

**O**HRENBERGER,  
**D**E LISI &  
**H**ARRIS, LLP

ATTORNEYS AT LAW

WILLIAM H. OHRENBERGER, III  
JEFFREY A. DE LISI  
GREG E. HARRIS

RICHARD A. HENDERSON  
ALISON SMITH PIASECKI  
MATTHEW E. MITCHELL  
PATRICIA A. HOULIHAN  
MICHELLE L. BAKER

February 17, 2023

Anthony Bucchere, Chairman  
Scituate Zoning Board of Appeals  
600 Chief Justice Cushing Highway  
Scituate, Massachusetts 02066

RE: List of Requested Waivers  
Comprehensive Permit Application  
279-281 Old Oaken Bucket Road

Dear Mr. Chairman:

Pursuant to (i) the Comprehensive Permit Rules of the Scituate Zoning Board of Appeals and (ii) the provisions of 760 CMR 56.05 and 760 CMR 56.02, respectively, waivers may be granted from local requirements and regulations as are consistent with local needs and as are required to permit the construction and operation of the Project. These regulations provide that zoning waivers are only required from as-of-right requirements, and are not applicable to special permit provisions. Additionally, if a Project does not request a subdivision approval, waivers from the subdivision requirements are not required; however, if the Board of Appeals seeks to require or impose the standards of Scituate's Subdivision Rules and Regulations, then the Applicant may opt to seek waivers from the imposition of any such subdivision regulation.

This project consists of a single tract of land, and the applicant does not seek approval to subdivide the tract. In order to achieve the density to make the project economically viable the Applicant located portions of six of the units, along with the access right-of-way and other improvements, within Scituate's 50-foot non-disturbance buffer. Specifically, during the hearing process, the Board did not vote to impose any of the regulations of Scituate's Subdivision Rules and Regulations or other local regulations, but instead has opted to retain peer review consultants to review the site plan, roadway, traffic, septic, stormwater drainage, and zoning aspects of this project for guidance related to site safety, public health, drainage/stormwater, environmental matters, and the like. This project has been designed to comply with all state and federal rules and regulations regarding wastewater, environmental/wetland protection, and stormwater/drainage. The

28 New Driftway | Scituate, MA 02066 | t (781) 545-0020 | f (781) 545-4712  
5 Brook Street | Cohasset, MA 02025 | t (781) 383-6700 | f (781) 383-6711  
9 Brook Street | Cohasset, MA 02025 | t (781) 383-9000 | f (781) 383-9005  
[www.odhlegal.com](http://www.odhlegal.com)

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Town's peer review consultants have ensured compliance with such state and federal regulations. I am pleased to report that the applicant has resolved or satisfactorily addressed **all** of the Town's peer review concerns, and has revised its plans accordingly. This project adequately addresses the interests of the various Boards and Departments of the Town of Scituate and the neighborhood. **Therefore, the Applicant specifically requests that the Board vote and find as follows:**

*"The Board hereby finds that the Project does not seek subdivision approval, and the Board expressly does not seek to impose any of Scituate's Subdivision Rules and Regulations. Further, the Board hereby issues waivers from all of the following local rules and regulations: (1) Town of Scituate Wetland Protection Rules and Regulations (2) Town of Scituate Supplemental Rules and Regulations for Disposal of Sanitary Sewerage, (3) Town of Scituate Rules and Regulations Governing the Subdivision of Land, (4) the Town of Scituate Stormwater Regulations, (5) the Town of Scituate Demolition Review By-law, and (5) with respect to the Town of Scituate Zoning Bylaws, the Board of Appeals hereby waives the provisions of Section 420 Table of Uses, Section 520 Water Resources Protection, Section 754 Fair Housing and Affordability Standards, Section 760 Parking, and Section 770 Site Plan Review."*

Additionally, the Applicant does hereby further seek specific waivers from the following as-of-right dimensional setback requirements of the Scituate Zoning Bylaw: (1) Section 610.1A required lot width, and (ii) Section 620.3 required front and side yard setbacks.

With respect to lot width, Section 610.1A of the Zoning Bylaw prohibits the construction of dwellings on a lot having less than the required lot width. This particular tract of land is oddly shaped such that in the middle it narrows to a point which is slightly less than the required 175 linear feet (in fact, it is approximately 161 linear feet in distance at the narrowest point.) In this particular narrowest area the only notable improvement is the access right-of-way, which traverses the narrowest portion of the lot approximately midway. The obvious purpose for required lot width is to ensure safe and adequate access to the livable portion of the lot. In this case, the fire chief has signed-off in favor of this project. Therefore, the lot width requirement, if it were to be imposed, would serve no practical benefit while at the same time prohibiting this Project in its entirety, rendering the

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project obviously economically unviable if imposed, and therefore not consistent with local needs.

With respect to dimensional setbacks, the tract has frontage on Old Oaken Bucket Road at the northerly property line. The opposite lot line, on the southerly portion of the tract, constitutes the rear property line, and all other lot lines are considered side yards. In this case, Units 2 and 5, respectively, are less than 30 feet from the layout of Old Oaken Bucket Road, which is the required front yard setback. However, the road is an unusual "bowed" shape directly adjacent to these units, and the layout of the pavement of the roadway in these areas is much further than 30 linear feet in distance. Thus, the imposition of the front yard setback for Units 2 and 5 would serve no obvious benefit, and, instead, would eliminate two market rate units while still requiring six units in the Project to be restricted for low- and moderate- income families, and thus would render this project uneconomical. Additionally, with respect to side yard setbacks, Units 9, 11, and 18 are all less than the required 15 feet from the side yards. Each of these units are a great distance from the nearest dwelling and are separated from such nearest dwelling by existing natural vegetation. These three units are designated as market rate units and the loss of these market units would have no real positive impact on the neighborhood, while still requiring six affordable units. Thus, imposition of the side yard setback requirements would render the project obviously uneconomical.

Accordingly, in addition to the above reference vote for waivers, the Applicant specifically requests the Board to adopt the following additional vote:

*"The Board hereby issues waivers from the Required Lot Width provisions of Section 610.1A of the Scituate Zoning Bylaw and from the Required Front Yard Setback and the Required Side Yard Distance, respectively, set forth in Section 620.3 of the Scituate Zoning Bylaw."*

Please feel free to contact me if you require me to provide any additional details for any and all of these requested Waivers.

Very truly yours,

  
Jeffrey A. De Lisi