

**TOWN OF LYNNFIELD
ZONING BOARD OF APPEALS**

THE FOLLOWING INFORMATION MUST BE SUBMITTED WITH ALL APPLICATIONS TO BE CONSIDERED BY THE BOARD OF APPEALS:

1. Completed Application, **ONE COPY** (filled out in black ink)
2. Appropriate filing fee (see chart below)
3. Indicate Map & Parcel Number for the lot and/or lots to be considered, on application (can be obtained from the Assessor's office)
4. Copy of Deed. (deeds can be obtained at the Registry of Deeds in Salem, MA)
5. Certified Plot Plan or Site Plan (*not reduced in size, if a copy*) showing your proposal (pool, addition, deck, garage etc.) Plot Plan should also show the location of the septic system and any easements on the property. The plan must also include a locus map, showing where the parcel is in relation to abutters, streets and ways, and other landmarks. See Section 7.4 of the Lynnfield Zoning Bylaws for guidance on the required content of a site plan.
6. The materials submitted to the Zoning Board of Appeals must clearly delineate the proposed changes, on the site or plot plan, to enable the Board to understand the scope of the project. The careful use of different colored lines to show the proposed changes and enable contrast with the existing condition is highly recommended.
7. An additional 15 (16 including original) copies of the application and the plan must be submitted to the Board.
8. Before the Town Clerk or the Board will accept an application, it is required that all petitioners and applicants submit their application to the Building Inspector for an initial review for completeness.

APPLICATIONS WILL NOT BE ACCEPTED WITHOUT THE ABOVE INFORMATION.

TOWN OF LYNNFIELD
ZONING BOARD OF APPEALS

Fee Schedule

	Residential	Commercial
Appeals	\$100	\$200
Variances	\$150	\$300
Special Permits	\$100	\$200
Other	\$100	\$200

Please note that a filing fee must be paid for each request before the board. For example, if a petitioner seeks both a variance and a special permit, fees must be paid for both requests.

The below attached form is required for any petition before the board. In most cases this form will suffice, but in complex cases the board may require more information.

TOWN OF LYNNFIELD
ZONING BOARD OF APPEALS

WHEN SEEKING A VARIANCE:

The burden rests upon the Petitioner to produce evidence at the hearing that:

- a. "owing to circumstances related to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located,
- b. a literal enforcement of the provisions of the ordinance or the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and
- c. that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw."

Taken from M.G.L. Chapter 40A, Section 10.

ALL THREE (3) criteria must be present and proved before a Variance can be granted.

Petitioners (Applicants) are further reminded that all records, including deeds and plot plans, bearing upon the lot or lots for which a permit or variance is desired are to be produced at the hearing. (Refer to Rules of Board of Appeals, more particularly, Rule 10.) The Board must keep any documents received into evidence, thus Petitioners must ensure enough copies to keep one themselves.

Applications and hearings on Special Permits, Variances and other provisions of the Lynnfield Zoning Bylaws require plot plans consisting of either a Certified Site Plan or a Certified Plot Plan. (Refer to Rules of the Board of Appeals, more particularly, Rule 6.a, b., and c.)

Failure to include the above may result in dismissal, denial, or continuance of Petition

Petition
TOWN OF LYNNFIELD
ZONING BOARD OF APPEALS

Name of Petitioner _____

Address _____

Address of Property which is the subject of the
Petition _____

1. Indicate and describe relief being sought by this petition:
(check appropriate box)

- | | | |
|--------------------------|---|---------------|
| <input type="checkbox"/> | A. Appeal Decision made by _____
Bldg. Inspector, Planning Board, etc. | Date
_____ |
| <input type="checkbox"/> | B. Apply for a Variance

_____ | |
| <input type="checkbox"/> | C. Apply for a Special Permit

_____ | |
| <input type="checkbox"/> | D. Other (specify)

_____ | |

2. Specify Zoning Bylaw Sections(s) from which you desire relief:

Relief cannot be granted at this hearing for any condition or bylaw not stated above

