



# Brewster Zoning Board of Appeals

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Z.B.A. CASE FILE # \_\_\_\_\_

## APPLICATION FOR COMPREHENSIVE PERMIT (made pursuant to M.G.L. CHAPTER 40B, SECTIONS 20-23 and C.M.R 56

**PLEASE NOTE:** this application is not complete until all information indicated is provided. The Town Clerk is directed to refuse to accept this petition until this information is submitted: **Please submit twenty-five (25) copies of this completed application form and of all accompanying plans, documents listed in attached rules together with a check made payable to the Town of Brewster in an amount to equal \$1000.00 Application filing fee/ 3.02 (page 6) AND Consultant/Technical Review fee of \$5000.00 plus \$200.00 per unit according to 3.0.2 and 4.0 (page 6).** Please indicate on each supplemental page the project name, project owner, and Assessors' Map & Lot numbers, for identification purposes. The ZBA reserves the right to assess additional fees to be held in escrow as deemed necessary to cover the cost of professional reviews by other specialists such as attorneys, consultants, engineers, etc. Refer to the Rules attached for a complete listing of required submittals.

### 1. NAME OF APPLICANT/OWNER \_\_\_\_\_

Applicant **must** be the owner of record of the property or must provide written authorization, signed by the owner of the property, that applicant is working as an agent on behalf of the owner.

2. STATUS OF APPLICANT : Public Agency \_\_\_\_\_; Non-Profit Organization \_\_\_\_\_; Ltd. Dividend Org. \_\_\_\_\_  
(Attach documentary evidence of status)

### 3. MAILING ADDRESS \_\_\_\_\_

### 4. TELEPHONE NUMBER \_\_\_\_\_

### 5. APPLICANT'S ATTORNEY \_\_\_\_\_

(name, address, and phone number)

### 6. LOCATION OF PROPERTY \_\_\_\_\_

### 7. ASSESSORS' MAP AND LOT NUMBER \_\_\_\_\_



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**THE ACCURACY AND AUTHENTICITY OF ALL SUBMISSION DOCUMENTS ARE THE SOLE RESPONSIBILITY OF THE APPLICANT. If information changes or revisions are made to this proposal or any of the supporting documentation, it shall be the responsibility of the applicant to provide updated and/or revised information and indicate clearly to which portion of the submission documents the information refers or replaces.**

**This application for a Comprehensive Permit to build/rehabilitate low- or moderate-income housing is made subject to the provisions of MGL Chapter 40B, Sections 20-23 and 760 CMR 30.00 & 31.00 and any subsequent updates or revisions thereto.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed or typed Name of Applicant

\_\_\_\_\_  
Authorized Signature

# Comprehensive Permit Rules of the Zoning Board of Appeals Brewster, Massachusetts

## Section Guide

- 1.00 Purpose and Context
- 2.00 Definitions
- 3.00 Filing, Time Limits, Fees and Notice
- 4.00 Review of Applications and Review Fee
- 5.00 Public Hearing and Decision
- 6.00 Appeals
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### 1.00: **Purpose and Context**

These Rules establish procedures for applications to the board of appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), G.L. c. 40B, ss. 20-23. They are required by G.L. c. 40B, s. 21 and by 760 CMR 31.02. The purpose of these rules is to facilitate the development of affordable housing in the Town of Brewster.

The Board's general Rules for conduct of hearings under G.L. c. 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 zoning board of appeals established under G.L. c. 40A, s. 12.

(b) *Local board* is defined as any local board or official, including, but not limited to the board of health, planning board, conservation commission, historical commission, water, sewer or other commission or district, fire department, police department, building inspector, board of selectmen, and the Cape Cod Commission.

### 3.00: **Filing, Time Limits, Fees and Notice**

3.01: The application for a comprehensive permit shall consist of:

a) A report on existing site 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, wetlands and other resource areas and buffers, delineation of any conservancy soils, natural plant or wildlife habitats or corridors, historical or archeological resources, if any, in the neighborhood; characterize the impact on the neighborhood of the project and the mitigation measures that would be employed. This submission may be combined with that required in section 3.01(q).

(b) Preliminary site development plans showing the locations and outlines of proposed buildings, including floor plans; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas and exterior lighting; and proposed landscaping improvements 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;

(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; and including exterior signage;

(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 tract to be occupied by buildings, by parking and other paved vehicular areas, 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, including, but not limited to, a Local Initiative proposal eligible for a comprehensive permit pursuant to 760 CMR 45.04; and

(iii) The applicant shall control the site and shall provide written notice of any statutory restriction, right of first refusal or other encumbrances, and the status of such restriction or encumbrance, including evidence that the developer has control of the property in question, a copy of the deed, purchase and sale agreement, option agreement, or similar legal documentation;

(h) A list of requested exemptions or exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations and a written explanation of why, but for the failure to grant the requested waiver, the proposed project would be rendered uneconomic.

(i) A copy of the Assessor's map highlighting the parcel(s) to be developed;

(j) A list, certified by the Town Assessor, of the names and mailing addresses as they appear on the most recent applicable tax list of the following:

Abutters

Owners of land directly opposite on any public or private way or street  
Abutters to the abutters within three hundred feet (300') of the property line of the  
development location

(k) Proof of filing of a Project Notification form with the Massachusetts Historical Commission for the site;

(l) Proof of filing of a Rare Species Information Form with the Massachusetts Natural Heritage and  
Endangered Species Program for the site; (MESA, MGL 131A, 321 CMR 10.00)

(m) A pro forma detailing anticipated expenses and revenues of the project, documenting site acquisition  
costs, and setting forth the applicant's proposed profit limitation. The pro forma is considered an essential  
component of the applicant's submission; may be requested by the Board.

