:</p> <ol style="list-style-type: none"> <li>(a) Minimize the volume of cut and fill, the number of removed trees six inches in caliper and larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion and the threat of air or water pollution.</li> <li>(b) Maximize pedestrian and vehicular safety and convenience within the site and egressing from it.</li> </ol>	The Applicant seeks a waiver from this section to the extent Planning Board approval is required. The Applicant further seeks a waiver from this section to the extent the proposed development is not consistent with the functional requirements of the Southborough Planning Board's Rules and Regulations for the Subdivision of Land. Under M.G.L. Chapter 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.

		<p>(c) Minimize obstruction of scenic views from publicly accessible locations.</p> <p>(d) Minimize visual intrusion by minimizing the visibility of parking, storage or other outdoor service areas viewed from public ways or premises residentially used or zoned; minimizing glare from headlights through plantings or other screening; minimizing lighting intrusion through use of such devices as cutoff luminaires confining direct rays to the site; fixture mounting height not higher than 20 feet; and avoiding unreasonable departure from the character of buildings in the vicinity.</p>	
5.	§ 174-11, Signs.		
	§ 174-11(C)(2)(d)	No sign may be illuminated between 10:00 p.m. and 6:00 a.m. except signs identifying police or fire stations or businesses open to serve the public on site.	The Applicant seeks a waiver from this section as the Applicant seeks to have the proposed development's sign remain illuminated daily after 10 P.M. The location of the sign related to the proposed development would not disturb any residential abutters and is required for residents, guests and first responders to find the property during dark evening and nighttime hours.
	§ 174-11(D)	<p>Standing sign regulations for signs in the Highway Business zoning district fronting Route 9:</p> <ul style="list-style-type: none"> <li>• Maximum Height: 25 feet</li> <li>• Maximum Area: 100 sq. ft.</li> </ul>	The Applicant seeks a waiver from this section to allow one standing sign up to 200 sq. ft. in area. The Applicant seeks to build on the existing standing sign, which is already at maximum zoning area.
	§ 174-11(E)(1)	The Board of Appeals shall consider requests for special permits in accordance with §§ 174-9, 174-11 and 174-25 of this Zoning Bylaw. The Board of Appeals may grant a special permit for a sign not meeting limitations of sign height, maximum number of signs allowed, illuminations of signs,	The Applicant seeks a waiver from this section to the extent a special permit is required for any proposed sign nonconformity. The purpose of M.G.L. ch. 40B is to allow zoning conformities for the

		maximum area of signs allowed and minimum setback; provided, however, that the sign is otherwise in compliance with the provisions of this section.	purposes of building affordable multifamily housing.
6.	§ 174-12, Parking and Loading Regulations.		
	§ 174-12(C)(2)	Parking. Each parking space shall be at least 9 1/2 feet wide and 18 feet long, exclusive of aisles and maneuvering space; for parking at right angles to a central aisle, the width of the aisle shall not be less than 22 feet, and an equal width shall be provided at each end of a row of parking spaces; for angle or herringbone parking at 45° or 60° and one-way circulation, the width of aisles shall be consistent with the dimensions recommended by the Institute of Transportation Engineers, provided that for parking facilities for more than five cars, the total area shall be not less than 300 square feet times the number of parking spaces. Unobstructed access to and from a street shall be provided and shall not require backing out into a street. Two or more nonresidential uses may share a combined facility, provided that its continued availability is assured and the total number of spaces equals or exceeds the number required by this section. The number of parking spaces required by the Architectural Barriers Board located nearest to and to both sides of the entrance of a building used by the public and/or by employees shall be reserved for the exclusive use of handicapped persons and shall be identified by appropriate signs at each parking space and by the wheelchair symbol painted within each such parking space. Up to 25% of parking spaces dedicated to use by employees or occupants and not by the general public and up to 15% of such spaces for use by customers, visitors or general public may be reduced to not less than 17 feet by eight feet and marked as being reserved for compact cars only.	The Applicant seeks a waiver from this section to allow parking spaces 9 feet wide and 18 feet long. 9-foot-wide parking spaces have been proven to be more than adequate for residential parking at multifamily buildings.
	§ 174-12(E)(1)	Dwellings: two spaces for each dwelling unit containing one or two bedrooms, three	The Applicant seeks a waiver from this section to allow a