3. With respect to Land under consideration:

A. Its Area _____ square feet, street frontage _____ feet

B. District Zone (see Bylaws) _____

C. Deed Record: Registry of Deeds _____,
Book _____ Page _____ (see tax bill)
Or Land Court _____,
Book _____ Certificate _____
Map _____ Parcel _____

4. Ownership

A. Name, Address of Owner(s)

B. If applicant is not owner, check the interest in the premises, and attach evidence of such interest.

Prospective Buyer: _____

Lessee: _____

Other (explain) _____

5. The undersigned petitioner affirms the foregoing statements are true statements of fact:

Signed _____ Street and Number _____
Town/City _____ State _____ Phone No. _____
Assessors Clerk _____ Date _____

6. A check payable to the Town of Lynnfield shall be delivered to the Board of Appeals, Town Hall, Lynnfield, MA 01940 for the proper amount indicated in the above fee schedule.

7. The Application and fee shall be submitted to the Town Clerk at least four (4) weeks prior to date of the hearing.

8. Public Hearings are normally scheduled for the 1st Tuesday of each month

Petitioner not to write below

.....
Petition reviewed by Building Inspector for completeness _____

Received and Stamped by Town Clerk _____

Entered with the Board of Appeal _____

Fees actually paid \$ _____

Advertised in _____

Parties of interest mailed notices _____

Hearing Date _____

THE ZONING BOARD OF APPEALS TIMELINE
(PLEASE READ CAREFULLY)

- Hearings are the first Tuesday of every month. The Petition should be filed at least 4 weeks prior to the date of the meeting.
- Petition is submitted to the Building Inspector for an initial review for completeness.
- Petition is filed with the Town Clerk and processed for the next hearing, with appropriate fee. The Town Clerk will not accept a petition that has not been approved (as to completeness) by the Building Inspector.
- Petition is then formally submitted to the Zoning Board of Appeals.
- Petition is given to the following boards for their review by the ZBA Secretary: Planning Board, Conservation Commission, Board of Health, Water Department, Fire Department, and DPW depending on the nature of the petition.
- Petitioners should check with the Planning Board and Conservation Commission to determine whether a petition must separately come before those other boards.
- The petitions must be advertised for **at least 2** weeks prior to the hearing (done by ZBA Secretary)
- Notices are sent out by the ZBA Secretary to abutters of the Petitioners.
- At the hearing, a decision will be made or it will be continued.
- If a favorable decision is made, a written decision will be signed by the Chair or designee. Counsel may be invited to submit draft opinion, but only to assist the board in rendering decision.
- The final decision is then filed with the Town Clerk and time stamped
- There is a 20 day appeal period which starts the day the decision is filed with the Town Clerk and time stamped. Notices are sent out to abutters to notify them that the decision has been filed and that they have 20 days to appeal that decision.
- After the 20 days has passed and no appeal has been filed, a letter will be sent to Petitioner stating such, with a copy of the decision. Petitioner must take the decision to the Registry of Deeds in Salem, Mass. to be recorded.

**TOWN OF LYNNFIELD
RULES OF THE ZONING BOARD OF APPEALS**

1. The Board of Appeals operates under the authority of the Zoning Bylaws of the Town of Lynnfield, Section 8(d), and Chapter 40A of the General Laws of the Commonwealth of Massachusetts. It also has jurisdiction in the area of Building Bylaws and Planning Bylaws.
2. Public Hearings are regularly scheduled for the first Tuesday of each month in the Town Hall, or at such other times as may be dictated by significant public interest.
3. Forms for petitioning for a hearing are available in the Town Hall with the Building Inspector and such other locations as he may designate. The forms are self-explanatory and must be filled out completely.
4. Any appeal must be made within thirty (30) days from the date of refusal by the cognizant administrative officer.
5. The department refusing the permit shall specify the reasons therefor and the particular Bylaw or ordinance involved.
6. Petitions [applications] shall be submitted as follows.
 - a. If an appeal from **ADMINISTRATIVE DECISION** or a direct application for **VARIANCE** or **SPECIAL PERMIT** (Paragraph IA, IB, or ID of the petition) sixteen (16) copies of the application shall be submitted to the Town Clerk at least four (4) weeks prior to the date of the hearing. (see Rule 2 above).
 - b. If an application for a Special Permit, sixteen (16) copies said application shall include a site plan which shows all existing and proposed features, including as a minimum those prescribed under Section 7.4 of the Lynnfield Zoning Bylaws, as amended from time to time and additional stipulations as provided under Board of Appeals Rule 13, a. through j. inclusive.

