

**Elm Street Apartments – List of Requested Waivers (See CMR 56.05(2)(h))**

<b><u>Article/Section</u></b>	<b><u>Subject</u></b>	<b><u>Requirement</u></b>	<b><u>Waiver Requested/Applicability</u></b>
<b><u>North Reading Zoning Bylaw (Bylaws of the Town of North Reading, Chapter 200)</u></b>			
Art. III, § 200-5	Interpretation of Bylaw	“The provisions of this Zoning Bylaw shall be interpreted to establish minimum standards adopted for the promotion of the purposes enumerated in § 200-2 of this Zoning Bylaw and shall supersede all prior Zoning Bylaws of the Town of North Reading. The provisions of this Zoning Bylaw are not intended to amend, abrogate, annul, repeal or in any way impair or interfere with any lawfully adopted bylaw, rules or regulations. Whenever the provisions of this Zoning Bylaw differ from those prescribed by any conflicting statute, bylaw or other regulation of any governmental authority, that provision which imposes the greater restriction or the higher standard shall govern.”	The applicant seeks to construct a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places) pursuant to M.G.L. c. 40B and the regulations thereunder. A waiver is sought for this section in its entirety to the extent it conflicts with M.G.L. c. 40B and said regulations.
Art. III, § 200-6	Application of Bylaw	“Except as hereinafter provided, the provisions of this Zoning Bylaw shall apply to the erection, construction, reconstruction, relocation, alteration and use of buildings, structures, land, wetlands and bodies of water. It shall further apply to any change or substantial extension of such use or structure and to building and special permits.”	The applicant seeks to construct a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places) pursuant to M.G.L. c. 40B and the regulations thereunder. A waiver is sought for this section in its entirety to the extent it conflicts with M.G.L. c. 40B and said regulations.

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Art. III, § 200-7	Mixed Uses	“In case of mixed uses, the regulation for each use shall apply to the portion of the building or land so used. Where mixed uses of the same space exist, the more restrictive regulations shall apply.”	A waiver is sought for this section in its entirety to allow the construction of a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places) pursuant to M.G.L. c. 40B and the regulations thereunder.
Art. IV, §§ 200-8 to 200-15	Nonconforming Uses, Structures, & Lots	General requirements pertaining to the continuation, extension, alteration, change, and/or reconstruction of nonconforming structures, uses, or lots.	A waiver is sought for these sections in their entirety to the extent they would require a separate finding and/or special permit to continue, extend, alter, change, and/or reconstruct any pre-existing, nonconformity with respect to the property, any structure thereon, and/or any use thereof. To the extent the applicant’s proposal includes any such continuation, extension, alteration, change, and/or reconstruction, approval for same will be sought as part of the applicant’s overall 40B application.
Art. IV, § 200-15	Parking & Loading	“Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.”	A waiver is sought for this section in its entirety to allow for the provision of off-street parking and loading for all primary and accessory uses per the applicant’s parking plan filed herewith.
Art. V, §§ 200-16 to 200-22	Administration & Enforcement	General requirements pertaining to the administration and enforcement of the Bylaw	A waiver is sought for these sections in their entirety to solely if and to the extent that they conflict with M.G.L. c. 40B and the regulations thereunder. In the event of a conflict between the requirements of these sections and M.G.L. c. 40B and the regulations thereunder, the latter shall control.

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Art. VI, §§ 200-23 & 200-26	General Provisions & Appeals	General procedural requirements pertaining to hearings before the North Reading Zoning Board of Appeals and appeals therefrom	A waiver is sought for these sections in their entirety to solely if and to the extent that they conflict with M.G.L. c. 40B and the regulations thereunder. In the event of a conflict between the requirements of these sections and M.G.L. c. 40B and the regulations thereunder, the latter shall control.
Art. VII, §§ 200-29 & 200-30	Designation of Districts	Establishes the location of the various zoning districts, including the Residence A (RA) zoning district.	The applicant seeks to construct a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places), which is not a permitted use in the RA zoning district. A waiver of the requirements of these sections (as well as the relevant dimensional requirements of that district) is thus sought to allow the project pursuant to M.G.L. c. 40B and the regulations thereunder.
Art. VIII, §§ 200-32 & 200-33	Applicability of Use Regulations	<p>“Except as otherwise provided in this Zoning Bylaw, no building, structure or land shall be used for a purpose other than one permitted in the district as prescribed in this article. Any use not permitted by this article shall be construed to be prohibited.”</p> <p>“Uses designated ‘-’ shall not be permitted in the district.”</p>	The applicant seeks to construct a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places), which is not a permitted use in the RA zoning district. A waiver of the requirements of these sections (as well as the relevant dimensional requirements of that district) is thus sought to allow the project pursuant to M.G.L. c. 40B and the regulations thereunder.

