

Zoning Board of Adjustment Lyndeborough, New Hampshire

INSTRUCTIONS TO APPLICANTS APPEALING TO THE LYNDEBOROUGH ZONING BOARD OF ADJUSTMENT

**IMPORTANT: PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE
FILLING OUT ATTACHED APPLICATION**

Dear Applicant:

This will serve to briefly inform you as to what you must do to bring a petition before the Lyndeborough Zoning Board of Adjustment (ZBA). Please refer to the NH Statutes on Land Use and Regulation and the Lyndeborough Zoning Ordinance for more specific information. You must complete the application(s) applicable to you. There are four (4) purposes to petition the ZBA; they are:

1. **Variances** - where special conditions exist in the property warranting the use of that property in a manner which literally or technically is in violation of the ordinance. Variances can be sought to dimensional or use requirements.

There is a special type of variance allowed for persons having a recognized physical disability, which may be granted for as long as the particular person has a need to use the premises (see RSA 674:33-V). Any medical information submitted to substantiate a disability will be considered part of the public record.

2. **Special Exceptions** - where the ordinance specifically permits a particular use provided the applicant can prove that whatever conditions attached to such use by the ordinance(s) have or will be complied with.

3. **Appeal from Administrative Decisions** - where the applicant feels that an Administrative Official has made an error in applying or interpreting the zoning ordinances in a particular case.

4. **Equitable Waiver of Dimensional Requirements** - where a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA:674:16.

The ZBA cannot and will not grant the relief sought unless the applicant proves the elements of his or her case. For example, variances may not be granted solely because the applicant is suffering from financial hardships or other personal hardships or whimsically would like to put his or her property to a non-conforming use.

YOU, THE APPLICANT, ARE RESPONSIBLE FOR PRESENTING SUFFICIENT INFORMATION TO SUPPORT AND PROVE YOUR CASE. WHEN FILLING OUT THE APPLICATION, PLEASE PRINT OR TYPE.

Familiarity with the particular provision of the Zoning Ordinance that affects your property is important, and any specific questions you may have relative to your particular case can be answered either by obtaining a copy of the Zoning Ordinance at the Town Clerk's Office, or by inquiring at the Selectmen's office, 9 Citizens' Hall Road, Lyndeborough, NH 03082. The Zoning Ordinance can also be viewed on the Town web-site at http://town.lyndeborough.nh.us/pages/LyndeboroughNH_BComm/ZBA/index.

You may represent yourself or authorize, in writing, someone else to represent you.

The attached application form must be properly completed. Included with the application is a form to list all abutters to the property that is the subject of the appeal. Please obtain the tax map and lot numbers, names and addresses of the abutters from the Lyndeborough Selectmen's Office.

Deliver or mail 7 copies of the completed application, with applicable attachments to the Selectmen's office at least fifteen (15) days prior to the ZBA meeting date. The ZBA meets as needed.

An application fee is charged to cover the cost of preparing and mailing the legally required certified letters to the abutters and to place a legal notice in the newspaper. Make the check payable to the *Town of Lyndeborough* and remit with your application.

The ZBA will hold a public hearing on your application. Public notice of the hearing will be posted at the Town Clerk's office and printed in the newspaper. Certified letters will be mailed to you and to all abutters at least five days before the date of the hearing. You and all other parties will be invited to appear in person or by agent or counsel to state the reasons why the appeal should or should not be granted. Please be advised that a decision may not be made the same night of the hearing. You will be sent a notice of the decision.

Please be advised the Lyndeborough Zoning Board of Adjustment Application is a public document and the process that the application goes through is a public process and as such there is no guarantee that any medical information submitted in an application will remain confidential.