(n) A Project Eligibility letter issued by a qualified and approved subsidy agent or agency.

(o) Appropriate attention to impact on town services, including fire, police, and schools.

(p) Developer qualifications: *Credentials*—Developers may be required to submit information outlining the  
credentials and background of the principal members of the development team and the formal business  
relationship between each member. All affiliated companies and businesses must be identified and described.  
*Experience*—A list of recent projects with which the developer has been involved and to what extent must  
accompany an application;

(q) Project impacts: *Impacts*—on traffic (on-site circulation, entrances and exits, signage [if any], trip  
generation data, sight and stopping distances, average traffic volumes and speed, intersection turning data,  
existing and proposed levels of service); on historical, archeological, open space, plant and wildlife habitats or  
corridors, on recreational resources; on municipal services including public safety, water supply, sewage  
treatment, roads, school enrollment; construction impacts such as noise, dust, erosion/siltation, waste (solid  
and liquid) and any potential releases;

(r) List accompanying plans and documents submitted as part of application for the record: (Identify each  
such plan and document by its title)

3.02: The application shall be accompanied by a filing fee of one thousand dollars **(\$1000.00)**

3.03: Within seven days of filing of the application, the Board shall notify each local board of the application by  
sending such board a copy of the list required by s. 3.01(h), above. Based upon that list, it shall also, within  
the same seven days, invite the participation of each local official who has a substantial interest in the  
application by providing such official with a copy of the entire application. In order to allow review by local  
officials, the Applicant shall provide the Town Clerk with twenty-five (25) copies of the complete application so  
that it may be properly distributed to all relevant town boards, departments, agencies and officials.

#### 4.00: **Review Fees**

4.01 Technical Review Fees to be included with the Application. The application  
shall be accompanied by a **consultant/technical review fee** to assist the Board in the review of the  
comprehensive permit to determine the projects potential impacts, on the Town and acquire the applicable  
professional internal or external assistance required to perform the work related to the comprehensive permit  
application.

The Board may alone, by majority vote, require that the applicant pay a reasonable project review fee of a sufficient sum to enable the Board to retain consultants chosen by the Board alone.

The initial escrow deposit amount required to be included with the Comprehensive Permit Application shall be:

- 1. \$5,000 for each Comprehensive Permit submitted to the ZBA, plus**
- 2. \$200 for each unit**

Whenever the account falls below 50% of the requirement set by the Board, the applicant shall deposit an additional amount sufficient to return the account to the required level. Any unexpended monies in the escrow account shall be returned to the applicant only after all obligations are satisfied. Failure to fulfill escrow requirements shall constitute an incomplete application and be considered sufficient grounds for denial of said application.

4.02 In hiring outside consultants, the Board may engage architects, engineers, lawyers, financial analysts, planners, scientists, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.

4.03 Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for continuance or denial of the comprehensive permit application.

4.04: Upon receipt of the final occupancy permit, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

4.05: Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. 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 either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within thirty (30) days following the filing of the appeal, the selection made by the Board shall stand.

## **5.00: Public Hearing and Decision**

5.01: The Board shall hold a public hearing on the application within thirty (30) days of its receipt. It may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.

5.01.1. The Board shall not waive local codes, ordinances, by-laws or regulations of the Town of Brewster accepted by the Massachusetts Department of Environmental Protection designed or intended for the protection of public water supplies, pursuant to 310 CMR 22.00. unless appropriate mitigating safeguards are provided.

5.01.2. The Board may look to the goals, policies, minimum performance standards and other development review policies of the Cape Cod Regional Policy Plan (RPP) as a frame of reference in reviewing comprehensive permit applications and may base comprehensive permit decisions on the application's consistency with the RPP goals, polices and minimum performance standards.

5.01.3. The Board may not have authority to countermand the reasonable application of Massachusetts regulations regarding fire safety or access of emergency vehicles to sites where safety officials determine that special measures are necessary under 527 CMR 10.03.

5.01.4. Boards with State Law Jurisdiction ( Conservation Commission and Board of Health) have separate jurisdictions which are not subsumed within the comprehensive permit process. They should conduct separate hearings relating to state requirements in their areas (as in 5.01.1 above). However, local bylaws or regulations enforced by these boards that are more restrictive than state requirements may be waived by the ZBA if requested by the applicant and if waiver is consistent with local needs.

5.02: The Board shall render a decision, based on a majority vote of the Board, within forty days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing shall not be terminated until all public testimony has been received and all information requested by the Board has been received.

5.03: The Board may dispose of the application 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, including but not limited to:
  - (i) imposition of conditions that affect the height, site plan, density, or size of structures proposed, including any reasonable conditions designed to mitigate likely impacts upon public health and safety, if such conditions are required to protect public health or safety of the residents of the proposed dwelling units or residents of the Town of Brewster;
  - (ii) imposition of conditions that would result in a permit consistent with the Cape Cod Commission Regional Policy Plan or the Town of Brewster Comprehensive Plan

provided that the conditions imposed do not render the construction or operation of such housing uneconomic, as is determined by an analysis of a valid pro forma (see Section 3.01(l), above).

## 6.00: **Appeals**

6.01: If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in G.L. c. 40A, s. 17.

6.02: If the Board denies the comprehensive permit or approves the permit with conditions or requirements considered by the applicant to be unacceptable, the applicant may appeal to the Housing Appeals Committee as provided in G.L. c. 40B, s. 22.