

**Proposed Amendments to Section 310 and 320 of the Town of Lyndeborough
Subdivision Review Regulations for Public Hearing on Thursday, May 18, 2023, 7pm,
at Citizens' Hall.** Language to be removed shown in ~~strikeout~~. Language to added
shown in red.

310.00 *Preapplication Review*

Prior to the submission of a completed application, the applicant is encouraged to come to the Board for a preapplication review. The preapplication review provides an opportunity for the applicant and the Board to discuss the concept of the proposal in the context of the Town's master plan and regulations. The purpose of the review is to ensure complete knowledge of applicable rules and regulations, to save time in the preparation of plans, to ensure that an adequate plan is submitted and to acquaint the board with the intentions of the applicant. All discussions during the preapplication review phase by both the applicant and the Board are non-binding. Though the preapplication review phase is optional, the Board strongly recommends that applicants for major subdivisions participate in this process. There are two optional phases to preapplication review, conceptual consultation and design review.

310.01 Conceptual Consultation. The applicant may request a meeting with the Board to discuss a proposal in conceptual form and in general terms. Conceptual consultations must be conducted at a public meeting of the Board but do not require formal notification of abutters. The conceptual consultation is informal and will adhere to the following.

- a. All requests for conceptual consultations shall be made in writing and received no less than ~~fifteen (15)~~ **twenty-one (21)** days prior to the meeting at which the applicant wishes to appear.
- b. The applicant may bring in a site location map or a base map of the site that provides minimal detail of the proposal.
- c. The board and the applicant may discuss the basic concept of the proposal, review the proposal with regard to the master plan and the zoning ordinance, explain the applicable local regulations and provide guidance relative to other state and local requirements.

310.02 Design Review. The applicant may request a design review with the Board or its designee prior to the submission of a completed application. This phase involves a non-binding review of specific design and engineering details of the proposal. Formal notification of abutters and the general public is required for design reviews. Requests for design review will adhere to the following:

- a. All requests for design review must be submitted no less than ~~thirty (30)~~ **twenty-one (21)** days prior to a regular meeting of the Board with the application form, the appropriate fees and the following information:
 1. a list of abutters and their addresses obtained from the Town records not more than five (5) days before submission and the name and business address of every engineer, architect land surveyor, soil scientist or other professional whose professional seal appears on any plat submitted to the Board;
 2. three sets of mailing labels pre-addressed with names and addresses for all persons who are to receive notice of the application.
 3. six copies of the proposal at a horizontal scale of not more than 1 inch equals 100 feet (1"=100') showing:
 - a) topography for the entire parcel with contours not to exceed five (5) feet;
 - b) soil boundaries certified by a soil scientist or engineer;
 - c) the location of wetlands, lakes or ponds and rivers or streams;
 - d) the location of any existing easements on the property; and
 - e) the proposed layout for roads and lot configurations within the subdivision.
 4. Test pit information and a site walk must be completed.
- b. No subdivision will be formally accepted by the Board during this phase.

320.00 *Completed Application.*

A completed application provides ample information to allow the Board to make an informed decision. A completed application sufficient to invoke the jurisdiction of the Board shall include all of the information required in Section 500.00 Plat Submission Requirements, Section 700.00 Design Standards, the Subdivision Plan Review Checklist, and any additional studies requested by the Board and adhere to the following procedures. All checklist items must be accepted or waived prior to acceptance of the application.

- 320.01 Submission of a Completed Application. A Subdivision Review Application must be completed and filed with the Board's Secretary at least ~~thirty (30)~~ **twenty-one (21)** days prior to the regularly scheduled public meeting at which the application shall be considered. All of the information required for a completed application by Section 500.00 Plat Submission Requirements, the Subdivision Plan Review Checklist and any additional studies requested by the Board must accompany the application.

Site visits must be completed and test pits will be reviewed and accepted by the Planning Board prior to the acceptance of the application.

All major subdivisions must be reviewed by the Board's designated representative prior to acceptance of a completed application by the Planning Board. Minor subdivisions may be returned for review by the designated representative at the Board's discretion. The designated representative will utilize the Town's Land Use Regulations and checklists in conducting the review to determine if the application is complete. The designated representative will report the findings of the review in a written report to

the Planning Board who will ultimately determine if the application is complete and ready for acceptance.

- 320.02 Acceptance of a Completed Application. Within thirty (30) days of receipt of an application or at the next regularly scheduled meeting for which notice can be posted, the Board will determine whether or not the application is complete. If the applicant fails to provide the information required by these regulations or the Subdivision Plan Review Checklist and/or to pay the required fees, the application will be considered incomplete by the Board and the applicant will need to resubmit the application under a new notification procedure.