		spaces for each dwelling unit containing three or more bedrooms, plus one space for each 80 square feet of floor area devoted to a customary home occupation or a professional use.	total of 102 parking spaces (1.7:1 space to unit ratio) where 144 spaces are required. A ratio of 1.5:1 has been widely recognized as sufficient space to unit ratio.
7.	§ 174-13, Landscaping.		
	§ 174-13(B)(10)	Plantings shall consist of at least one tree per 40 linear feet of planting area length, except one tree per 20 linear feet of street planting area abutting Route 9, and at least one shrub per three feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area and shall be located wholly within the lot.	The Applicant seeks a waiver from this section to allow for reduced number of trees and shrubs in lieu of the 40' tree spacing and 3' shrub spacing. The Applicant proposes landscaping in accordance with this section around the proposed 40B building on the graded slope to the north of the septic field, and around the graded area to the east and south of the septic field. To the extent there are other "planting areas" on Lot 4B, the Applicant seeks a waiver from this section.
	§ 174-13(B)(9)	A permanent water supply system, or other acceptable watering method, shall be provided for all planting areas. In order to protect the Town's water supply, and encourage sound landscaping practices, the Town of Southborough recommends sustainable watering systems, such as: rainwater recycling systems, automatic shut-off devices, drought-tolerant native plant material, and careful irrigation scheduling, among others.	The Applicant seeks a waiver from this section to the extent a permanent water supply is required. The Applicant shall use drought-resistant and sun-tolerant plantings to protect the Town's water supply.
	§ 174-13(D)	Side and rear line planting area. A landscape buffer strip a minimum of 10 feet in width shall abut all side and rear property lines.	The Applicant seeks a waiver from this section. The graded areas behind the private garages are followed by heavily vegetative areas and provide ample screening between the proposed development and abutting lots.
	§ 174-13(E)(2)	Required trees shall be located within or adjacent to parking lots as tree islands,	The Applicant seeks a waiver from this section to eliminate

		medians, and at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than 60 feet from a tree.	the requirement of tree planting within 60' of every parking space. The existing parking lot will remain without tree plantings every 60'. The Applicant is utilizing existing parking spaces to adhere to parking requirements and by implementing this section, the parking spaces may be diminished.
8.	§ 174-13.2, Major Residential Development.		
	§ 174-13.2(A)(1) § 174-13.2(A)(1)(a) § 174-13.2(A)(1)(b)	<p>Special permit option. Major residential development, that is, the creation of eight or more lots or construction of eight or more dwelling units within an eight-year period from or on a property or set of contiguous properties in common ownership as of January 1, 1986, is allowed either (at the applicant's option):</p> <p>(a) With a special permit from the Planning Board, as indicated in § 174-8, Schedule of Use Regulations, with applicants applying under this section required to concurrently file the application with the Southborough Housing Opportunity Partnership Committee (SHOPC); or</p> <p>(b) By right, commonly referred to as "conventional" development [and without the flexible development option available only with the special permit option in Subsection A(1)(a) above], provided that the plan conforms to the State Subdivision Control Law, to other applicable state and Town laws and regulations, to the recommendations of the Board of Health and to the Planning Board's regulations relative to the subdivision of land.</p>	The Applicant seeks a waiver from this section to the extent the proposed development is considered a Major Residential Development and requires any approval from the Planning Board. Under M.G.L. Chapter 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.

