

164 Essex Street Residences – List of Requested Waivers

<u>Article/Section</u>	<u>Subject</u>	<u>Requirement</u>	<u>Waiver Requested/Applicability</u>
<u>Melrose Zoning Ordinance (Melrose City Ordinances, Chapter 235)</u>			
Art. 4, § 235-10	Interpretation	“The provisions of this chapter shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals or the general welfare of the City of Melrose, Massachusetts, and except for Chapter 25, Zoning, of the Revised Ordinances of 1956, City of Melrose, Massachusetts, and all subsequent amendments thereto, the provisions of this chapter are not intended to repeal, amend, abrogate, annul or in any way impair or interfere with any lawfully adopted ordinance, covenants, regulations or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.”	A waiver is sought for this section to the extent it conflicts with M.G.L. c. 40B and 760 CMR 56.
Art. 4, § 235-11	Applicability of Use Regulations	“Except as herein provided, the provisions of this chapter shall apply to the erection, construction, reconstruction, alteration or use of buildings or structures or use of land. Except as herein provided, any existing nonconforming use, structure or lot shall not become further nonconforming.”	Waiver sought for this section to allow the Project: a 76-unit multifamily residential development in a single building with accessory uses, common spaces, stormwater management, landscaping, resident amenities, and on-site parking, all as shown on Project Plans.
Art. 5, § 235-14	Applicability of Use Regulations	“Except as provided in this chapter, no building, structure or land shall be used except for the purpose permitted in the district as described in this chapter. Any use not listed shall be construed to be prohibited.”	Waiver sought for this section to allow the Project: a 76-unit multifamily residential development in a single building with accessory uses, common spaces, stormwater management, landscaping, resident amenities, and on-site parking, all as shown on Project Plans.

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Art. 5, §§ 235-15, 235-17, and Table of Use and Parking Regulations	Use Regulations	Use Regulations in the BB-1 zoning district: Forbidding multifamily dwelling as a principal use (except by special permit pursuant to § 235-65) (Principal Use 3) Requiring a special permit for accessory utility cabinets (Acc. Use 19)	Waiver sought for the cited provisions contained in these sections to allow the Project: a 76-unit multifamily residential development in a single building with accessory uses, common spaces, stormwater management, landscaping, resident amenities, and on-site parking, all as shown on Project Plans. This request shall include waiver of any/all requirements to obtain special permits.
Art. 5, § 235-16	Uses Subject to Other Regulations	“Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this chapter.”	Waiver sought for this section to allow the Project: a 76-unit multifamily residential development in a single building with accessory uses, common spaces, stormwater management, landscaping, resident amenities, and on-site parking, all as shown on Project Plans.
Art. 5, § 235-16.1	Site Plan Review	Procedures and requirements for Site Plan Review as applicable to multifamily development. Specific Sections to be waived include, without limitation, C.1 & C.2 (requirements for building and occupancy permits), D (submission criteria), E (review criteria), F (review by Planning Board), G (review schedule), H (expiration), & I (appeals)	PROCESS WAIVER: Approval of the Project site plan under this section shall be issued by the Board (rather than the Planning Board) pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21. All filing and other procedural requirements shall be waived to the extent they exceed or differ from the requirements of 760 CMR 56.05(2). The standard of review and authority for imposition of conditions shall be waived. Instead, the Project shall be reviewed in accordance with the standards and authority enumerated in Chapter 40B and 760 CMR 56. All technical requirements and performance standards shall be waived unless the Board makes an evidentiary finding (1) that application of same is required in order to protect a valid issue of Local Concern (as defined in 760 CMR 56.02) and (2) that said Local Concern outweighs the regional need for affordable housing.

