



**THE CITY OF LYNN MASSACHUSETTS**

Inspectional Services Department

Room 401, Lynn City Hall, Lynn, MA 01901

p. 781-598-4000 ~ f. 781-477-7031

Website: [www.lynnisd.com](http://www.lynnisd.com)

## Zoning Board of Appeals

Massachusetts General Law

Chapter 40A, Section 10

The permit granting authority shall have the power after public hearing notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that owing to circumstances relating 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, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and 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 by-law. Except where local ordinances or by-laws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located provided however, that such variances properly granted prior to January first, nineteen hundred and seventy-six but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date.

The permit granting authority may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefore, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.

City of Lynn

Zoning Board of Appeals

Application Date: \_\_\_\_\_

The undersigned hereby petitions the Board of Appeals for the following:

Appeal	Variance	Special Permit
_____	_____	_____

Subject Property: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Map: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_ Suffix: \_\_\_\_\_

Petitioner's Name: \_\_\_\_\_ Address: \_\_\_\_\_

Petitioner's Name: \_\_\_\_\_ Address: \_\_\_\_\_

Petitioner's Name: \_\_\_\_\_ Address: \_\_\_\_\_

Detailed Description of Work:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature Of Applicant: \_\_\_\_\_

Signature of Agent or other Representative acting for Petitioner: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Application Fee: \_\_\_\_\_

City of Lynn  
Zoning Board of Appeals

Please collect the indicated materials, which make up an application to the Board of Appeals. Incomplete filings will not be accepted for processing and scheduling. Hearing dates are not assigned in advance.

The complete set of documents is filed with the Inspectional Services Department, Building Division, who will collect the filing fee at the time of filing.

Six copies are required for review by appropriate Zoning Board of Appeals members. Office staff will calculate how many copies of the materials will be required if otherwise required. All duplicate copies should be left in the Zoning Board of Appeals Office, Inspectional Services Department, Building Division at the same time of filing.

Filing Fees:

Advertising/ mailing fees: \_\_\_\_\_ \$150.00

Appeals: \_\_\_\_\_ \$200.00  
(Pursuant to MGL Ch 40A)

Variances: \_\_\_\_\_  
(Pursuant to MGL CH 40A)

Yards

1-3 Family \$150.00  
All Others \$350.00

Area Regulations

1-3 Family \$300.00  
All Others \$500.00

Non-Conforming Building \$250.00

Sub-Division of lots (Per Lot) \$1000.00

Additional Family Unit (Per Unit) \$1000.00

Off Street Parking (Each Space)

1 & 2 Family \$50.00  
All Others \$350.00

Certified Checks/non refundable required

Application for Hearing:

Supporting Statements – Requested Findings:

Evidence of Standing to Seek Relief:

Deed or Certificate of Title.  
Signed Option of Purchase.  
Lease of Property Owner's Authorization Letter.

Authorization of Condo Association Authorization Letter if Applicable.  
Certification Sheet – Abutter's List (See Attached Sheet)

Plot Plan: Shall show scale, north arrow, lot dimensions and area, existing building and structures. Include topography, flood plain, wetlands and other features as relevant. New buildings and additions to be staked.

Plan(s): Plan shall show scale, north arrow, dimensioned location of all improvements, including floor areas, elevations. Include if applicable, physical features, certified off-street parking plan, landscape plan, grading, drainage and lighting plans.

Note: For site plan review the plans shall be endorsed by a registered professional engineer or architect licensed in Massachusetts.

List all prior Zoning Board of Appeals actions relating to this property, include date (s), Docket #s, Subject of the Application, and Decisions.

Photos: Photos of each side of the Building or Lot (showing each view of property line) (4 photos) are required.

Any application, which has been filed with the Board of Appeals, may be withdrawn, without prejudice to the applicant, prior to the publication of notice of a public hearing thereon. The filing fee shall be refunded, with the exception of a \$50.00 processing fee. Thereafter, an application may be withdrawn without prejudice only with the approval of the Board of Appeals.

Any communication to the Board of Appeals proposing to be an application, appeal, or petition, shall be regarded as mere notice of intention to seek relief, and shall be of no force unless it complies with the requirements of these rules.

