

**REQUEST FOR WAIVERS****9 Oakland Street, Amesbury****6/3/2026**

Below is a “List of Waivers Requested,” preceded by a few contextual/explanatory points providing a roadmap of sorts to the applicable Zoning Ordinance provisions. Some of the requested waivers may not actually be necessary, either because the requirement does not apply, has been superseded by the other zoning provisions such as those set forth in § XI.J2, or because the Zoning Ordinance affords flexibility and does not require strict compliance with the requirement. The Applicant’s waiver requests are made if and to the extent necessary.

**Overview of Applicable Requirements:**

- **Section XI.J2 (Historic Preservation Special Permits, HPSP)**
  - These provisions incorporate by reference certain subsections of § XI.H2 (Lower Millard Overlay District), which in turn reference certain subsections of § VIII (Off-Street Parking) and § XI.C (Site Plan Review)
  - §§ XI.J2 and XI.H2 also include requirements that supersede many of the requirements specified in §§ VIII, XI.C and XI.H2
- **Section V.E (Affordable Housing Regulations)**
  - These provisions apply, but the Planning Board is authorized to reduce the required # of affordable units from the 15% to 10% pursuant to XI.J2.7.3 (“rounded to the next whole number “where 1.4=1 and 1.5=2)”)
- **Section VIII (Off-Street Parking and Loading Regulations)**
  - These provisions apply subject to superseding provisions within XI.J2 and XI.H2 (see, e.g. § XI.J2.2.b.3.v, requiring 1.5 on-site parking spaces per dwelling unit).
- **Section XI.C (Site Plan Review)**
  - Pursuant to § XI.H2.8 (LMO), applicable to HPSP projects by § XI.J2.b.1, the SPR procedural requirements of Section VI.C apply and potentially the substantive requirements – except that, pursuant to § XI.H2.8, § XI.C requirements inconsistent with the LMO requirements and standards of § XI.H2.8 are superseded by those specified in § XI.H2.8.
- **Section XI.H2 (Lower Millard Overlay District (LMO)) – Only subsections 2, 3, 4, 6 and 8 apply for HPSP projects, as provided by § XI.J2.b, those sections of § XI.H2 as follows:**
  - Subsection 2 – Establishment
  - Subsection 3 – Permitted Uses
  - Subsection 4 – Dimensional Regulations and Development Standards
  - Subsection 6 – Parking Requirements
  - Subsection 8 – Site Plan Review

**Context and Planning Board Waiver Authority:**

- Zoning Districts: Central Industrial (IC) and Lower Mill Overlay District (LMOD)
- Applications Pending: Historic Preservation Special Permit (XI.J2) and Site Plan Review (XI.C)
- Planning Board Discretion and Waiver Authority
  - The Planning Board has broad discretionary and waiver authority under the Historic Preservation Special Permit provisions with respect to dimensional requirements and development standards. See the following provisions:
    - § XI.J2.2.b.1: “The Planning Board (“the Board”) may grant a HP-SP to authorize actions that would otherwise not comply with the provisions of this Ordinance and that would allow the renovation, repair, or adaptive reuse of historic or architecturally significant buildings or structures.”
    - § XI.J2.2.b.1.i: “The Board may grant waivers from specific sections of the Ordinance as outlined below without further approval from any other special permit granting authority:
      - i. In order to permit adaptive re-use of existing historic buildings or structures, the Board may modify the standards in the Table of Dimensional and Density Regulations, with regards to minimum lot area, lot frontage, front, side and rear setbacks to allow residential uses in an existing or proposed principal or accessory structure.”
    - § XI.J2.2.b.2: “Under the HP-SP, the Board may grant relief to any or all dimensional requirements listed under Section VI without the approval of any other special permit granting authority.”
    - § XI.J2.2.b.4: “Waivers: The Board may grant waivers from any provision of Section XI.J2.2.b if it finds that the proposed redevelopment, alteration, extension or addition to the existing historic structure meets the provisions of Section XI.J2.5, shall not result in overburdening of the site, and meets the historic preservation purpose and intent of Section XI.J2.”
  - The Planning Board also has independent authority to grant relief from height requirements (as well as front, side and rear yard setback requirements) by special permit pursuant to Section VI.F.10.a. The Applicant is requesting this special permit relief if and to the extent needed.