9.	§ 174-13.3, Lower Impact Development.		
	§ 174-13.3(C)(1) § 174-13.3(C)(2) § 174-13.3(C)(3)	<p>Applicability. This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Subsection <b>D</b> of this bylaw. After April 10, 2006, the Planning Board shall not approve any application for development or redevelopment if the land or parcels of land were held in common ownership (including ownership by related or jointly controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw. A LID special permit shall be required from the Planning Board for the following:</p> <ul style="list-style-type: none"> <li>(1) Any activity subject to major plan review (<b>§ 174-10</b>);</li> <li>(2) Any activity that will result in soil disturbance of one acre or more;</li> <li>(3) Any residential development or redevelopment of five or more acres of land proposed pursuant to the Subdivision Control Law, MGL c. 41, § 81K to 81GG, inclusive, or proposed under a special permit process pursuant to MGL c. 40A, § 9.</li> </ul>	<p>The Applicant seeks a waiver from this section to the extent the proposed development shown on the Plans is not in compliance with this section of the Zoning Bylaw, and to the extent such Lower Impact Development regulations are more restrictive than those prescribed in M.G.L. c. 40B §§ 21-23 and 760 CMR 56.00 and other applicable state and federal laws. Pursuant to M.G.L. c. 40B, the Applicant is not required to seek any local approvals except that of a comprehensive permit and, where applicable, an Order of Conditions. Nonetheless, the Applicant is adhering to the regulations of this section to the extent they are able to as this is a redevelopment development project.</p>

**TOWN OF SOUTHBOROUGH WETLANDS REGULATIONS – CHAPTER 170,  
WETLANDS PROTECTION, ADOPTED JANUARY 2, 2002, AS AMENDED, UPDATED  
OR REVISED**

	<b>Regulation Reference</b>	<b>Regulation</b>	<b>Waiver Request and Justification for Granting Waiver</b>
1.	Chapter 170, Wetlands Protection.*		
	§ 170-2, Jurisdiction.	Except as permitted by the Conservation Commission or as provided in this chapter, no person shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas or within 20 feet of their borders: any freshwater wetland, bordering vegetated wetland, marsh, wet meadow, bog or swamp, any bank, beach, lake, river, pond, stream or any land under said waters, any vernal pool, any land subject to flooding or inundation by groundwater, surface water or storm flowage (collectively, "the resource areas"). Any proposed work which falls within 100 feet (the "buffer zone") of the previously mentioned resource areas must be approved by the Conservation Commission.	The Applicant seeks a waiver from this section as the proposed development will disturb areas within 20 feet of the borders of resource areas. The Applicant is not able to move the proposed development to be outside the 20-foot buffer without incurring significant hardship and expense. Except for roof and swale discharges, no work is proposed in closer proximity than the existing development.

*\*Note: The Applicant has filed a Notice of Intent with the Town's Conservation Commission in relation to this project and intends in complying with the bylaws of Chapter 170, except for that of § 170-2, Jurisdiction.*

**SOUTHBOROUGH SUBDIVISION REGULATIONS – CHAPTER 244, SUBDIVISION  
OF LAND, ADOPTED AUGUST 18, 1986, AS UPDATED OR REVISED**