Note: The rights authorized by a special permit expire two (2) years from the date the decision is filed with the City Clerk, unless exercised or extended in accordance with the terms of MGL 40A Sec. 9.

Date:

\_\_\_\_\_

SIGNATURE:

\_\_\_\_\_  
(Petitioner/Agent)

ADDRESS:

\_\_\_\_\_

PHONE #:

\_\_\_\_\_

- PLEASE ATTACH ADDITIONAL SHEETS IF SPACE PROVIDED IS INSUFFICIENT.

MASSACHUSETTS GENERAL LAW

CHAPTER 40A, SECTION 10

THE PERMIT GRANTING AUTHORITY SHALL HAVE THE POWER AFTER PUBLIC HEARING NOTICE HAS BEEN GIVEN BY PUBLICATION AND POSTING AS PROVIDED IN SECTION 11 AND BY MAILING TO ALL PARTIES IN INTEREST TO GRANT UPON APPEAL OR UPON PETITION WITH RESPECT TO PARTICULAR LAND STRUCTURES A VARIANCE FROM THE TERMS OF THE APPLICABLE ZONING ORDINANCE OR BY-LAW WHERE SUCH PERMIT GRANTING AUTHORITY SPECIFICALLY FINDS THAT OWING TO CIRCUMSTANCES RELATING 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, A LITERAL ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE OR BY-LAW WOULD INVOLVE SUBSTANTIAL HARDSHIP, FINANCIAL OR OTHERWISE, TO THE PETITIONER OR APPELLANT, AND 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 BY-LAW. EXCEPT WHERE LOCAL ORDINANCES OR BY-LAWS SHALL EXPRESSLY PERMIT VARIANCES FOR USE, NO VARIANCE MAY AUTHORIZE A USE OR ACTIVITY NOT OTHERWISE PERMITTED IN THE DISTRICT IN WHICH THE LAND OR STRUCTURE IS LOCATED PROVIDED HOWEVER, THAT SUCH VARIANCES PROPERLY GRANTED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED AND SEVENTY-SIX BUT LIMITED IN TIME, MAY BE EXTENDED ON THE SAME TERMS AND CONDITIONS THAT WERE IN EFFECT FOR SUCH VARIANCE UPON SAID EFFECTIVE DATE.

CERTIFICATION SHEET

BOARD OF APPEALS UNDER THE ZONING BY-LAW  
INSPECTIONAL SERVICES DEPARTMENT/BUILDING DIVISION  
3 CITY HALL SQUARE, ROOM 401  
LYNN, MA 01901

RE: \_\_\_\_\_

MAP #: \_\_\_\_\_

BLOCK: \_\_\_\_\_ LOT: \_\_\_\_\_

MEMBERS:

Pursuant to the provisions of Section 11 Chapter of the General Laws, we hereby certify that the list attached hereto is a true list of names and addresses of abutters concerning a matter to be heard by your Board and involving the afore-mentioned property.

As used herein the term "abutter" means:

- Owner of adjoining land
- Owners of land directly opposite on any public or private street or way
- Abutters to abutters within three hundred (300') feet of the property line on the locus
- All as they appear on the most recent applicable tax list.

BOARD OF ASSESSOR  
CERTIFICATION DATE

## TIMELINE FOR THE ZONING BOARD OF APPEALS VARIANCE PROCESS

- DAY 0 - Building Commissioner receives completed application and date stamps it.
- Prior to the public hearing - Notices of the public hearing are sent to the applicant and abutters.
- At least fourteen (14) days before the public hearing – The 1<sup>st</sup> notice is published in the Lynn Item and posted in City Hall.
- One week before the public hearing: The 2<sup>nd</sup> notice is published in the Lynn Item.
- No later than 65 days after receipt of a complete application: Public hearing is held – any later than 65 days requires a signed agreement between the applicant and the ZBA.
- 100 Days after the filing of the variance application: Last day for the ZBA to vote. The written decision must be filed with the ‘City Clerk’ within 14 days of the vote. If no decision is made, the applicant may obtain a constructive grant by applying to the City ‘Clerk’.
- The Secretary of the Board of Appeals has 10 Business Days to file the minutes of the Meeting with the City Clerk.
- 20 Days after a decision is filed with the City Clerk: The Appeal period for interested party’s ends. Appeals are filed with both the City Clerk and ZBA. If no appeal is filed and the variance was granted it takes effect at the end of the 20-day appeal period.

