

**LIST OF REQUESTED EXEMPTIONS/
EXCEPTIONS/WAIVERS FROM THE APPLICABLE
TOWN OF AMHERST BYLAWS AND REGULATIONS**

Revised 10.14.20

ZONING BYLAW - Effective August 5, 2019

Section	Provision	Requested Exemption / Exception / Waivers and Notes
2.04 & 3.21 - Educational Uses	In an Educational District any use of land and buildings is permitted which may legally be carried on by, or under the auspices of the College or University which owns or manages the property in said District... It is intended that the Zoning Map shall include in Educational Districts only land which is in fact owned or managed by Amherst College, Hampshire College, or the University of Massachusetts	Due to a minor mapping discrepancy, the current zone line dividing the ED zone from the RG zone crosses the extreme rear of the site (parcel 14C-8). When these zones were adopted by the Town, the zone line and property line were identical and the intent of the ED district is to only apply to land owned by Amherst College, Hampshire College, or the University of Massachusetts. None of these entities owns or manages, or has in the past owned or managed, parcel 14C-8 located at 132 Northampton Road. Section 2.02 further states that "...[b]oundaries which appear to follow public or institutional property lines shall coincide with such property lines." The primary zone for parcel 14C-8 is R-G. For these reasons, the applicant requests a waiver from the educational use requirements in Sections 2.04 and 3.21 to any extent that the ZBA deems ED uses are applicable to this parcel.
3.323 - Number of Units in Apartment Building	Apartments: no fewer than 3, nor more than 24 dwelling units allowed in apartment buildings (allowed by Special Permit in Zone R-G).	To waive the requirement in order to allow Apartment Building having 28 dwelling units, as shown on plans. Applicant is requesting this number of units so that the development can be financially feasible.
3.323	Special Permit is required for Apartments in the RG Zoning District	To waive the requirement for the Special Permit application for an Apartment Building. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
5.00 - General Accessory Uses	Wherever a Principal Use is allowed by Special Permit from the Board of Appeals then Accessory Uses to the Principal Use shall be subject to a Special Permit, unless otherwise provided in this Article	To waive the requirement for the Special Permit application for the accessory use of on-site RSC Office related to the Principal Use - Apartments 3.323. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
3.323 - Max percentage of units of one type	No more than 50% of units can be of any one size (# of bedrooms). In buildings where all units meet the definition of affordable, the permitting authority can waive this requirement.	To grant waiver allowing all units to be the same size (# of bedrooms) because, in the proposed development, all units meet the Town definition of affordable (reserved for tenants whose income is at or below 80% AMI), per Section 12.25.
3.323 - Location	The site or lot upon which one or more apartment buildings are proposed shall be located: 1) close to a heavily traveled street or streets, 2) close to a business, commercial or educational district, or 3) in an area already developed for multi-family use.	Grant permit for proposed apartment building at selected location which is: 1) on a heavily traveled street, 2) next to an educational district, and 3) in an area with a mix of single-family and multi-family residential uses.
3.323 - Design Review Requirements (Sections 3.2040 and 3.2041)	In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.	To grant waiver to the requirement, as it may be applicable, for separate Design Review Board review and / or permitting and allow the ZBA to administer design review standards as part of this Comprehensive Permit.
5.10 - Filling of Land (See Sections 3.121 & 3.122)	Any filling of land accessory to the development of property, which raises the existing grade of any portion of a property 5,000 square feet or more in area by an average of two (2) feet or more.....shall require a Special Permit from the Special Permit Granting Authority authorized to act under the applicable section of the bylaw.	To allow quantities of cut / fill as shown on Cut / Fill Summary plan without a separate Special Permit. Necessary cut and fill is partly a function of storm-water management and partly a function of making the building and outdoor areas handicapped accessible.