Lyndeborough, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION
[Adopted: November, 2013]

<i>Office Use Only</i>	Case #: _____	Date Received: _____
	Amount Paid: \$ _____	Time Received: _____

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: _____ **Phone**

Address of Applicant: _____

E-Mail Address: _____

PROPERTY OWNER (if different from applicant):

Address: _____ **Phone #** _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: _____

Brief Directions: _____

Zoning District: _____ **Assessor's Map #** _____ **Lot(s) #** _____

TYPE OF APPEAL: (Please check one)

- | | |
|--|---|
| <input type="checkbox"/> Variance | frboyd@girlscoutsgwm.orgrom Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Physical Disability Variance (RSA 674:33-V) | from Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Special Exception | per Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Appeal of Administrative Decision | regarding Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Equitable Waiver | per Section _____ of the Zoning Ordinance |

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

APPLICATION CHECKLIST (Please check off)

A. Application signed by Applicant and Property Owner (if different from Applicant)
Note: In order for the application to be accepted and placed on the ZBA agenda YOU MUST COMPLETE (1) ALL SECTIONS ON PAGE 1 as well as (2) ALL QUESTIONS FOR THE SPECIFIC APPEAL YOU ARE SEEKING.

B. 7 Copies of Completed Zoning Board of Adjustment Application
Note: Only include those pages of the application that are relevant to your request. Please do not include the abutters list with the 7 copies (include only as part of original signed application (Part A above)).

C. 7 copies of a plot plan from the town tax map or survey. They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks.

D. 7 copies of photos (suggested but optional) and any other materials applicant would like to submit in support of the application.

E. List of abutters as defined in RSA 672:3

F. Mailing Labels in duplicate with abutters names and addresses for notices.

G. TOTAL FEE paid by cash or check made payable to "Town of Lyndeborough"

1. Application fee of: \$100.00 VARIANCE (per Section requested)	\$ _____
\$100.00 SPECIAL EXCEPTION	\$ _____
\$100.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____
2. Certified letters fee: # of abutters _____ X \$15.00 =	\$ _____
3. Applicant & Owner mailing fee: _____ X \$15.00 =	\$ _____
4. Newspaper public notice	\$ 60.00

TOTAL FEE \$ _____

**VARIANCE REQUIREMENTS
THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY**

A. Variance Requested

A variance is requested from Section(s) _____ of the Zoning Ordinance to permit:

B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

Please explain how your requested action will not deminish:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

3. Granting the variance would do substantial justice because:

4. The value of surrounding property will not be diminished because:

NOTE: please complete EITHER paragraph 5A OR paragraph 5B. The ZBA recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

5A. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

(i) The following special conditions of the property distinguish it from other properties in the area:

and

(ii) No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:

and

(iii) The proposed use is a reasonable one because:

OR

5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:

THIS SECTION TO BE COMPLETED BY EQUITABLE WAIVER APPLICANTS ONLY

An Equitable Waiver of Dimensional Requirements is requested from Article _____
Section _____ of the Zoning ordinance to
permit _____

1. Does the request involve a dimension requirement, not a use restriction? yes no

2. a) Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town OR b) explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser AND how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake.

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area.

4. Explain how the cost of correction far outweighs any public benefit to be gained.

NOTE: The Board must find in the affirmative on all four questions or the request must be denied

SPECIAL EXCEPTION REQUIREMENTS

THIS SECTION TO BE COMPLETED BY SPECIAL EXCEPTION APPLICANTS ONLY

A. Specific Special Exception Requirements

Explain how the proposal meets the specific special exception requirements as may be set forth in the zoning district in which the subject property is located:

- A. _____

- B. _____

- C. _____

- D. _____

- E. _____

- F. _____

Additional pages included if necessary.

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

Signature of Applicant*

Signature of Owner*

***Both Signatures Required**

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Lyndeborough ZBA to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post- approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner: _____ Date: _____

ABUTTER LIST

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

Pursuant to RSA 676:7, the Town of Lyndeborough is required to notify the applicant and every abutter of the public hearing by certified mail. The cost of required publication or posting of notice, and the cost of mailing said notices, shall be paid by the applicant.

"Abutter" is defined as:

RSA 672:3 Abutter. – "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Tax Map	Lot No.	Owner(s) of Record	Mailing Address

Attach with application.