	Section Reference	Section	Waiver Request and Justification for Granting Waiver
	Chapter 244, Subdivision of Land.		
1.	§ 244-4, Jurisdiction.	No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement for sale of lots in a subdivision, or the construction of ways, or preparation therefor, or the installation of utilities and municipal services therein, unless and until a definitive plan of such subdivision has been submitted and approved by the Planning Board as hereinafter provided.	The Applicant seeks a waiver from this section to the extent approval is required by the Planning Board. Under M.G.L. Chapter 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.
2.	§ 244-6, Limit one dwelling on a lot.	Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lots in a subdivision, or elsewhere in the Town, without the consent of the Planning Board. Such consent may be conditional upon the provision of adequate ways furnishing access to each such building and adequate improvements in the same manner as otherwise required for lots within a subdivision.	The Applicant seeks a waiver from this section to the extent consent is required by the Planning Board. Under M.G.L. c. 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.
3.	§ 244-8, Access Agency.		
	§ 244-8(A)	General. Plans shall be endorsed as not requiring approval under the Subdivision Control Law and subdivision plans shall be approved only if each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, MGL c. 41, §§ 81K through 81GG.	The Applicant seeks a waiver from this section to the extent access to the proposed development is not adequate under the Subdivision Control Law, M.G.L. c. 41, §§ 81K through 81GG. Access to Lot 4B by way of easement to and from Route 9/Turnpike Road will be created prior to the occupancy of the proposed development.
	§ 244-8(C)	Obligations. The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the	The Applicant seeks a waiver from this section to the extent whichever applicable Board would require the Applicant to purchase a strip of land for

		<p>purpose of widening access ways to a width as required above, and that he either make physical improvements within such way or compensate the Town for the cost of such improvements in order to meet the standards specified above.</p>	<p>the purposes of widening access ways. There are no strips of land to purchase within the proposed area.</p>
4.	§ 244-9, Preliminary plan.		
	§ 244-9(A)(1)	<p>A preliminary plan of a subdivision may be submitted by the applicant and 10 prints of it shall be filed with the Planning Board and one print shall be filed with the Board of Health. The submission of such a preliminary plan will enable the subdivider, the Planning Board, the Board of Health, the Water Department, the Highway Department, the Police Department, the Fire Department, the Planning Board's engineer and other Town agencies and owners of property abutting the subdivision to discuss and clarify the details of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in each case. A properly executed application Form B (see Appendix B) shall be filed with the preliminary plans submitted to the Planning Board.</p>	<p>The Applicant seeks a waiver from this section to the extent they are required to file any plan(s) with the Planning Board and the Board of Health. Under M.G.L. c. 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances. The Applicant in good faith has filed a preliminary plan of subdivision with the Board of Appeals as part of the Applicant's 40B Site Plan application.</p> <p>Furthermore, the Applicant seeks a waiver from this section as the proposed location of the recirculating sand filter will be within 100 feet of a BVW to a Surface Water Supply, the Sudbury Reservoir. The Applicant states that the recirculating sand is already located within 100 feet of a BVW to a Surface Water Supply. It should be noted that the Massachusetts Department of Environmental Protection approved the existing location of the recirculating sand filter, a location within 100 feet of a BVW to a Surface Water Supply.</p>
	§ 244-9(A)(2)	<p>The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission to the Planning Board for such approval of a preliminary plan and accompanied by a copy of a properly executed application Form B.</p>	<p>The Applicant seeks a waiver from this section to the extent they are required to file any plan(s) with the Town Clerk as part of a submission to the Planning Board. Under M.G.L. Chapter 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.</p>

	§ 244-9(C)	Board action on preliminary plan. The Planning Board may disapprove the preliminary plan and state the specific reasons therefor, or may approve the preliminary plan, with or without modifications, and may suggest changes to be incorporated on the definitive plan, after a review of the plan and consultation with the Board of Health, Engineer to the Planning Board, and the Water, Highway, Fire and Police Departments of the Town. The approval of the preliminary plan does not constitute approval of the subdivision and does not entitle the plan to be recorded, but facilitates the preparation of a definitive plan meeting the Board's requirements. The Board shall, within 60 days of the submission, notify the applicant by certified mail and the Town Clerk in writing of its action relative to the preliminary plan. One copy of the preliminary plan shall be returned to the applicant with a notation of the Board's action.	The Applicant seeks a waiver from this section to the extent the Planning Board has any authority to disapprove the preliminary plan. Under M.G.L. Chapter 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.
5.	§ 244-10, Definitive plan.		
	§ 244-10(A)	General.	The Applicant seeks a waiver from this section to the extent a Definitive Plan is required. The ZBA and the Applicant will work together to ensure a plan identifying the final boundary lines of the proposed lots is recorded with the Worcester County Registry of Deeds. To the extent that the final approved plan of subdivision is <u>not</u> a Definitive Plan, the Applicant seeks a waiver from this section. Furthermore, the Applicant seeks a waiver from this section to the extent a Definitive Plan requires any Board's approval, other than the Zoning Board of Appeals.
7.	§ 244-14, Open space.	Before approval of a plan, the Planning Board may require either of the following:	
	§ 244-14(A)	The plan to show a park or parks, suitably located in the Board's opinion for playground or recreation purposes or to	The Applicant seeks a waiver from this section to the extent any approval is required from the Planning Board as to