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Art. VIII, § 200-35	Table of Principal Use Regulations	Designation of permitted principal uses in all zoning districts.  “Multi-family dwelling containing four (4) or more dwelling units” is not a permitted use in the RA zoning district.	The applicant seeks to construct a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places), which is not a permitted use in the RA zoning district. A waiver of the requirements of these sections (as well as the relevant dimensional requirements of that district) is thus sought to allow the project pursuant to M.G.L. c. 40B and the regulations thereunder.
Art. VIII, § 200-36	Table of Accessory Use Regulations	Regulation of accessory uses in all zoning districts.	A waiver is sought for this section in its entirety to allow the construction of a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places) pursuant to M.G.L. c. 40B and the regulations thereunder.
Art. VIII, § 200-37	Limitation on Grant of Permits	“No permit granting authority, special permit granting authority or other licensing authority shall grant a permit or license for a use of a building, structure or land which use would be in violation of this Zoning Bylaw.”	The applicant seeks to construct a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places), which is not a permitted use in the RA zoning district. A waiver of the requirements of these sections (as well as the relevant dimensional requirements of that district) is thus sought to allow the project pursuant to M.G.L. c. 40B and the regulations thereunder.

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Art. IX, § 200-41	Removal, Processing, & Treating of Raw Materials	Special Permit required for removal, processing, & treating of raw materials, including “sand, earth, gravel or other raw materials”.	A waiver is sought for this section to the extent that it would require a Special Permit (subject to local regulations and/or performance standards) to authorize such removal, processing, and/or treating of raw materials as is required for the construction of the proposed project. Instead, all such work will be authorized as part of the M.G.L. c. 40B Comprehensive Permit for this project.
Art. IX, § 200-44	Floodplain District	Requirements for the Floodplain overlay zoning district	A waiver is sought for this section in its entirety to the extent that it would apply additional local requirements to the project site or any portion thereof (including, without limitation, the need to obtain Special Permits and/or comply with local regulations and/or performance standards) that differ from those state and federal requirements as may be applicable to the project. Instead, all work will be permitted pursuant to M.G.L. c. 40B and the regulations thereunder, as well as all state and federal flood zone protections as may be applicable to the project site and any portion thereof.

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Art. XII, § 200-61	Dimensional and Density Regulations	<p>Density and dimensional requirements applicable in the RA zoning district (all uses):</p> <p>Minimum Lot Area: 40,000 sq. ft.                      Minimum Frontage: 160 ft.                      Minimum Front Yard: 40 ft.                      Minimum Side Yard: 25 ft.                      Minimum Rear Yard: 50 ft.                      Maximum Height: 35 ft.                      Maximum No. of Stories: 2.5                      Maximum Building Area: 20%                      Minimum Open Space: 60%</p>	<p>Waiver requested for this section to allow the construction of a 200-unit multifamily residential development in 5 40-unit buildings with accessory uses (including swimming pool complex, management office, mail room, common recreational areas, gym/fitness center, accessory service building(s)/structure(s), and/or common gathering places) with the following dimensions:</p> <p>Lot Area: 828,000 +/- sq. ft. (no waiver)                      Frontage: 79.97 ft. (see § 200-67)                      Front Yard: 449.9 ft. (no waiver)                      Side Yard: 49.5 ft. (no waiver)                      Rear Yard: 44.06 ft.                      Maximum Height: 57.3 ft. (see § 200-65(E))                      Maximum No. of Stories: 5                      Building Area: 7.5% (no waiver)                      Open Space: 74% (no waiver)</p>
Art. XII, § 200-63	Accessory Structures	<p>“In residential, industrial and business districts a detached accessory structure shall conform to the following provisions: it shall not occupy more than twenty-five (25) percent of the required rear yard; it shall not be less than twenty (20) feet from the front street line or less than ten (10) feet from any other lot line; and it shall not exceed twenty (20) feet in height.”</p>	<p>Waiver sought for this section to allow the swimming pool complex, as shown on the project plans, as well as the accessory wastewater treatment building (which has a minimum setback of 22.11 feet to a side lot line and a maximum height in excess of 20 feet) as shown on the project plans.</p>
Art. XII, § 200-64	Screening & Buffers	<p>Screening and buffer requirements</p>	<p>Waiver sought for this section in its entirety. Instead, all screening and buffering, as shown on the project plans submitted herewith, will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.</p>