Upon receipt of an application accompanied by sixteen (16) copies of the site plans the Board of Appeal shall, within 5 working days, transmit one copy to the Planning Board, Board of Health, Conservation Commission, Department of Public Works, the Building Inspector, and the Water District in which the site is located for their written recommendations in accordance with the provisions of M.G.L. Chapter 40A, Section 11.

- c. If an application for a **NON-CONFORMING BUILDING TO BE STRUCTURALLY ALTERED OR ENLARGED** (Under Section 11.4 (Page 11-49) of the Lynnfield Zoning Bylaws, said application shall include a **CERTIFIED PLOT PLAN** prepared by a Professional Engineer or Land Surveyor which shows all existing and proposed features including as a minimum all existing and proposed buildings, structures, ways, driveway openings, driveways and their dimensions and the approximate location and type of sanitary system, set back, side line, and rear yard depth distances from all present proposed buildings or other features, and identify any land thereon which lies within the Groundwater Protection District and Flood Plain District. The scale of said Certified Plot Plan shall be no smaller than 1 inch equals 40 feet.

d. If an application for an **EXTENSION OR CHANGE IN NON-CONFORMING USE** (Under Section 11.4 (Page 11-49) of the Lynnfield Zoning Bylaws, said application shall include a **SITE PLAN** which shows all existing and proposed features including as a minimum all existing and proposed buildings, structures, ways, driveway openings, driveways and their dimensions and the location and type of sanitary system, set back, side line, and rear yard depth distances from all present proposed buildings or other features, and identify any land thereon which lies within the Groundwater Protection District and Flood Plain District. In all cases involving extension of change in non-conforming use, the additional stipulations as provided in Board of Appeals Rule 13, a. through j. inclusive, shall apply.

e. The Board of Appeals shall have the right to impose conditions, safeguards, and limitations on time or use when granting the permit. The Board of Appeals shall have the power to modify or amend its approval of the said Certified Plot Plan or Site Plan on application of the person owning or leasing the premises, or upon its own motion in the event of changes in physical conditions sufficient to justify such action within the intent of Section 7.4 of the Lynnfield Zoning Bylaw.

f. Upon receipt of sixteen (16) copies of said application accompanied by sixteen (16) copies of the said Certified Plot Plan or Site Plan (as the case may be), the Board of Appeals shall within 5 working days, transmit one copy of the application, site plan and other material submitted, to the Planning Board, Board of Health, Conservation Commission, Department of Public Works, the Building Inspector, ~~and~~ the Water District in which the site is located, and the Fire Department as necessary for their written recommendations in accordance with M.G.L. Chapter 40A, Section 11.

7. In all cases (Rule 6 above) a check in the proper amount payable to the Town of Lynnfield shall be delivered to the Secretary of the Board of Appeals.

8. In case of an appeal involving a building permit, no petition shall include more than one permit. A separate petition shall be made for each refusal. A fee shall apply to each request for action before the Board. The requirements of this section may be waived by the Board.

9. The Board of Appeals will publish a notice of the hearing in the local press and will send notices to the petitioner and to those owners of surrounding property who, in the opinion of the board, are deemed to be affected thereby. The Planning Board, the Building Inspector and any other administrative department whose decision is being appealed will also be notified. Between the date of first publication of the hearing and the date of the hearing there shall be an interval of at least fourteen (14) and not more than thirty-one (31) days. The publication shall contain the following in bold face type: (a) the name of the petitioner, (b) the location of the area or premises which are the subject of the petition, and (c) the date and place of the public hearing.

10. The Petitioner shall produce at the hearing all records, including deeds, plot plans, etc. bearing upon the lot or lots for which an application has been filed and/or a permit is desired. The Board may retain any record or plot which has been introduced into evidence, for reference in the consideration of the case. Such record or plan shall be, upon request, returned to the owner at the time the decision is published.