	<p>provide light and air. The Planning Board may require by appropriate endorsement on the plan that no building be erected upon such park or parks without its approval for a period of three years. Each area reserved for such purposes shall be of suitable size, dimension, topography and natural character. The Board may require that the areas so reserved shall be located so as to be used in conjunction with similar areas of adjoining or potential subdivisions and to serve adequately all parts of the subdivision, as approved by the Planning Board. Unless otherwise specified by the Board, the total area to be reserved for park and playground purposes shall be not less than 10% of the gross area of the subdivision. The land so reserved shall not be a wetland and shall not be stripped or altered, except as may be approved by the Board to ensure suitability for the purposes intended.</p>	<p>the Dog Park and Playground depicted on the Preliminary Plan. Under M.G.L. Chapter 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances. Furthermore, sheet D4 of the site plans cites 17.6% as areas reserved for the purposes of park and playground, and therefore does not require a waiver as to the latter portion of this section.</p>
§ 244-14(B)	<p>Certain portions of each lot, collectively equal to no less than 10% of the gross area of the subdivision, shall be set aside under covenant, not to be developed and to remain as open space in its natural state in perpetuity.</p>	<p>The Applicant seeks a waiver from this section to the extent 10% of the gross area of the proposed development is not set aside to remain open space in perpetuity. The proposed development will have a dedicated dog park and playground, and also abuts a small pond and the Breakneck Hill Conservation Land.</p>
8. § 244-16, Drainage.		
§ 244-16(A)	<p>Lot drainage. Lots shall be prepared and graded in such a manner in accordance with the approved topographic plans that the development of one lot shall not interfere with the proper drainage of other lots and will not cause ponding or flooding. Earthwork and paving shall be kept to a minimum in order to preserve the natural precipitation retention capacity of the soil and reduce impervious areas. If provision is necessary to carry drainage to or across a lot, an easement of at least 30 feet and proper side slope shall be</p>	<p>The Applicant seeks a waiver from this section to the extent the proposed development drainage and grading interferes with the proper drainage of the surrounding lots. The grading of the proposed development shall not exceed 4% and to the extent that interferes with surround lots, the Applicant seeks a waiver from this provision. If the drainage and grading of the proposed development were to interfere with any lot, it would most likely be "Proposed Lot 4A", which the Applicant will own</p>

	<p>provided. The applicant shall furnish evidence that adequate provision has been made for the proper drainage of surface and underground waters from such lot or lots.</p>	<p>and maintain. Furthermore, the Applicant is not significantly changing drainage patterns on site.</p> <p>An operation and maintenance plan will be filed with the Applicant's stormwater report checklist, which is filed with the Conservation Commission.</p>

**SOUTHBOROUGH STORMWATER AND EROSION CONTROL REGULATIONS –**  
**CHAPTER 154, ADOPTED MARCH 25, 2023**

	Section Reference	Section	Waiver Request and Justification for Granting Waiver
1.	§ 154-3, Applicability.	<p>This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to § 154-4 of this bylaw. After April 10, 2006, the Commission shall not approve any application for development or redevelopment if the land or parcels of land were held in common ownership (including ownership by related or jointly controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw.</p>	<p>Applicant seeks a waiver from this section to the extent the proposed development shown on the Plans is not in compliance with the Zoning Bylaw and to the extent such Stormwater and Erosion Control regulations are more restrictive than those prescribed in M.G.L. c. 40B §§ 21-23 and 760 CMR 56.00 and other applicable state and federal laws including, without limitation, those prescribed by the Massachusetts Department of Environmental Protection and The Massachusetts Stormwater Management Handbook.</p>