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Art. XII, § 200-65(A)	Distance Between Buildings	“The minimum distance between principal buildings shall be twice the minimum side yard or side setback required in the district but no less than the sum of the heights of the buildings.”	Waiver sought for this section in its entirety to allow a minimum distance between principal buildings of 45.63 feet (between Buildings 4 & 5). Instead, the location of all principal buildings, as shown on the project plans submitted herewith, will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.
Art. XII, § 200-65(D)	Projections Into Yards	Requirements for projections into required yard setbacks.	Waiver sought for this section in its entirety to allow such balconies/terraces and roof eaves as are located within required side yard setbacks, as shown on the project plans submitted herewith. Instead, the location of all projections will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.
Art. XII, § 200-65(G)	Fences, Hedges, & Walls	“Yard and setback requirements shall not apply to fences, hedges or walls not over seven (7) feet high measured from finished grade.”	Waiver sought for this section in its entirety to allow such fences, hedges, and walls over 7 feet high as are located within required setbacks, as shown on the project plans submitted herewith. Instead, the location of all such structures will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.
Art. XII, § 200-65(I)	Swimming Pools	“Any swimming pool or enclosure for animals shall be at least ten (10) feet from any lot line.”	Although none of the three swimming pools is within 10 feet of any lot line, a waiver is sought for this section in its entirety to allow the swimming pool complex/enclosure, as shown on the project plans submitted herewith. The location of said complex will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.

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Art. XII, § 200-67	Limited Frontage Lot	<p>Procedural requirements for obtaining permission to build on a “limited frontage lot” and performance standards applicable to such lots, including:</p> <p>(G) “The setback requirements for a principal use on a limited frontage lot for each residential district shall be the same as those set forth in the Table of Dimensional and Density Regulations of this Zoning Bylaw except that in no case shall a dwelling be located closer to any lot line than the minimum setback required for that district.”</p> <p>(H) “The setback requirements for an accessory use on a limited frontage lot . . . shall be the same as those set forth in this article of this Zoning Bylaw except that in no case shall any accessory use be located closer to any lot line than the minimum setback required for that district.”</p> <p>(J) Maximum driveway length of 1,000 feet. Driveways of greater length require a Special Permit.</p>	<p>The applicant seeks, as part of the Comprehensive Permit for this project, permission to develop the project site as a limited frontage lot in accordance with most of the regulations and performance standards in this section. The applicant requests a waiver from this section to the extent that it contemplates a separate application or request to obtain such permission.</p> <p>The only waiver requested from said regulations and performance standards are the setback requirements set forth in § 200-67(G) (principal use and dwelling setbacks), § 200-67(H) (accessory use setbacks), and § 200-67(J) (maximum driveway length). The applicant requests waivers from these provisions to permit the buildings and driveway, as shown on the project plans submitted herewith, in accordance with M.G.L. c. 40B and the regulations thereunder.</p>



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Art. XIII, §§ 200-68 to 200-75	Parking and Loading Requirements	<p>Requirements for minimum off-street parking spaces and loading spaces, including:</p> <p>Multi-family Dwelling: 2 parking spaces per unit</p> <p>Community Facility (i.e., swimming pool): 1 parking space per 400 square feet of gross floor space (as determined by the Zoning Board of Appeals), plus 1 loading zone per 20,000 square feet of gross floor space (as determined by the Zoning Board of Appeals).</p> <p>Other (i.e., other accessory uses): As determined by the Zoning Board of Appeals</p> <p>Mixed use: 1 space per 600 ft. of gross floor area in addition to parking spaces required for each individual use (as determined by the Zoning Board of Appeals).</p>	<p>The project will provide 311 total parking spaces in building garages and surface parking (1.56 spaces per unit). A waiver is sought for this section in its entirety to allow the parking and loading plan as shown on the project plans submitted herewith. Instead, the project, including all parking and loading plans, will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.</p>
Art. XIV, §§ 200-76 to 200-86	Signs	Requirements for Signs	<p>A waiver is sought for this section in its entirety to allow project signage as shown on the project plans submitted herewith. The applicant requests a waiver from the requirement of obtaining a separate sign permit for any such signage. Instead, the project, including all signage, will be permitted under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.</p>