\* NOTE: THE VARIANCE LAPSES ONE YEAR FROM THE DATE OF THE DECISION UNLESS ACTION IS TAKEN UPON THE GRANTED VARIANCE.

**CITY OF LYNN  
INSPECTIONAL SERVICES DEPARTMENT  
BUILDING DIVISION  
3 CITY HALL SQUARE, ROOM 401  
LYNN, MA 01901**

**FREQUENTLY ASKED ZONING BYLAW QUESTIONS**

**How is my property zoned?**

In order to determine the zoning designation of any property, you need to know the street address and then by looking at the official zoning map, you can determine the zoning designation. A call to the Inspectional Services Department with this information will give you the answer. Due to the frequent inquiries regarding such matters, you may be asked to fill out the "Freedom of Information Act" form.

**What can I use my (or any other) property for?**

In order to determine what uses are allowed for a particular zoning district, you may go to the Zoning Bylaw, find the applicable section, "Table of Use Regulations", and review the uses allowed. In each zoning district you will notice that certain uses are allowed by right and others are subject to a Special Permit. For both categories, other approvals may also be necessary (such as Site Plan Review, Conservation Commission, Planning etc.).

**How big of a lot do I need and how close to the lot line can I build?**

These types of dimensional and density questions can be answered by looking at the applicable section of the Zoning Bylaw, "Table of Dimensional Regulations", for your district. The regulations for lot size, setbacks, frontage, etc. vary from district to district.

**What if I cannot meet the zoning requirements? Can I still get a permit?**

Maybe you can. A committee known as the Zoning Board of Appeals is empowered to hear requests to vary the terms of the Zoning Bylaw. This form of relief is known as a variance. The process for requesting approval is best explained on a case-by-case basis by the Building Commissioner of the Inspectional Services Department. Depending on the circumstances, a telephone call may result in an answer or an appointment to meet with one of the inspectors to review your issues. You should be aware that this approval process could take up to two months or longer due to the requirements of the law regulating the zoning process.

### **What does the term “Grandfathered Use” mean?**

The term means a use or condition that exists, which does not comply with the applicable zoning regulation, and either predates the bylaw or existed in compliance with an earlier version of the bylaw, which has subsequently been amended. The term is “non-conforming”.

### **Can I change a non-conforming use?**

Yes, provided the Zoning Board of Appeals grants the proper form of relief. Typically, a finding is needed, but a variance may also be required depending upon the circumstances.

### **How long is a Variance good for? What about a Special Permit?**

A variance must be exercised no later than one year from the date it is granted (this date is actually 20 days after the decision is filed with the City Clerk as that date is the first opportunity to commence whatever activity was authorized by the variance and is also recorded at the Registry of Deeds). A Special Permit lapses two years from the date of granting if it not exercised. A variance can be extended, but only by application to the Zone Board of Appeals prior to the expiration date. See MGL Chapter 40A for specific details.

### **How do I apply to the Board of Appeals?**

Applications are available in the office of the Inspectional Services Department, Building Division. Essentially, the completed application, all plans and specifications necessary to adequately explain the proposal and the property deed are filed with the City Clerk through the office of the Inspectional Services Department. A schedule of hearing dates is posted. While these dates are subject to change based upon case load and/or conflicts with other City activities, the Board normally meets twice each month except July and August, with only one meeting scheduled in those months. The filing deadlines are approximately three weeks prior to the hearing to allow for legal notices to be published and abutter notices to be sent.

### **What if I am not satisfied with an opinion, interpretation or decision of the Building Commissioner?**

You may appeal to the Zoning Board of Appeals in accordance with the provisions of MGL, Chapter 40A, Section 8.

### **What if I am not satisfied with a decision of the Zoning Board of Appeals?**

If you are the applicant, abutter or other party in interest, and you are aggrieved by a decision of the Board, you may appeal to District or Land Court as explained in MGL Chapter 40A, Section 17.

IF YOU HAVE ANY OTHER QUESTIONS, PLEASE CONTACT THIS OFFICE AT (781) 598-4000 EXT. 6718.