Article 6, Table 3 - Additional Lot Area per Family, under Footnote "m"	Basic lot minimum = 12,000 sf; plus 4,000 sf for each additional unit for apartment	To grant waiver from requiring additional lot area per family, pursuant to Article 6, Table 3, footnote "m" to allow 28 studio units on .88 acre lot (38,253 sf).
Article 6, Table 3 -Max Lot Coverage	Max lot coverage is 40%, including pervious and impervious materials	To grant waiver allowing higher lot coverage for the proposed Development as shown on the Plans, of approximately 45.29% lot coverage, including pervious and impervious materials.
6.131 - Side Yard	An accessory structure having a height of six feet or less shall be set back a minimum of three feet from the side lot line. An accessory structure over six feet in height shall be setback a distance equal to its height.	To grant a waiver (1) to allow a bike storage shed located within the easterly side yard, as shown per plan, without a separate Special Permit. This single-story bike storage shed will be shielded from the neighboring property by a proposed 8' tall screening fence. See Plan LC-111 for placement of bike shed and Plan LC-506 for appearance of bike shed. The bike shed is approximately 9.75' high and is approximately 7.7' from the easterly side yard. To grant a waiver (2) to allow a designated smoking area, including open-air pavilion within the westerly side yard. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B. To allow a smoking area, defined by a bench and open-air pavilion within the westerly side yard as per plan, without a separate Special Permit. Pavilion height is not to exceed 10' and approximate dimensions are 6' x 8'. At its nearest distance, pavilion is located 5' from the side lot line. Vegetative screening will be provided.
6.134 - Side Yard	<i>In the General Residence (R-G) District, a single-story garage, tool shed, gazebo or similar accessory structure may, under a Special Permit, be located within the side yard behind the frontline of the principal building if such use, location, and proposed dimensions are consistent with the prevailing pattern of existing development for such structures in the neighborhood.</i>	To grant a waiver (1) to allow a bike storage shed located within the easterly side yard, as shown per plan, without a separate Special Permit. This single-story bike storage shed will be shielded from the neighboring property by a proposed 8' tall screening fence. See Plan LC-111 for placement of bike shed and Plan LC-506 for appearance of bike shed. The bike shed is approximately 9.75' high and is approximately 7.7' from the easterly side yard. To grant a waiver (2) to allow a designated smoking area, defined by a bench and open-air pavilion within the westerly side yard as per plan, without a separation. Height is not to exceed 10' and approximate dimensions are 6' x 8'. At its nearest distance, pavilion is located 5' from the side lot line. Vegetative screening will be provided. Dimensions and use of bike shed and pavilion are consistent with the prevailing pattern of existing development of structures in the neighborhood. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
6.140 - Rear Yard	The minimum rear yard shall be a similar unbroken area along the rear lot line, subject to the same provision regarding accessory buildings and structures as the rear portion of the required side yard. No part of the body of any building or accessory structure, except eaves, gutters, architectural elements, and uncovered steps, shall be placed within or protrude into the area between the side lot line and the side yard setback line.	To grant a waiver to allow a fenced dumpster enclosure (approximately 6' high), a storage / gardening shed (not to exceed 10' high), and a covered bicycle storage shed (not to exceed 10' high), to be located within the rear yard as shown per plan, without a separate Special Permit. See Plan LC-111 for placement of dumpster enclosure, adjacent shed, and covered bicycle storage shed, which are all located approximately 3' from the rear property line. See Plan LC-505 for typical appearance of dumpster enclosure. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
6.24 - Fence Height	Fences and walls shall not exceed six (6) feet in height along that portion of side lot lines between the minimum front setback line and rear lot line, and along the rear lot line.	To grant a waiver to allow up to 8' high fence along the east side of the property to accommodate neighbor preference.
6.25 - Fence Setback	Fences located in the rear and side yards exceeding 6' shall be set back an equal distance to their height.	To grant a waiver to allow up to 8' high fence along the east side of the property (within side and rear yards) to accommodate neighbor preference and to locate this fence as show on Plan, approximately 6" from the side yard lot line.
7 - Parking Spaces	2 parking spaces required for each dwelling unit	To waive the parking requirement and to allow the proposed Development as shown on the Plans. The proposed Development will contain 16 parking spaces for the dwelling units, a ratio of .57 parking spaces per dwelling unit.