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Art. 6, §§ 235-18, 235-19, and Table of Dimensional and Density Regulations	Dimensional and Density Regulations	<p>Dimensional requirements for the BB-1 zoning district (without dimensional incentives):</p> <table border="0"> <thead> <tr> <th><u>Dimension</u></th> <th><u>Required</u></th> </tr> </thead> <tbody> <tr> <td>Min. Lot Area</td> <td>10,000 sq. ft.</td> </tr> <tr> <td>Min. Frontage</td> <td>100'</td> </tr> <tr> <td>Min. Lot Depth</td> <td>90'</td> </tr> <tr> <td>Min. Front Yard Setback</td> <td>20'</td> </tr> <tr> <td>Min. Side Yard Setbacks</td> <td>12</td> </tr> <tr> <td>Min. Rear Yard Setback</td> <td>15</td> </tr> <tr> <td>Max. Height</td> <td>30'</td> </tr> <tr> <td>Max. Stories</td> <td>2</td> </tr> <tr> <td>Max. Building Coverage</td> <td>60%</td> </tr> <tr> <td>Max. Floor Area Ratio (FAR)</td> <td>0.75</td> </tr> <tr> <td>Min. Open Space</td> <td>20%</td> </tr> </tbody> </table>	<u>Dimension</u>	<u>Required</u>	Min. Lot Area	10,000 sq. ft.	Min. Frontage	100'	Min. Lot Depth	90'	Min. Front Yard Setback	20'	Min. Side Yard Setbacks	12	Min. Rear Yard Setback	15	Max. Height	30'	Max. Stories	2	Max. Building Coverage	60%	Max. Floor Area Ratio (FAR)	0.75	Min. Open Space	20%	<p>Project dimensions are shown below. Waivers are requested as shown in bolded text.</p> <table border="0"> <thead> <tr> <th><u>Dimension</u></th> <th><u>Provided</u></th> </tr> </thead> <tbody> <tr> <td>Lot Area</td> <td>32,148 sq. ft. +/-</td> </tr> <tr> <td>Frontage</td> <td>364'+/-</td> </tr> <tr> <td>Lot Depth</td> <td>92'+/-</td> </tr> <tr> <td>Front Yard Setback</td> <td>8.2'</td> </tr> <tr> <td>Side Yard Setbacks</td> <td>1.9'</td> </tr> <tr> <td>Rear Yard Setback</td> <td>2.4'</td> </tr> <tr> <td>Height</td> <td>61'-4"</td> </tr> <tr> <td>Stories</td> <td>5</td> </tr> <tr> <td>Building Coverage</td> <td>72.5%</td> </tr> <tr> <td>Floor Area Ratio (FAR)</td> <td>2.84</td> </tr> <tr> <td>Open Space</td> <td>17.4%</td> </tr> </tbody> </table>	<u>Dimension</u>	<u>Provided</u>	Lot Area	32,148 sq. ft. +/-	Frontage	364'+/-	Lot Depth	92'+/-	Front Yard Setback	8.2'	Side Yard Setbacks	1.9'	Rear Yard Setback	2.4'	Height	61'-4"	Stories	5	Building Coverage	72.5%	Floor Area Ratio (FAR)	2.84	Open Space	17.4%
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Art. 6, § 235-22	Screening and buffers in industrial or business districts	<p>“Screening and buffers shall be required in any industrial or business district which adjoins a residential district as follows: this strip shall be at least 25 feet in width, except when abutting a residential use in the UR-C District, in which case the width may be reduced to 10 feet. It shall contain a screen of plantings of vertical habitat in the center of the strip not less than three feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than three feet on center and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year round. At least 50% of the plantings shall consist of evergreens and they shall be evenly spaced.</p>	<p>Waiver sought for this section in its entirety and to approve Project landscaping/buffering as shown on Project Plans.</p>																																																