An application shall only be accepted by the Board at a properly noticed regularly scheduled public meeting as required by RSA 676:4, I (d). Upon a determination that the application is complete, the Board may vote to accept the application. Once accepted, the applicant may present the proposal to the Board and the general public. The Board will ask questions and discuss the proposal, and then open the floor to questions and comments from abutters and the general public. The date of acceptance recorded in the minutes begins the sixty-five (65) day review period, **except for projects of regional impact which shall have a ninety-five (95) day review period.**

- 320.03 Waivers. The applicant may request that the Board waive any of the requirements contained in Section 500.00 Plat Submission Requirements, the Subdivision Plan Review Checklist and any other standards contained in this regulation. All requests for waivers shall be submitted in writing and include the justification for granting the waiver. Requests for waivers should be discussed with the Board's designated representative prior to the submission of the application. The designated representative will advise the Board on the request for a waiver. All waivers shall be accepted or denied prior to the acceptance of the application. The Board shall vote to grant or deny the applicant's request for a waiver from a specific section of these regulations and the decision shall be recorded in the minutes of the meeting. In the case where a number of waivers have been requested, the Board may grant each individual waiver in separate motions or deal with the entire request in one motion.

- 320.04 Public Notice. A public hearing shall be held for all completed applications prior to the approval of a subdivision. The secretary will notify the applicant and/or his agent, all abutters and every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat of the submission of an application and/or the date of the public hearing on a proposal by certified mail at least ten (10) days prior to the meeting. Public notice shall be posted in two (2) public places and printed in a newspaper of general circulation in the Town **or on the Town's official website** at least ten (10) days prior to the meeting. If the notice for the public hearing was included in the notice of application submission or any prior notice, additional notice of the public hearing is not required. Notice of an adjourned session of a hearing is not required provided that the date, time and place of the adjourned session is announced at the prior meeting.

- 320.06 Minor Subdivisions. Minor subdivisions, lot-line adjustments and lot consolidations shall follow the same application procedures as other subdivisions; however, they may

receive expedited review by the Board where deemed appropriate. Minor subdivisions which do not create lots that are further subdividable may be accepted and approved in one meeting provided the application has been properly noticed and the required information has been provided to the Board to make an informed decision. Applications for lot consolidations must include a notarized, written statement by the owner that the lots being consolidated are not subject to separate mortgages or other encumbrances.

- 320.07 Action on a Completed Application. The Board shall act to approve, conditionally approve or disapprove a completed application within sixty-five (65) days of its acceptance, **except for projects of regional impact which shall have a ninety-five (95) day review period.** ~~The Board may apply to the Selectmen for an extension of the review period not to exceed ninety (90) days. In addition,~~ **If the Board has not taken action on a completed application within sixty-five (65) days of its acceptance (or 95-days for projects of regional impact) the applicant may waive the requirement for Board action within the specified time limit and consent to a mutually agreed upon extension. If the Board has not taken action on a completed application within sixty-five (65) days of its acceptance (or 95-days for projects of regional impact) and has not obtained an extension, the Selectmen shall certify on the applicant's application that the plat is approved. Such a certification shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.**

~~If the Board has not taken action on a completed application within sixty five (65) days of its acceptance and has not obtained an extension, the applicant may obtain an order from the Board of Selectmen directing the Board to act on the application within thirty (30) days. If the Board fails to act on the order, the Selectmen shall have forty (40) days to certify that the plat is approved unless noncompliance with some specific provision of the subdivision regulations, zoning ordinance or other ordinance is identified in writing. Failure of the Selectmen to issue an order to the Board or act to certify approval of the plat shall constitute grounds for the applicant to petition the superior court as provided in RSA 676:4, I(c).~~

- 320.08 Approval. Approval of the subdivision plat shall be by affirmative vote of the majority of the Board present at the meeting. **The decision shall include specific written findings of fact that support the decision.** The plat is certified by the signatures of the Board Chairman and **Vice Chair or designated member of the Board** ~~Secretary~~ and the date of approval on the plat. The Board will transmit the signed and dated mylar copy of the plat to the Hillsborough County Register of Deeds (HCRD) along with the recording fees paid by the applicant. The approved plat will not be recorded until all fees have been paid by the applicant. The sale or transfer of land within the subdivision shall not take place until the approved plat is recorded at the HCRD.

- 320.09 Conditional Approval. The Board may grant conditional approval of an application if the remaining actions on the application: are administrative in nature; do not involve discretionary judgment by the Board; and/or involve the applicant's possession of permits and approvals granted by other boards or agencies, such as the Wetlands Board, the Department of Transportation or the Water Supply and Pollution Control Division.

In these instances, final approval may be granted without further public hearing. A public hearing will be required to demonstrate compliance with the terms of all other conditions pursuant to RSA 676:4, I (i). Final approval will be granted when the conditions have been met to the satisfaction of the Board. The plat will not be recorded at the Hillsborough County Registry of Deeds until all of the conditions have been met. If the conditions are not met by the next regular monthly meeting after the date at which the conditional approval was granted, the Board will determine the appropriate action to be taken on the application.

320.10 Disapproval. If the Board determines that it lacks sufficient information on an accepted application to make a final decision on the application and the applicant does not consent to an extension pursuant to Section 320.07, the Board may in its discretion deny the application without prejudice in which case the applicant may resubmit the same or substantially similar application. If an application is not approved, the specific findings of fact ~~reasons~~ for the disapproval will be clearly stated in the Board's records and in written notice provided to the applicant within ten working days of the public hearing.