

**TOWN OF BERKLEY**  
**MASSACHUSETTS**  
**40B PETITION TO BOARD OF APPEALS**

*We strongly suggest an informal meeting with us prior to filing an application with the Board of Appeals.*

We would also suggest utilizing professional representation, such as an attorney and/or an engineer to present your request.

NOTE: A \$5000.00 fee MUST be submitted with this application. (CERTIFIED CHECK, OR BANK MONEY ORDER. NO CASH ACCEPTED.) Also, unless waived by the Board, each of the items listed at the end of this application form MUST be filed OR the petition will be returned to you. The \$5000.00 application fee is NON-REFUNDABLE.

In addition, a deposit to pay consultant review fees in accordance with the Board's regulations shall accompany the application.

**40B ESCROW FEES:**

- For an application of 1-15 units / \$15,000
- For an application of 16-25 units / \$20,000
- For an application of 26-35 units / \$25,000
- 36 units and up / to be determined based on project.

Unless waived by the Board, the escrow fund must be supplemented as follows:

Should we find escrow fees of 1-15 units being depleted to \$2000, it must be brought back up to \$15,000.

Should we find escrow fees of 16-25 units being depleted to \$3500, it must be brought back up to \$20,000.

Should we find escrow fees of 26-35 units being depleted to \$7500, it must be brought back up to \$25,000.

Un-used portion of escrow funds will be returned, after accounting, when the decision of the Board has become final.

***This application must be returned to the Town Clerk's office.***

TO: Town of Berkley Board of Appeals. DATE:\_\_\_\_\_.

The undersigned hereby seeks a comprehensive permit pursuant to Massachusetts General Laws Chapter 40B, sections 20 to 23, to construct the improvements described herein.

APPLICANT: \_\_\_\_\_ / \_\_\_\_\_.  
Name Address

OWNER: \_\_\_\_\_ / \_\_\_\_\_.  
Name Address

TENANT: (if any): \_\_\_\_\_ / \_\_\_\_\_.  
Name Address

1. Location of premises:\_\_\_\_\_.

2. Dimensions of lot:\_\_\_\_\_.

Frontage Depth Sq. ft.

3. Assessors Map No:\_\_\_\_\_. Lot No:\_\_\_\_\_.

4. How many buildings now on lot:\_\_\_\_\_.

5. Size of existing buildings ( sq. ft.)\_\_\_\_\_.

6. Present use of premises:\_\_\_\_\_.

7. What is the basis for applicant's standing under M.G.L. Ch. 40B, section 21 (circle one).

Public agency limited dividend organization non-profit organization

8. If limited dividend organization, please specify any governmental program that confers that status on applicant:\_\_\_\_\_.

\_\_\_\_\_  
Signature of Applicant

The applicant will need a certificate showing no outstanding real estate taxes, from the tax collectors office. (form is included).

The applicant must obtain , and attach, a certified abutters list, from the assessors office.

The Zoning Board of Appeals will be responsible for all certified mailings and newspaper ads to be run. ( Funds for this to be taken from the escrow account.)

DEED to premises above described is recorded in the Bristol County Northern District Registry of Deeds.

BOOK:\_\_\_\_\_PAGE:\_\_\_\_\_Please attach a copy.

It is understood & agreed that the Notice of Variance is issued in reliance on this application, the site plans & the Building permit application. Any relief granted shall be conditioned on the Accuracy of this information.

Once approved and appeal period is over, we need an “asbuilt” plan (11 by 17) with respect to the location of the structure.

\_\_\_\_\_  
Signature of Owner (s)  
\_\_\_\_\_.

\_\_\_\_\_  
Signature of Applicant.

\_\_\_\_\_  
Telephone of Owner.

\_\_\_\_\_  
Telephone of Applicant.

\_\_\_\_\_  
Full mailing address for all correspondence.

***Include with your Application at least 15 copies of the following items:***

- A. Project Eligibility Letter – A project eligibility/site approval letter from a state or federal housing agency that states that the project has been determined eligible under a particular housing subsidy program.
- B. Evidence of Site Control – Evidence that the developer has control of the property in question; a copy of the deed, purchase and sale agreement, option agreement, or similar documentation.
- C. Preliminary Site Development Plans – Plans showing location and footprints of buildings, as well as roadways, paved areas, open space and drainage.
- D. Site Conditions Report – A narrative description of site and existing buildings.
- E. Preliminary Drawings – Preliminary architectural drawings, including typical plans and elevations for each building type.
- F. Building Tabulation – A tabulation of the proposed buildings, units, and bedrooms per building.
- G. Subdivision Plan – A plan showing the subdivision, if a subdivision is part of the proposal: size and frontages of lots and streets may vary from Berkley Zoning and subdivision requirements, but the drafting of the plan should conform, at minimum to the technical standards of the Planning Board for preliminary subdivision plan.
- H. Utilities Plan – Plans indicating the approximate locations of utilities and other infrastructure.
- I. Requested Exemptions – A list of requested exemptions to local bylaws, codes, ordinances, regulations, and fees, including Zoning bylaws and subdivision regulations.