**LIST OF WAIVERS REQUESTED**

| <b>Requirement</b>                                               | <b>Requested Waiver</b>                                                                                                                                                                                                                         | <b>Justification/Discussion</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <b>Section V.E - Affordable Housing Regulations</b>              |                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| § V.E.3                                                          | Waiver requested from requirement that 15% of the total number of dwelling units be set aside as affordable housing units to allow 10% or 12 affordable units based on the total 124 units proposed.                                            | <p>The Planning Board is authorized to waive this requirement to 10% for HPSP projects, pursuant to XI.J2.7.3, if the project meets the purpose and intent and performance standards applicable to such projects – as this project does.</p> <p>Maintaining the financial viability of this preservation project will be challenging, with many cost factors beyond the Applicant's control. Constraining the financial impact of this affordable housing component is warranted given the costs associated with such units and the many public benefits associated with this project.</p> |
| <b>Section VIII - Off-Street Parking and Loading Regulations</b> |                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| §§ VIII.A and VIII.G.1-G.2                                       | Waiver requested from these provisions to the extent they require parking and loading spaces in strict accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations (see deviations noted below) | The proposed parking configuration is the result of significant engineering and design efforts and considerations, with input from City officials and consultants working for the City and the Applicant. Strict compliance with this requirement is not necessary or feasible given the site constraints.                                                                                                                                                                                                                                                                                 |
| § VIII.G.13                                                      | Waiver requested from the requirement that all off-street parking spaces be 9' x 18'                                                                                                                                                            | The proposal includes 12 compact off-street parking spaces of which ten are 9' x 16' and two are 8' x 16'. Granting a waiver for these compact spaces is justified for the reasons noted above.                                                                                                                                                                                                                                                                                                                                                                                            |
| § VIII.G.17                                                      | Waiver requested with respect to the requirement that sidewalks/walkways be set back at least three (3) feet from any abutting parking curb                                                                                                     | The project complies with this requirement except with respect to 4 spaces having less than a 3-foot setback. Those spaces are provided with wheel stops. Strict compliance with this requirement is not necessary or feasible given the site constraints.                                                                                                                                                                                                                                                                                                                                 |

| Requirement                                           | Requested Waiver                                                                                                                                                                                                                    | Justification/Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| Table of Off-Street Parking Requirements Nos. 1 and 9 | Waiver requested from required 1.5 parking spaces for each apartment unit (yielding 186 spaces for the proposed 124 units) and 3.3 spaces per 1,000 s.f. of GFA for General Retail & Service (requiring 13 spaces for the 3,939 sf) | <p>The current project design includes 153 spaces for 124 dwelling units (1.23 spaces per unit) with the 23 surface spaces being shared with the proposed retail uses. The Applicant's traffic consultant has provided data and analyses confirming that the proposed parking configuration will meet the project's parking demands.</p> <p>If visitors or business customers are unable at times to find available parking on site, they can utilize nearby public parking spaces on nearby streets or the nearby public parking garage.</p> <p>A parking management program will be developed prior to 1st occupancy in coordination with the management company contracted to operate the property.</p> <p>Strict compliance with this requirement is not necessary or feasible given the site constraints.</p> |
| <b>Section XI.C - Site Plan Review</b>                |                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| § XI.C.8.c                                            | Waiver requested from landscaping requirements in the front setback (including a 10' wide continuous landscaped buffer) and along parking areas.                                                                                    | Compliance with this requirement is not feasible given the existing site constraints and building configuration.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| § XI.C.8.d                                            | Waiver requested from requirement that parking areas be located to the side or behind buildings, where feasible.                                                                                                                    | Compliance with this requirement is not feasible given the existing site constraints and building configuration and the need to construct an additional building to accommodate off-street parking and a unit count that supports the cost of this preservation project.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| Requirement                                 | Requested Waiver                                                                                                                                          | Justification/Discussion                                                                                                                                                                                                                                                                                                                                                                                     |
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| § XI.C.8.i                                  | Waiver requested from requirement that light fixtures shall be located no closer to the property line than four times the mounting height of the fixture. | The goals of this requirement are not applicable to this setting. Compliance with this requirement is not desirable in this context given the existing building configuration and given the proposed retail uses and walkways along the property's frontage on Oakland and Chestnut Streets. Lighting has been proposed where appropriate to accommodate the proposed uses and unique project configuration. |
| <b>Section XI.H2 - LMOD Requirements</b>    |                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                              |
| §§ XI.H2.4.a.1 and XI.H2.4.e.1 (open space) | Waiver requested from the 50% minimum open space area requirement and the public open space requirements of § XI.H2.4.e.1.                                | The existing building is already nonconforming with respect to open space (33%) and expansion of this nonconformity is required to accommodate the new building, which is needed for parking and additional dwelling units to render this historic preservation project financially viable. 13% open space is proposed, the maximum amount feasible.                                                         |
| §§ XI.H2.4.a.1 and XI.H2.4.e.2 (coverage)   | Waiver requested from the 50% maximum coverage area requirement and the related coverage/open space requirements of § XI.H2.4.e.2.                        | § XI.J2 does not provide a maximum coverage area for HPSP projects. If applicable, note that the existing building is already nonconforming with respect to lot coverage (67%). 87% coverage is proposed, the minimum amount feasible.                                                                                                                                                                       |
| § XI.H2.4.d (setback)                       | Waiver requested from the required 8-foot maximum building setback                                                                                        | The new building is proposed to be set back more than 8' in order to accommodate the proposed community and public use open space area associated with the retail use on Chestnut Street, to provide an appropriately designed access point for the enclosed parking structure and to preserve views to the existing historic structure.                                                                     |