7.104 - Compact Car Spaces	The Zoning Board of Appeals (SP) or the Planning Board (SPR) may allow, upon application, small car parking spaces (8 feet x 16 feet) to be substituted for up to fifty percent of the standard parking spaces.	To allow 50% of proposed parking spaces (8 of 16 total spaces) to be designed and designated for small cars. These spaces are 8.5' x 20'.
7.110 - Landscaping for parking area	Parking areas of 10 or more spaces shall provide a minimum of 10 percent of the total parking area as landscaped open space. (this may be included in the calculation of open space area under Table 3: Dimensional Regulation: Maximum Lot Coverage).	To grant a waiver, as needed, to allow parking area landscaping as shown on plan, which includes: 183 SF for a landscaped tree island, 1694 SF of Asphalt Paving for parking and ADA spaces, and 1371 SF of dedicated grass paved parking. There is also proposed new planting along the perimeter of the parking area and driveway.
7.718 Driveway Length	There shall be a turnaround located at the end of the common driveway adequate for fire and other emergency vehicles	To the extent a turnaround for fire vehicles may be required for a driveway that is not shared, to allow a turnaround at the end of the driveway as shown on plan. Applicant proposes 25' turning radius at one end of the driveway juncture with Northampton Road.
7.721 - Separate Engineered Plans	The Planning Board may require engineered plans for the driveways and drainage if it deems such plans necessary.	To grant a waiver to allow the proposed Development as shown on the submitted Plans without requirement for separate engineered plans. Plans for the driveway, site improvements, and drainage are provided in this application and are stamped by a licensed civil engineer.
8.101 - Sign Requirements	In the case of a permitted or authorized use other than a dwelling or use accessory thereto, or in the case of sale or lease of the premises – two (2) signs pertaining to such use, sale or lease provided that the combined total area of such signs clearly visible from any point off the premises shall exceed twelve (12) square feet only under a Special Permit issued by the Special Permit Granting Authority.	To grant a waiver to allow one temporary project sign board to be erected on the property of a size not to exceed 4' x 8' (32 square feet) constructed of plywood. To waive the requirement for separate Special Permit, as might be applicable, for a temporary construction sign. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
8.43 - Sign Requirements	The Building Commissioner may grant a temporary sign permit for temporary exterior signs made of cloth, fabric, vinyl, paper or other similar materials, including banners, pennants and flags, for such purposes as grand openings, going-out-of-business sales and seasonal promotions. A temporary sign permit shall not exceed 3 weeks in duration.	To grant a waiver to allow one temporary project sign board to be erected on the property during the full construction period (12-16 months) of a size not to exceed 4' x 8' (32 square feet) constructed of plywood. To waive the requirement for separate Special Permit, as might be applicable, for a temporary construction sign. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
10.387 - Traffic Impact Report	If the Special Permit Granting Authority deems the proposal likely to have a significantly adverse impact on traffic patterns, it shall be permitted to require a traffic impact report, and the proposal shall comply with Section 11.2437 of this Bylaw.	To allow the permitting body to deem the Traffic Report submitted by the applicant with this permit application as sufficient and, given minimal traffic impact from the proposed development, to not require additional preparation of a Traffic Impact Report.
11.2 - Separate Site Plan Review	Establishes requirements for Site Plan Review.	To waive the requirement for Site Plan Review and to allow the proposed Development as shown on the Plans, including the proposed uses. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B. Although the applicant is requesting a waiver from the requirement for Site Plan Review by the Planning Board to allow the proposed Development as shown on the Plans, including the proposed uses, Section 11.2 is not applicable to this proposed Development.

Article 13 – Demolition Delay	Establishes demolition delay procedure for significant structures.	To the extent that the existing structure proposed for demolition is subject to Article 13, to waive the requirement for demolition delay and to allow the demolition of the designated structure. This application includes a written finding from the MA Historical Commission that demolition of the designated structure is "unlikely to affect significant historic or archeological resources." The Amherst Historical Commission provided a memo dated 10/7/20 stating that, "Commission members voted unanimously (4-0) to support the demolition of the structure and did not believe a demolition delay was necessary per Article 13." A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
15.12- Inclusionary Zoning	Requires establishment of housing restrictions to ensure that affordable housing units will be available to eligible renters.	To waive the application of Section 15.12 and acknowledge the application of Section 15.13 that assistance programs used for construction of the project will govern affordability.
15.14- Inclusionary Zoning	Requires affordable units to be comparable to market rate units.	To waive requirement that affordable units be comparable to market rate units as all units will be affordable.

GENERAL BYLAWS - May 2020

OTHER REGULATIONS / APPROVALS / REQUIREMENTS

Landscaping Guidelines	Guidelines require consultation with Tree Warden prior to removing any tree(s) along or near a public road.	To waive the requirement for separate Tree Warden approval, but to include Tree Warden input during Comprehensive Permit process. To waive compliance with the Amherst Landscaping Guidelines and allow tree and vegetation removal and new plantings as shown on submitted plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
Sewer Connection Permit – Engineering Department	Requires Engineering Department approval for sewer connection.	To waive the requirement for separate Engineering Department approval and to allow sewer connection for proposed Development, but to include Engineering Department input during Comprehensive Permit process. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
Water Connection Permit	Requires Inspection Services Department approval for water connection.	To waive the requirement for separate Inspection Services Department approval and to allow water connection for proposed Development, but to include Inspection Services input during Comprehensive Permit process. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
Development Per Plans	Any applicable local by-laws or regulation not specifically cited above	To allow waivers to requirements in local bylaws and regulations relating to dimensional and use requirements to the extent necessary to build the Project as presented on the plans and any subsequent Final Plans that may be subject to permitting authority approval