



# COMPREHENSIVE PERMIT OVERVIEW

City of Gloucester

# GENERAL LAW CHAPTER 40B, SECTION 20-23

- Chapter 40B, Section 20-23 is a streamlined local permitting process for housing developments that have at least 20% of the units restricted for moderate to low income households.
- The Zoning Board of Appeals replaces other local permitting boards and commissions that would otherwise review an application for a development.
- The Applicant may seek a waiver of local ordinances or regulations.
- The denial of waivers or imposition of conditions will not be upheld if the project is rendered uneconomic.



# KEY CONCEPTS

## **SAFE HARBOR STATUS ALLOWS ZBA TO IMPOSE CONDITIONS AND DENY WAIVERS**

- 10% of a community's housing units are affordable and listed on the State's subsidized housing inventory,
- 1.5% OF a community land area is dedicated to affordable housing, or
- A community is certified to be in compliance with a housing production plan.



# SAFE HARBOR STATUS

- When a community attains safe harbor status a comprehensive permit may be granted or denied with conditions and the decision is final as to the Applicant.
- ZBA may deny request for waivers from local regulations and zoning ordinance.
- Without safe harbor status the ZBA decision can be appealed to the Housing Appeals Committee and the decision must meet stringent standards.

# KEY CONCEPT CONTINUED

- **AFFORDABLE HOUSING UNIT MEANS:**

- Development is deed restricted as defined by the statute.
- Affordable housing unit is restricted to households that make 80% of the average medium income or less.
- The income limitations are published by DHCD
- Deed restriction is in place for at least 25 years and is eligible for inclusion on the subsidized housing inventory.



# ELIGIBILITY TO FILE A COMPREHENSIVE PERMIT

- The project must have either 25% of the residential units available to individuals or families that earn 80% of the average median income, or
- 20% of the units must be available for individuals or families that earn 60% of the average median income.
- Applicant must obtain a project eligibility letter from a subsidizing agency which is a determination that the site is eligible or appropriate for the project.



# INITIAL REVIEW OF A PROJECT

- An applicant first requests a project eligibility letter from a subsidizing agency.
- The Subsidizing agency holds a local comment period to solicit the City's comments about the proposed project.
- The city submits comments detailing all of its concerns about the project.
- Subsidizing agency issues a site eligibility letter for the project which may note the community's concerns.

# TIME LINE FOR REVIEW OF APPLICATION

- Timeline:
- Zoning Board of Appeals sends application to local boards and commissions which would otherwise review project within five days of receipt of application.
- ZBA opens the public hearing within 30 days of receipt of application.
- ZBA must assert safe harbor status within 15 days of opening public hearing.
- The public hearing must close within 180 days of the opening of the public hearing.
- Within 40 days of the close of the public hearing, the ZBA must vote and file a decision with the city clerk's office.



# ZBA'S FIRST STEPS

- The application is sent to local permitting and regulatory authorities and officials to solicit input for the review process.
- The ZBA determines if Gloucester meets any of the safe harbor criteria-
  - has met the 10% affordable housing goal,
  - has 1.5% of its land area dedicated to affordable housing,
  - has been certified as in compliance with a housing production plan.
- ZBA must provide notice to the applicant that it claims safe harbor status.



# ZBA PROCESS

- Open the public hearing
- Developer presents the application, including technical issues
- Developer is encouraged to meet with abutters and other interested parties outside of the public hearing process
- Other members of the community may address the board to give their input, ask the board to consider issues, and submit technical review
- Schedules meetings

# SUBSEQUENT HEARINGS

- ZBA asks for responses from their peer reviewers sets schedule
- Reviews responses from other boards and commissions
- Considers additional information from the applicant
- Considers additional information from the public
- Discusses potential issues and asks Applicant to address issues or concerns
- Reviews the list of requested waivers
- Determines if conditions should be imposed.
- Conditions may be challenged if Applicant thinks they render project uneconomic



# LOCAL BOARD AND COMMISSION REVIEW

Other local boards and commissions, such as, Planning Board, Board of Health, City Council(acting as the special permit granting authority), Conservation Commission, and any local board which may have jurisdiction over the development if it had not been filed as a comprehensive permit reviews applications and submits comments and recommendations to Zoning Board of Appeals.

# ZBA'S STANDARD OF REVIEW

- DHCD has issued guidelines and regulations which limit and control the ZBA's review authority if community has not met the safe harbor status.
- The ZBA may impose conditions on the project limited to those that other local boards may impose relating to building construction and design, siting, zoning, health and safety, and environmental.
- The conditions may not render the project uneconomic so that Developer does not realize a reasonable return on construction or operation of the project within the limits set by the subsidizing agency.

# CONDITIONS

- ZBA may grant a comprehensive permit with conditions that are consistent with local needs.
  - “Consistent with local needs means reasonable in view of the regional need for low and moderate income housing considered with the number of local income persons in the city or town affected and the need to protect the health or safety of the occupants of the proposed housing or the residents of the city or town, to promote better site and building design in relation to surroundings, or to preserve open space.”
- Conditions may not render the project uneconomic so that Applicant does not realize a reasonable return on total cost of project.

# ZBA CLOSES PUBLIC HEARING AND ISSUES A DECISION

- The public hearing must be closed within 180 days of opening,
- The ZBA votes by simple majority and files a decision with city clerk within 40 days of close of hearing.
- The ZBA may grant comprehensive permit and the list of requested waivers,
- Grant the comprehensive permit with conditions that address local concerns, or
- Deny the comprehensive permit.

# APPEAL OF DECISION

- Without safe harbor:
- Applicant may appeal to the Housing Appeals Committee
- HAC will review whether denial is consistent with local needs. It's a very heavy burden to show that project is inconsistent with local needs,
- Review conditions to determine if authorized, or render the project uneconomic.
- With safe harbor status:
- There is no appeal to the HAC.