| Requirement                                    | Requested Waiver                                                                                                                                                                                                                                   | Justification/Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| §§ XI.H2.4.d and XI.H2.8.4.a (building height) | Waiver requested from the maximum building height requirement of 40' "except as allowed in Section XI.H2.8.4.a" and the requirement of XI.H2.8.4.a that requires a maximum building height of 45' for "building entirely above structured parking" | The existing top building height is 53'-3". The proposed height is identified as 55'-11." However, the actual top elevation is unchanged. The apparent height increase is due to the average grade plane moving down 32".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| § XI.H2..5.a                                   | Waiver requested from the 15% affordable unit requirement                                                                                                                                                                                          | [see justification noted above]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| § XI.H2.6                                      | Waiver requested from the various parking requirements for LMOD-SP projects noted in this section – if needed.                                                                                                                                     | <p>The Applicant believes the project complies with these requirements, but it requests a waiver if needed.</p> <p>The current project design includes 153 spaces for 124 dwelling units (1.23 spaces per unit) with the 23 surface spaces being shared with the proposed retail uses. The Applicant's traffic consultant has provided data and analyses confirming that the proposed off-site parking configuration will meet the project's parking demands.</p> <p>If visitors or business customers are unable at times to find available parking on site, they can utilize nearby public parking spaces on nearby streets or the nearby public parking garage.</p> <p>A parking management program will be developed prior to 1st occupancy in coordination with the management company contracted to operate the property.</p> <p>XI.H2.6.e also provides flexibility, as follows: "The LMOD-SP may allow "shared" reduced parking requirements for uses having different peak times of parking demand requirements, as determined based on the report of a traffic engineer engaged by the Applicant and approved by the Planning Board."</p> |

| Requirement      | Requested Waiver                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Justification/Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| § XI.H2.8.4.b.4  | Waiver requested from the requirement that “[s]ervice areas should be provided to the rear wherever possible”                                                                                                                                                                                                                                                                                                                                                                                                                       | Service areas cannot be provided to the rear of the existing or proposed buildings at this site.                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| § XI.H2.8.4.b.12 | Waiver requested from the requirement that “[o]n the street level, the amount of windows in the façade surface shall be at least 20 percent but not larger than 80 percent. Display windows shall be framed on all sides by the surrounding wall.”                                                                                                                                                                                                                                                                                  | The windows proposed for this project are driven by existing, historic window patterns in the existing building. Compliance with this requirement is not warranted for this project.                                                                                                                                                                                                                                                                                                                                                                     |
| § XI.H2.8.4.b.13 | Waiver requested from the requirement that “[g]arage doors or loading docks shall not be allowed in the building fronts”                                                                                                                                                                                                                                                                                                                                                                                                            | Compliance with this requirement is not feasible or warranted for this project.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| § XI.H2.8.4.b.16 | Waiver requested from the requirements of this section: “Roofs shall be gabled with a minimum pitch of 9/12 (9” vertical for every 12” horizontal) and have overhanging eaves of at least one foot. Two or three story buildings, or two or three story portions of a building, may have a flat roof provided that the tops of the building front facades are treated with an articulated cornice, dormers, or other architectural treatment that appears an integral part of the building from all visible sides of the building.” | <p>The proposed rooflines are designed to match the pitch and proportions of the existing mill buildings. The existing pitch is approximately 1 inch per foot. Rooflines are adorned with modest brick corbels, which are replicated in general proportions with trim work on new upper story as shown per plans.</p> <p>Strict compliance with this requirement is not warranted. The proposed design is compatible with the building’s historic appearance and maintains, preserves and enhances the character defining features of the structure.</p> |