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Art. 6, § 235-25	Additional dimensional and density provisions	<p>A: New residential uses in nonresidential districts subject to regulations in the UR-C District.</p> <p>B: Lot area minimum multiplied by unit count.</p> <p>E.1, E.2, & E.3: Projection of balconies, terraces, steps, stoop, porch, platform, or entrance into front yard</p>	Waiver sought for the specified provisions of this section to allow the Project with the dimensions cited above in reference to Art. 6, §§ 235-18, 235-19, and Table of Dimensional and Density Regulations, including approval of 76 dwelling units, and all applicable projections as shown on Project Plans.
Art. 7, § 235-27	Signs	Sign permit required.	Approval of Project sign permit under these sections shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21. Representative signage is shown on Project Plans (see architectural elevations) as illuminated building-mounted signs. Notice of final sign design to be presented to the Board prior to installation as an insubstantial Project change.
Art. 7, § 235-28	Signs	Permit required for all signs except as otherwise enumerated in § 28.B.	Approval of Project sign permit under these sections shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21. Representative signage is shown on Project Plans (see architectural elevations) as illuminated building-mounted signs. Notice of final sign design to be presented to the Board prior to installation as an insubstantial Project change.

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Art. 7, § 235-29	Signs	Requirements applicable to signs. C: Illumination G: Prohibiting all signs “not addressed by this chapter”	PROCESS WAIVER: Approval of Project sign permit under these sections shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21. Representative signage is shown on Project Plans (see architectural elevations) as illuminated building-mounted signs. Notice of final sign design to be presented to the Board prior to installation as an insubstantial Project change.
Art. 7, § 235-31.1	Signs	Requirements applicable to signs in business districts. B: Allowing 1 wall sign, not to exceed 50sf (except division of allowable area among multiple signs allowed by special permit); prohibiting wall signs above the first floor.	Approval of Project sign permit under these sections shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21. Representative signage is shown on Project Plans (see architectural elevations) as illuminated building-mounted signs. Notice of final sign design to be presented to the Board prior to installation as an insubstantial Project change.
Art. 8, § 235-32	Parking and Loading Requirements	Multifamily Dwelling: 2 off-street parking spaces per unit, which would require 152 parking spaces (without a special permit pursuant to § 40).	Waiver sought for this Section to authorize Project parking with 54 total spaces (0.71 per unit) without need for any special permit pursuant to § 40.
Art. 8, § 235-38(B)	Location of Parking Spaces	“In no instance may the open space required for a lot be used for the provision of off-street parking spaces.”	Waiver sought for this section to allow pervious pavement portions of the Project site (which otherwise would be considered open space) to be used for parking.

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Art. 8, § 235-41	Parking and loading space standards	Requirements for parking and loading areas, including A (screening), B (requiring pervious paving), C (bumpers), E (lighting), H (no backing onto streets), M (24' aisle width for 90 degree angle parking in multifamily uses).	Waiver sought for the specified provisions of this section in its entirety. Instead, the Project, including the approval of all parking, driveway, and aisle design and layout (including screening and lighting) as shown on the attached plans, will be permitted under M.G.L. c. 40B. Aisle width inside garage will be 21'-22'.
Art. 10, § 235-53(A)	Permits	Requiring (in addition to a building permit under the Massachusetts Building Code) a <u>local</u> building permit, with an application for such local permit to be filed with the Building Commissioner “at the same time and combined with the permit required under the Building Code.”	A waiver is requested from this section to deem the application requirement for the local building permit required by this section to be met through the filing of a building permit application under the State Building Code. NO WAIVER OF STATE BUILDING CODE REQUIREMENTS IS REQUESTED.
Art. 10, § 235-57	Permit time limits	“Any work for which any permit has been issued by the Building Commissioner shall be actively prosecuted within 90 days and completed within one year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended for an additional year at the discretion of the Building Commissioner. Additional time extensions may be granted only by a special permit approved by the Board of Appeals. Any project not completed within the applicable time limits shall be in violation of this chapter.”	A waiver of this Section is sought solely to extent it differs from or exceeds the provisions of the State Building Code. NO WAIVER OF STATE BUILDING CODE REQUIREMENTS OR PROCEDURES IS REQUESTED.

