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Brem 009-07-03-2014
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BREM 009-07-03-2014

July 2, 2014

Town of Carlisle
Zoning Board of Appeals
66 Westford Street
Carlisle, MA 01741

RE: Brem Farm
100 Long Ridge Road
Carlisle, MA

Dear Members of the Board:

Attached please find the *List of Waivers* for the above referenced Comprehensive Permit Application. This waiver list is referenced as Attachment "E" in the application. I have attached 41 copies along with this letter.

Very truly yours,
Deschenes & Farrell, PC



Melissa E. Robbins

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ATTACHMENT 'E'
REQUESTED WAIVERS

BREM 009-07-03-2014

Zoning Bylaw Waivers:

§3.0. District Use Regulations.

Waiver: Seeking waiver to allow for development of twenty (20) unit housing development in the Residence District B.

Basis: Without the requested waiver the Project could not be developed as proposed. The Zoning Bylaw only allows one (1), single-family home on a lot in the Residence District B. Any number of units less than the 20 proposed will make the project uneconomic.

§4.3.2. No building shall be erected or altered in General Residence Districts B and M so as to extend nearer to any side or rear lot line of its lot than forty (40) feet,

Waiver: Seeking waiver to allow for reduced front, side and rear setbacks (proposed:30' front, 10' side, 10' rear).

Basis: Without the requested waiver the Project could not be developed as proposed and meeting the setback requirement would result in a loss of units. Any number of units less than the 20 proposed will make the project uneconomic. Given the fact that there is only one other dwelling within sight of the Project, which dwelling is a significant distance from the nearest unit in the Project, the relief can be granted without derogating from the intent of the bylaw.

§5.4. Private Driveways

5.4. Private Driveways

Waiver: Seeking waiver to allow for twenty units on a private driveway as shown on the plan.

Basis: Without the requested waiver the Project could not be developed as proposed. Any number of units less than the 20 proposed will make the project uneconomic. Given the fact the road will allow for safe and adequate access this waiver can be granted as the purpose of section 5.4 is to allow for safe and convenient access to all lots.

Subdivision Rules and Regulations Waivers

Carlisle Planning Board Rules and Regulations Governing the Subdivision of Land

Waiver: A waiver is requested from these rules and regulations in their entirety.

Basis: the Project is not a subdivision and shall follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. Requiring adherence to the process under the Subdivision Rules and Regulations would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Development of the Project pursuant to the Town's subdivision rules and regulations is not possible without losing a significant number of units. The loss of any units makes the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

To the extent that the ZBA finds that the design standards of the Subdivision Rules and Regulations apply to this Project the following exceptions are requested:

Article II §6.A and §6.B1 Submission of a Definitive Plan/Contents of a Definitive Plan

Waiver: Seeking waiver from submission requirements for a definitive plan.

Basis: The proposed Project is not a subdivision. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs which could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article II §6.B2(a) Landscape Plan

Waiver: Seeking waiver from providing a landscape plan prepared by registered landscape architect with application.

Basis: Site plans will include landscape plan provided by the Project's Civil Engineer. As the project design is finalized, applicant will then provide a landscape plan prepared by a registered landscape architect thus avoiding the cost of design and multiple redesigns. The cost of multiple redesigns could make the Project uneconomic. Allowing the proponent to apply with the initial landscape plan and then provide a finalized plan prepared by a landscape architect will allow for satisfaction of the regulation's intent.

Article II §6.B2(d) Submission of a Street and Right-of-way plan

Waiver: Seeking waiver from submission requirements for a Street and Right-of-way layout plan.

Basis: The proposed Project is not a subdivision. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article II §7 Performance Guarantee

Waiver: Seeking waiver from Performance Guarantee requirements.

Basis: the Project is not a subdivision and shall follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. Requiring adherence to the Subdivision Rules and Regulations Performance Guarantee requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring a Performance guarantee will result in additional Project costs which could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §1.A Basic Requirements

Waiver: Seeking waiver from Basic Requirements under the Subdivision Rules and Regulations.

Basis: The proposed Project is not a subdivision. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §2.A Streets/Roads/Footpaths

Waiver: Seeking waiver from Subdivision Street/Roads/Footpath Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs which could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §2.B Alignment and Width

Waiver: Seeking waiver from Subdivision Alignment and Width Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §2.C Grade

Waiver: Seeking waiver from Subdivision Grade Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §2.D Dead-end Streets

Waiver: Seeking waiver from Subdivision Dead-end Street Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §3 Easements.