| Requirement                                                                       | Requested Waiver                                                                                                                                                                                                                                                                                                                                                            | Justification/Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| § XI.H2.8.4.f                                                                     | Waiver requested from the “First Floor Use” requirements of this section, requiring that first floor areas “should be devoted to commercial, retail, or restaurant use and incorporate glazed storefront windows and shop entry doors ... except that 20% of such first floor use along the building perimeter shall be permitted to be accessory to any upper level uses.” | The proposed project meets the intent of this requirement. All primary corners of the building that front directly on the public way contain commercial tenant spaces. Areas that front onto the parking court and have grade changes along Chestnut Street contain Live-Work style apartments that are intended to house small businesses. The lower level of the new addition which contains the parking garage is set back from Chestnut Street with a landscape buffer and does not contain any commercial space. |
| <b>Section XI.J2 – Historic Preservation Special Permit (“HPSP”) Requirements</b> |                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| § XI.J2.2.b.3.iv                                                                  | Waiver requested from this open space requirement: “Open Space: Existing open space on the lot(s) cannot be reduced by more than fifteen percent (15%) of the requirements of the zoning district for all new or relocated buildings or structures and by twenty-five percent (25%) by all new or relocated buildings or structures, driveways, and parking.”               | <p>A significant portion of the existing open space at the property is necessarily being utilized to accommodate the new 6-story building, which will accommodate 3 stories of off-street parking and 3 stories of residential units – all of which are needed to render this preservation project financially viable.</p> <p>The Applicant has maintained the maximum amount of open space possible, most of which will be available to the public for use in connection with the proposed retail spaces.</p>        |

| Requirement     | Requested Waiver                                                                                                                                                                                                                                                                             | Justification/Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| § XI.J2.2.b.3.v | Waiver requested from this provision to the extent it requires off-street parking at the rate of 1.5 parking spaces per dwelling unit.                                                                                                                                                       | <p>The current project design includes 153 spaces for 124 dwelling units (1.23 spaces per unit) with the 23 surface spaces being shared with the proposed retail uses. The Applicant's traffic consultant has provided data and analyses confirming that the proposed off-site parking configuration will meet the project's parking demands.</p> <p>If visitors or business customers are unable at times to find available parking on site, they can utilize nearby public parking spaces on nearby streets or the nearby public parking garage.</p> <p>A parking management program will be developed prior to 1st occupancy in coordination with the management company contracted to operate the property.</p> |
| § XI.J2.4.b.4   | Waiver requested from this procedural requirement that the applicant submit "a proposed affordable... housing restriction and pertinent documents" for the proposed affordable units                                                                                                         | The applicant has submitted details of the proposed affordable units and identified model language and documents that will guide the process of finalizing the affordable unit restrictions and pertinent documents. Pursuant to XI.J2.7.3, the affordable unit deed restrictions must be finalized prior to issuance of the building permit.                                                                                                                                                                                                                                                                                                                                                                       |
| § XI.J2.5.b.5.i | Waiver requested from this requirement to the extent it requires any new window design to have the same sash and pane configuration and other design details of the historic windows and any replacement windows to have the same features including frames, sash, and muntin configuration. | Strict compliance with this requirement would add significantly to the costs of this project. The project incorporates historically appropriate elements, including new divided lite windows with a 12 over 12 muntin pattern. While not matching the existing muntin pattern, the proposed windows and related design elements are "compatible with the building's historic appearance and shall maintain, preserve and enhance the character defining features of the structure," the stated intent of this requirement.                                                                                                                                                                                          |

| Requirement    | Requested Waiver                                                                                                                                                                                                                                                                             | Justification/Discussion                                                                                                                                                                                                                                                                                                                                                                                            |
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| § XI.J2.5.b.8  | Waiver requested from this requirement, providing that “[d]riveways, walkways, or seating/recreation areas (e.g. patios) shall be shown and finished in gravel, cobble, brick, or alternative materials(s) approved by the AHC and Design Review Committee.”                                 | <p>Driveways and parking areas are proposed to be finished with bituminous concrete to ensure a clean finish that holds up to wear and tear. Primary patios and walkways are proposed to be pre-cast concrete pavers, secondary locations to be cast in place concrete, as shown on the plans.</p> <p>Approval of these “alternative materials” is warranted (in which case a waiver is not actually required).</p> |
| § XI.J2.5.b.10 | Waiver requested from this requirement, providing that “[m]ore that 4 contiguous car spaces shall be screened by vegetative screening of shrubs at least five (5) feet in height and as approved by the board. Every two car spaces shall be separated by a six (6) feet landscaped island.” | Compliance with this requirement is not feasible given the site constraints, demand for the proposed number of surface parking spaces and attempt to accommodate walkways and other public spaces along the edges of the proposed parking areas.                                                                                                                                                                    |