11. The decision of the Board shall be made within [75 days variance] [90 days special permit] from the date of filing with the Board. The Board shall cause to be made a detailed record of its proceedings,

showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and setting forth clearly the reasons for its decision, and its other official actions, copies of which shall be immediately filed in the office of the Town Clerk and shall be a public record, and notice of decisions shall be mailed, forthwith to parties in interest as designated in Rule 9, to the Planning Board, and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent.

12. A limited or conditional zoning variance or special permit shall not take effect until the appellant or petitioner has recorded in the Essex South Registry of Deeds a notice certified by the Chairman or Clerk of the Board of Appeals, containing the name and address of the land owner, identifying the land affected, and stating that a limited or conditional variance or special permit has been granted which is set forth in the decision of the Board on file with the office of the Town Clerk.

13. The following additional stipulations shall apply in all cases (except Rule 6 c. above) involving Special Permit Site Plan Approval by the Board of Appeals:

a. The site plan shall be submitted in accordance with the procedures set forth in Section 7.4 of the Zoning Bylaw and Board of Appeals Rule 6 b. and 6 d. above.

b. The plan shall delineate all features required by 7.4 of the Zoning Bylaw.

c. The plan shall be drawn by a registered professional engineer and be based on applicable deed or plans recorded in the Essex South Registry of Deeds. Any inconsistency or ambiguity in the deeds or plans shall be referred for ruling to the Town Counsel or to counsel designated and retained by the Board of Appeals at the expense of the petitioner.

d. The scale of a plan of an overall tract may be no smaller than 1 inch equals 40 feet. If such a plan is used, it shall be accompanied by a plan or plans no smaller than 1 inch equals 20 feet depicting each structure and its surroundings with the detail prescribed in Rule 13 (b) above. The floor area of each floor of each structure shall be calculated.

e. Site Plans shall be accompanied by a written report of a registered professional engineer certifying the adequacy of provisions for the disposal of sewage, surface water, and any other waste incident to the proposed use. This report shall be based on test borings, percolation tests or other substantial findings and be subject to review and acceptance by the Board.

f. If the plan is submitted in multiple sheets, each sheet shall be identified to show its relation to the whole, e.g., "sheet 2 of 4" etc.

g. Each sheet of the plan shall bear a legend stating its purport, the names of the owner and petitioner, the name of the engineer who made the plan with his registration number, its scale and legend for approval signatures by 3 members of the Board of Appeals.

h. Sixteen (16) copies of the site plan shall be delivered to the Board of Appeals on the date the application is submitted.

i. A formal application for hearing will be submitted in conformance with Rule 1 through 7 above.

j. For purposes of compliance with Section 18, Chapter 40A of the General Laws of the Commonwealth and with Rule 11 above, neither the application for hearing nor the plan will be considered filed with the Board of Appeals until receipt of the report of the Planning Board or until said Planning Board has allowed thirty-five (35) days to elapse without submission of a report, from the date of submission to the Planning Board, whichever is earlier.

14. Application Review Fees (Variance, Special Permit, Comprehensive Permit)

a. When reviewing an application/petition for a Variance, Special Permit, or Comprehensive Permit, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts. The board may require the applicant to pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application/petition. The review fee which may be incurred is separate from, and does not diminish, the Petitioner's obligation to pay the appropriate filing fee.

b. In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the board in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws, and regulations.

c. Funds received by the Board pursuant to this section shall be deposited with the Town of Lynnfield Treasurer who shall establish a special account for this purpose. 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 in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant/petitioner. Failure of an applicant/petitioner to pay a review fee shall be grounds for denial of the application/petition.

d. Review fees may only be spent for services rendered in connection with the specific project from which they are collected. Accrued interest (if any) may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest (if applicable) attributable to a specific project, shall be returned to the applicant/petitioner or the applicant's/petitioner's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's/petitioner's successor in interest shall provide the Board with documentation establishing such succession in interest.

e. Any applicant/petitioner may take an administrative appeal within fourteen (14) days from the selection of the outside consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.