**TOWN OF SOUTHBOROUGH COMPREHENSIVE PERMIT REGULATIONS AND  
GUIDELINES**

	Section Reference	Section	Waiver Request and Justification for Granting Waiver
1.	§4.0 Filing, Time Limits and Notice.		
	§4.1.2	A complete financial pro forma, detailing the projected costs and revenues of the proposed project shall be submitted.	<p>The Applicant seeks a waiver from this section as 760 CMR 56.05(6), “Review of Financial Statements” requires:</p> <p>(a) A Board may request to review the pro forma or other financial statements for a Project only after the following preconditions have been met:</p> <ol style="list-style-type: none"> <li>1. <i>other consultant review has been completed;</i></li> <li>2. <i>the Applicant has had an opportunity to modify its original proposal to address issues raised;</i></li> <li>3. <i>the Board has had an opportunity to propose conditions to mitigate the Project’s impacts and to consider requested Waivers; and</i></li> <li>4. <i>the Applicant has indicated that it does not agree to the proposed condition(s) or Waiver denial(s) because they would render the Project uneconomic. A Board may not conduct review of a pro forma in order to see whether a Project would still be economic if the number of dwelling units were reduced, unless such reduction is justified by a valid health, safety, environmental, design, open space, planning, or</i></li> </ol>

		<p><i>other local concern that directly results from the size of a project on a particular site, consistent with 760 CMR 56.07(3).</i></p> <p>The Applicant and the proposed Development and Application is not subject to the financial pro-forma requirement under the Town's Comprehensive Permit Regulations and Guidelines because the prescribed pre-conditions have not yet been met. In addition, the Applicant already has prepared and shared with MassHousing and the Town financial pro formas regarding the project.</p>
	§4.1.3.13	<p>Plan shall show location and results of soil, percolation and water table tests using the Department of Environmental Protection Soil Evaluation procedures under Title V.</p>
		<p>The Applicant seeks a waiver from this section as the proposed wastewater treatment facility and associated leach field will be reviewed and approved by the Board of Health and Board of Appeals pursuant to the Massachusetts Ground Water Discharge Permitting Program pursuant to 314 CMR 5.00 <i>et seq.</i> The Applicant has excavated and logged deep test holes in the areas proposed for infiltration.</p>

**TOWN OF SOUTHBOROUGH CHARTER, GENERAL BY-LAWS**

	<b>Section Reference</b>	<b>Section</b>	<b>Waiver Request and Justification for Granting Waiver</b>
1.	Charter and General Bylaws.	Any and all provisions contained in the Town of Southborough Charter and General Bylaws which are more restrictive than state requirements which are in effect as of the date hereof and which are no consistent with the development of housing to meet the local and regional Housing Need in the Town of Southborough and MetroWest.	Applicant seeks a waiver from all sections of the Charter and Geneal Bylaws to the extent the specific and applicable requirements of these provisions, including, without limitation, any regulations and requirements which are more restrictive than state Building, Public Health and Fire Code requirements and/or from any conditions which may be imposed on the proposed development which require utility, water, wastewater connection fees and inflow and infiltration (I&I) fees which are not required by local bylaw or written regulation and which are not charged, in the normal course, to market rate and non-subsidized housing and to generally allow the proposed Multi-family Development as shown on the Plans submitted herewith as may be amended and superseded.

*The requested waivers set forth herein are those of which the Applicant is aware as of **September 20, 2024**. The Applicant will continue to update this list if necessary during the Board's consideration of the application.*