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Art. 10, §§ 235-58 & 235-59	Enforcement of Zoning Ordinance	Enforcement and violation notices for work, structures, and uses “in violation of the provisions of this chapter”; penalties for violations	A waiver of these Sections is sought solely to the extent necessary to protect the Project from zoning enforcement (and resulting penalties) on the basis that it does not meet the requirements of the Melrose Zoning Ordinance for such period of time as the Comprehensive Permit for the Project is in effect with respect to matters of noncompliance for which waivers have been granted pursuant thereto.
Art. 10, § 235-60	Board of Appeals	Powers and procedures of the Board of Appeals, including authorization to impose conditions and limitations of time	Waiver sought for this section solely to the extent it differs from or exceeds the requirements of M.G.L. c. 40B and 760 CMR 56.
Art. 11, §§ 235-65	Multifamily residential use in nonresidentially zoned areas	<p>A & B: Authorizing multifamily residential use in the BB-1 by special permit from the Planning Board.</p> <p>C.1: Applying UR-C density and dimensional requirements (except minimum lot area per unit and maximum stories, which are to be determined by the Planning Board), with FAR not to exceed 1.75 and height not to exceed 62’. This would require 99,750sf lot area (except as otherwise allowed by the Planning Board), 100’ frontage, 90’ lot depth, front/side/rear setbacks of 20’/10’/15’, maximum of 4 stories (except as otherwise allowed by the Planning Board), maximum lot coverage of 50%, and minimum open space of 20%.</p>	<p>Approval for all aspects of the Project as outlined herein for which a Special Permit and/or variance would otherwise be required under this section, together with any/all required findings, shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21 without need for any special permit or variance.</p> <p>Project dimensions shall be as stated above in reference to Art. 6, §§ 235-18, 235-19, and Table of Dimensional and Density Regulations.</p>

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<u>Article/Section</u>	<u>Subject</u>	<u>Requirement</u>	<u>Waiver Requested/Applicability</u>
Art. 11, §§ 235-71.2	Rail Corridor Overlay District (RCOD)	<p>B, C, & D: Authorizing development of multifamily residential use in the RCOD.</p> <p>E: Requiring front/side/rear setbacks of 10’/5’/10’; maximum density of 35 units/acre; maximum FAR of 1.5; requiring Streetscape Improvement Fund contributions of \$1,100 per dwelling unit (total of \$83,600), requiring all areas of the building above 50’ to be stepped back 20’ from front/side lot lines, requiring a public amenity area.</p> <p>F: Requiring 1 parking space per unit and 1 visitor space per 10 units (except with permission of the Planning Board) with specified setbacks; requiring 1 bicycle space per 5 dwelling units.</p> <p>G: Specifying building, landscaping, site, parking, lighting, and sign design standards.</p> <p>H: RCOD affordable housing requirements</p>	<p>Approval for all aspects of the Project as outlined herein for which a Special Permit and/or variance would otherwise be required under this section, together with any/all required findings, shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21 without need for any special permit or variance.</p> <p>Waiver of Streetscape Improvement Fund requirement is sought.</p> <p>Project dimensions shall be as stated above in reference to Art. 6, §§ 235-18, 235-19, and Table of Dimensional and Density Regulations.</p> <p>Parking shall be as specified above in reference to Art. 8. Bicycle parking as shown on Project Plans.</p> <p>The proposed building, landscaping, and site layout have been designed to promote the goals of the design standards specified here, but waiver of strict compliance with design standards is sought to the extent Project Plans may slightly diverge.</p> <p>Waiver sought for this section to the extent it differs from or exceeds the requirements of M.G.L. c. 40B. Instead, the Project, including the construction, use, and regulation of affordable units, will be permitted under M.G.L. c. 40B. The Project will contain 25% affordable units, which will be subject to a regulatory agreement with the applicable subsidizing agency, to enforce DHCD affordability requirements for such period of time as the Project site is not in conformance with zoning requirements.</p>