Waiver: Seeking waiver from Subdivision Easement Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.A Improvements-Street Grading

Waiver: Seeking waiver from Subdivision Street Grading Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project

will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.B Roadways

Waiver: Seeking waiver from Subdivision Roadway Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a private driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.C Footpaths

Waiver: Seeking waiver from Subdivision Footpath Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.D Shoulders

Waiver: Seeking waiver from Subdivision Street Shoulder Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in

additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.E Side Slopes

Waiver: Seeking waiver from Subdivision Side Slopes

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.F Trees and Other Vegetation

Waiver: Seeking waiver from Subdivision Trees and other Vegetation Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.H Driveway Entrances

Waiver: Seeking waiver from Subdivision Driveway Entrances Requirement

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle

Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and

Article III §5.I Monuments

Waiver: Seeking waiver from Subdivision Monument Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Article III §5.L Engineering Plan

Waiver: Seeking waiver from Subdivision Engineering Plan Requirements

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations submission requirements would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Attachment A Development Standards

Waiver: Seeking waiver from Subdivision Development Standards

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations development standards would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle

Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Attachment B Policy Governing Use of Town Advisory Groups

Waiver: Seeking waiver from Subdivision Policy Governing Use of Town Advisory Groups

Basis: The proposed Project is a Comprehensive Permit Project being brought forward to the Carlisle Zoning Board of Appeals pursuant to M.G.L Chapter 40B and its regulations, guidelines, and practices. Requiring the use of Advisory Groups would be redundant with the Comprehensive Permit process as established by State regulations. Requiring additional review requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Exhibit D Development Impact Report

Waiver: Seeking waiver from Subdivision Development Impact Report Requirement

Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit plans and information in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations Development Impact Report Requirements would be redundant with the Comprehensive Permit process as established by State. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Exhibit E Street Construction Standards

Waiver: Seeking waiver from Subdivision Street Construction Standards

Basis: Basis: The proposed Project is not a subdivision. The proposed access way is not a street; it is a driveway. Applicant will submit a plan in conformance with M.G.L Chapter 40B and its regulations, guidelines, and practices and the applicable regulations set forth by the Town of Carlisle Rules and Regulations. Requiring adherence to the Subdivision Rules and Regulations roadway standards would be redundant with the Comprehensive Permit process as established by State regulations and by the Carlisle

Zoning Board of Appeals. Requiring additional submission requirements will result in additional Project costs that could make the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices, the intent of the subdivision rules and regulations will be met.

Carlisle Nonzoning Wetland Bylaw

Waiver: A waiver is requested from these rules and regulations in their entirety.

Basis: the Project shall follow the requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices and the Massachusetts Wetlands Protection Act. Requiring adherence to the local wetland bylaws would be redundant with the Comprehensive Permit process as established by State regulations. Development of the Project pursuant to the Town's wetland Bylaw subdivision rules and regulations is not possible without losing a significant number of units. The loss of any units makes the Project uneconomic. Because the Project will follow the requirements of M.G.L Chapter 40B and the Wetlands Protection Act, the intent of the subdivision rules and regulations will be met.

Comprehensive Rules and Regulations

To the extent that the Comprehensive Rules and Regulations repeat other regulations in the Town of Carlisle for which waivers have been requested that same waiver under the Comprehensive Rules and Regulations is also requested.

Comprehensive Permit Fee Waivers:

Regulation 3.02(a). for Limited Dividend Organizations pursuant to a project eligibility letter issued by a federal or state agency - \$1000 per unit plus \$5000 filing fee.

Waiver: Seeking waiver to reduce total filing fee to \$4000.00.

Basis: The filing fee is expressly intended to "pay statutorily required notices and mailings and additional costs based on the number of units". The required filing fee (\$25,000.00) is excessive and makes the Project uneconomic. Allowing the proponent to pay \$4000.00 will satisfy (or exceed) the intent of the regulation.

Board of Health Regulation Waivers

§15.211 The minimum setback distance between a system 2000 GPD or larger to a well is 150'.

Waiver: Seeking waiver from the required well setback requirement of 150 feet to allow for a setback of 100 feet.

Basis: The shape of the Project land and the proposed development density do not allow for the required distance of 150'. A redesign of the Project to allow for the 150' required would result in the Project being uneconomic. Therefore, a waiver is proposed to allow for 100' feet of distance as is allowed for smaller systems and which is allowed under State DEP regulations therefore making the system protective of the public health.

§15.290-293(5) Shared Systems, Condominium and Systems over 2000 GPD.

Waiver: Seeking waiver from the required minimum design flow standard of 165 gpd to allow for a design flow standard of 110 gpd.

Basis: The size of the Project land and the proposed development density do not allow for septic designs utilizing a minimum design flow requirement of 165 gpd. A redesign of the Project to allow for the 165 gpd design flow requirement would result in the Project being uneconomic. Therefore, a waiver is proposed to allow for a design flow standard of 110 gpd as is allowed for smaller systems and which is allowed under State DEP regulations therefore making the system protective of the public health.

General Waiver:

Waiver: The applicant requests that the Carlisle Zoning Board of Appeals grant relief from any other zoning requirement or other applicable local rule, regulation, bylaw or policy which the Carlisle Zoning Board of Appeals determines to be applicable to the Project and which is not met by the current site plan or any subsequent site plans reflecting changes resulting from the Zoning Board of Appeals' review of the Project.

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