**TOWN OF BERKLEY**  
**ZONING BOARD OF APPEALS**  
**ONE NORTH MAIN STREET**  
**BERKLEY, MA. 02779**

DATE: \_\_\_\_\_

TO: BERKLEY ZONING BOARD OF APPEALS.  
FROM: BERKLEY TAX COLLECTOR OFFICE.

I certify that (Applicant) \_\_\_\_\_

Of (address) \_\_\_\_\_

Has NO outstanding real estate tax due to the Town of Berkley , for ANY property owned OR jointly owned by the Applicant.

I also certify that the Owner ( indicate if NOT the same)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Of the property being considered for \_\_\_\_\_ by the  
( Variance, Appeal, etc... )  
Zoning Board of Appeals, has NO outstanding tax due to the Town of Berkley.

This property being: Town Of Berkley Assessors

MAP No. \_\_\_\_\_ LOT No.(s) \_\_\_\_\_.

Located at (address) \_\_\_\_\_

\_\_\_\_\_  
\*\* Tax Collector  
Town of Berkley

I certify the Applicant, Owner and property listed above , have NO Tax Title liens held by the Town Of Berkley.

\_\_\_\_\_  
\*\* Treasurer  
Town Of Berkley

\*\*\*THIS FORM MUST BE COMPLETED AND FILED WITH THE APPLICATION AT THE CLERK'S OFFICE\*\*\*

Section 6. FEES.

All applications shall be accompanied by Two (2) certified checks made payable to the order of the Town of Berkley. One check shall be for administrative fees and the second check shall be submitted as Consultant Review Fees and shall be accepted by the Town Clerk on behalf of the Board of Appeals. These funds shall be deposited into an individual special account. Any additional payments required shall be made within thirty (30) days of the billing date by the Board of Appeals Clerk.

*\*The Board of Appeals MUST hold a hearing within 30 days of the filing of this application. (except by mutual agreement between the Board of Appeals and the applicant).*

The fees of any professional consultants engaged by the Board to evaluate and provide information on Comprehensive Permits shall be borne by the applicant, as provided by and pursuant to M.G.L. CH 44 sec 53G.

When reviewing an application for, or when conducting inspections in relation to an application, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of the project's potential impacts or because the Town lack the necessary expertise to perform the work related to the application. The Board of Appeals may require that applicants pay a "project review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board.

In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers or other deemed appropriate professional to assist the Board to ensure compliance with all relevant laws, ordinances, bylaws, good design principals and regulations. Such assistance may include, analyzing an application, monitoring or inspecting a project or site for compliance with the Board of Appeals decisions and regulations.

Funds received by the Board of Appeals for this purpose shall have expenditures from this special account, may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for the services rendered. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee prior to the public hearing being closed shall be grounds for denial of the application.

At the completion of the Board of Appeals review of the project, any excess amount in the account, including interest, attributed to the project shall be repaid to the applicant or the applicant's successor in interest. The final report of said account shall be made available to applicant or the applicant's successor in interest.

The applicant may take an administrative appeal from the selection of the Board of Appeals outside consultant's choice to the Board of Selectman. Such appeal must be made in writing and may be taken only within 10 days after the Board of Appeals has mailed or hand delivered notice to the applicant of the outside consultant selection made by the Board of Appeals.

Grounds for appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. Minimum qualifications shall consist either of the educational degree in or related to the field at issue, or 5 or more years of practice in the field at issue. During the appeals process, the required time limits for action upon an application by the Board of Appeals shall be extended by the duration of the administrative appeal.

In the event, no decision is made by the Board of Selectman within 1 month following the filing of the appeal, selection made by the Board of Appeal shall stand

Section 10. RECORDING

No comprehensive permit shall take effect until a copy of the approved plan is endorsed by the Board, bearing the certification of the Town Clerk, that 20 days have elapsed after the filing of the decision and no appeal has been filed and all requisite documents (covenants, etc.) are recorded in the Registry of Deeds or Land Court (if applicable) and is indexed under the name of the record owner of the land.