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Art. 11, § 235-73.1	Affordable housing incentive program	Housing affordability requirements	Waiver sought for this section to the extent it differs from or exceeds the requirements of M.G.L. c. 40B. Instead, the Project, including the construction, use, and regulation of affordable units, will be permitted under M.G.L. c. 40B. The Project will contain 25% affordable units, which will be subject to a regulatory agreement with the applicable subsidizing agency, to enforce DHCD affordability requirements for such period of time as the Project site is not in conformance with zoning requirements.
<u>Melrose Poles & Wires Code (Code of the City of Melrose, Chapter 182)</u>			
182-1	Poles & Wires	General requirements pertaining to utility poles and wires	PROCESS WAIVER: Approval of the location of a proposed utility pole as shown on Project Plans, for which permit(s) and/or approval would otherwise be required under this Section, together with any/all required findings, shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21.
<u>Melrose Sewage Disposal Code (Code of the City of Melrose, Chapter 194)</u>			
194-3	Sewage Disposal	General requirements pertaining to sewage disposal	PROCESS WAIVER: Approval of the proposed sewer connection as shown on Project Plans, for which permit(s) and/or approval would otherwise be required under this Section, together with any/all required findings, shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21.

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<u>Melrose Solid Waste Code (Code of the City of Melrose, Chapter 198)</u>			
198-6	Solid Waste	General requirements pertaining to solid waste disposal	PROCESS WAIVER: Approval of the proposed dumpster location as shown on Project Plans, for which permit(s) and/or approval would otherwise be required under this Section, together with any/all required findings, shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21.
<u>Melrose Streets & Sidewalks Code (Code of the City of Melrose, Chapter 202)</u>			
202-1 202-1.1 202-9 202-25.1 202-26 202-28	Streets & Sidewalks	General requirements pertaining to work in public streets and sidewalks	<p>PROCESS WAIVER: Approval of the proposed work within the limit of Essex Street (e.g., curb cuts, utilities work, sidewalks) as shown on Project Plans, for which permit(s) and/or approval would otherwise be required under this Ordinance, together with any/all required findings, shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21.</p> <p>Waiver of time of year restrictions for street opening is requested.</p> <p>No waiver of local performance standards, betterments, bonding/surety, insurance, inspection, or similar requirements is requested.</p>

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<u>Melrose Water & Sewers Code (Code of the City of Melrose, Chapter 228)</u>			
228-6 228-33 228-62 228-63 228-89	Water, Sewers, and Drains	General requirements pertaining to water and sewer service	<p>PROCESS WAIVER: Approval of the proposed water and sewer connections and stormwater management system as shown on Project Plans, for which permit(s) and/or approval would otherwise be required under this Ordinance, together with any/all required findings, shall be issued by the Board pursuant to the Comprehensive Permit for the Project pursuant to M.G.L. c. 40B, § 21.</p> <p>No waiver of local performance standards, betterments, I/I fees, bonding/surety, insurance, inspection, or similar requirements is requested.</p>
<u>Melrose Board of Appeals Comprehensive Permit Rules</u>			
All Sections	Rules applicable to applications for Comprehensive Permits	Rules, filing requirements, and filing fees	Waiver sought for these Rules to the extent they differ from or exceed the requirements of M.G.L. c. 40B and 760 CMR 56.00.

Note 1: List of requested waivers prepared by Jesse D. Schomer, Esq. Dated April 16, 2024. Subject to change in accordance with Chapter 40B regulations. See CMR 56.05(2)(h))

Note 2: All capitalized terms used herein shall have the same meaning as the within Comprehensive Permit application. As used herein, the term “Project Plans” refers to the preliminary civil engineering, architecture, and landscape plans enclosed with this Comprehensive Permit application.

Note 3: This list includes both those ordinances where the Applicant seeks substantive waivers, as well as ordinances where a separate local permit shall be subsumed in the Comprehensive Permit for the Project and/or where the Board is acting as the reviewing and approval authority in lieu of other Local Boards, indicated above as a “process waiver”.