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Art. XV, § 200-87	Environmental Performance Regulations	Local environmental performance standards for development	A waiver is sought for this section in its entirety. Instead, the project will be permitted under M.G.L. c. 40B and the regulations thereunder, and will be subject to (and in compliance with) all applicable state and federal environmental protections.
Art. XVII, §§ 200-94 to 200-99	Site Plan Review	Applicability, procedure, and performance standards for projects subject to site plan review	A waiver is sought for these sections in their entirety, including the applicability of the site plan review requirement, the procedure for site plan review, and the performance standards therefor. Instead, all aspects of the site plan will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.
Art. XVIII, § 200-100	Unaccepted Streets	Requirements applicable to unaccepted ways	A waiver is sought for this section in its entirety to the extent it would apply to the unaccepted ways (including access ways, parking lot ways, emergency access ways, and all other roads, paths, ways, or easements) in or on the project site. Instead, all aspects of the project, including the adequacy of all unaccepted ways in or on the project site will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.
Art. XXII, § 200-127	Slope Protections	Protections applicable to natural slopes	A waiver is sought for this section in its entirety. Instead, all aspects of the site plan, including approval of all work affecting “natural slopes exceeding 33% (3:1) over a horizontal distance of 30 feet” will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project.

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<b><u>North Reading Alarm Systems Bylaw (Bylaws of the Town of North Reading, Chapter 11)</u></b>			
All Sections	Alarm Systems	General requirements pertaining to alarm systems	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including alarm systems, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
<b><u>North Reading Numbering of Buildings Bylaw (Bylaws of the Town of North Reading, Chapter 31)</u></b>			
All Sections	Numbering of buildings	General requirements pertaining to numbering of buildings	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including building numbering, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
<b><u>North Reading Excavations Bylaw (Bylaws of the Town of North Reading, Chapter 62)</u></b>			
All Sections	Excavation Regulations	General requirements pertaining to excavation	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including excavation, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
<b><u>North Reading Hazardous Materials Bylaw (Bylaws of the Town of North Reading, Chapter 80)</u></b>			
All Sections	Hazardous Materials	General requirements pertaining to storage, treatment, and disposal of hazardous materials	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including storage, treatment, and disposal of hazardous materials, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.

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<b><u>North Reading Soil Removal Bylaw (Bylaws of the Town of North Reading, Chapter 149)</u></b>			
All Sections	Soil Removal Regulations	General requirements pertaining to soil removal	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including soil removal, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
<b><u>North Reading Storm Water Management Bylaw (Bylaws of the Town of North Reading, Chapter 156)</u></b>			
All Sections	Storm Water Management	General requirements pertaining to storm water management	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including storm water management, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
<b><u>North Reading Streets &amp; Sidewalks Bylaw (Bylaws of the Town of North Reading, Chapter 158)</u></b>			
§§158-3 to 158-7	Streets & Sidewalks	General requirements pertaining to work affecting public streets and sidewalks	A waiver is sought for these sections in their entirety. Instead, all aspects of the site plan and construction, including all work affecting public streets and sidewalks, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.

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<b><u>North Reading Wetlands Bylaw (Bylaws of the Town of North Reading, Chapter 196)</u></b>			
All Sections	Wetlands	General requirements pertaining to wetlands protection	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan and construction, including wetlands protection, will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations, which will be subject to review of the North Reading Conservation Commission as part of the applicant’s Notice of Intent filing (under only the Massachusetts Wetlands Protection Act and the regulations thereunder).
<b><u>North Reading Site Plan Review Bylaw (Bylaws of the Town of North Reading, Chapter 340)</u></b>			
All Sections	Site Plan Review	General requirements pertaining to site plan review	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the site plan will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations.
<b><u>North Reading Subdivision of Land Bylaw (Bylaws of the Town of North Reading, Chapter 350)</u></b>			
All Sections	Subdivision of Land	General requirements pertaining to subdivision of land	A waiver is sought for this bylaw in its entirety. Instead, all aspects of the project will be approved under M.G.L. c. 40B and the regulations thereunder as part of the Comprehensive Permit for this project, subject to any/all applicable state and federal regulations, including, without limitation, the Subdivision Control Law.