

**LANCASTER BOARD OF APPEALS  
RULES AND REGULATIONS**

**Adopted in 1953  
Last Revised on May 24, 2007**

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## ARTICLE 1

### ORGANIZATION AND MEETINGS

#### 1.1. ADOPTION AND REPEAL

These Rules and Regulations are established pursuant to Massachusetts General Laws Chapters 40A and 40B (G.L. c. 40A, ss.9, 12 and G.L. c. 40B, s.21) and Section 10.21 of the TOWN OF LANCASTER ZONING BYLAWS ("Zoning By-law") as amended. These Rules and Regulations, appendix of approved forms and fee schedules, were approved by vote of the Lancaster Board of Appeals at a public meeting and shall supersede all previous regulations of the Board of Appeals, which are hereby repealed.

#### 1.2. INTERPRETATION

These Rules shall be interpreted and applied so as to implement the requirements of G.L. c. 40A, and 40B, and the Zoning By-law. In the event that any provision hereof is deemed to be in conflict with these Statutes or the Zoning By-law, the latter shall govern.

#### 1.3. POWERS AND DUTIES

The Board of Appeals ("Board") shall have the power to hear and decide the following categories of appeals, applications or petitions:

A. Special Permits. Applications for Special Permits in accordance with G.L. c. 40A, Section 9 and the Zoning By-law, and requests submitted for findings in accordance with requests for permits to expand or alter nonconforming use or structures pursuant to G.L. c. 40A, Section 6 where the Board is designated in the Zoning By-law as the Permit Granting Authority or Special Permit Granting Authority;

B. Variances. Petitions for Variance from the provisions of the Zoning By-law pursuant to G.L. c. 40A, Section 10;

C. Comprehensive Permits. Applications for Comprehensive Permits pursuant to G.L. c. 40B;

D. Administrative Appeals. Appeals by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any applicable zoning officer or building official pursuant to G.L. c. 40A, Section 8.

#### 1.4. MEMBERSHIP AND OFFICERS

The Board shall consist of five members and three associate members (also sometimes referred to herein as "regular members" and "alternate members"). All members are appointed by the Board of Selectmen.

#### 1.5. ELECTION OF OFFICERS

At the first meeting of each year, the Board shall elect, by majority vote, a Chairman and Clerk who shall serve until the remainder of the year or until a successor is elected. Associate members shall not participate in the vote unless designated to sit and vote thereon in the absence of a regular member.

#### 1.6. CHAIRMAN POWERS AND DUTIES

The Chairman shall vote and be recorded on all matters before the Board. The Chairman shall call and preside over all meetings and hearings and shall be responsible for submitting all reports, decisions, minutes and other official business of the Board as required, including but not limited to the power and duty to:

- A. Sign all communications, correspondence and decisions of the Board;
- B. Endorse all purchase orders, vouchers, and expense authorizations as required;
- C. Supervise the performance of duties by other officers and members;
- D. Designate a Member or Associate to Chair meetings or hearings in the event of his absence or inability to act upon matters before the Board;
- E. Communicate with applicants, appellants or petitioners, their agents or attorneys in connection with any matter pending before the Board;
- F. Request opinions and advice of Town Counsel;
- G. Appoint Associate Members to act upon Board matters in the absence or due to the inability to act of a regular Member;
- H. To request the production of testimonial or documentary evidence which the

Board deems relevant to any matter pending before it; and in furtherance thereof, to issues subpoenas in accordance with the provisions of the Zoning Act.

#### 1.7. CLERK POWERS AND DUTIES

The Clerk shall have such duties as the Chairman shall designate including the supervision of all clerical functions of the Board, preparation of dockets, agendas, minutes of Board Meetings and Hearings, Decisions, Notices of decisions of the Board, reports and other communications and records. The Board may hire a clerical secretary to assist the Chairman and Clerk in the performance of their duties.

#### 1.8. ASSOCIATE MEMBERS

Associate Members shall attend all meetings and hearings of the Board, and shall perform the duties of a regular member when so designated by the Chairman.

#### 1.9. QUORUM

A quorum for any meeting or hearing of the Board shall consist of at least four members. In the event that fewer than four members are present and qualified to vote at the commencement of any meeting or hearing, the chairman shall adjourn until such time as a quorum shall be present.

#### 1.10. MANNER OF CONVENING

Meetings shall be held at a time and place to be designated by the Chairman, shall be posted and conducted in accordance with the Open Meeting Law, and shall not be held on Sundays, legal holidays or days on which state or municipal elections, caucuses, primaries or town meetings are held. Views of property, which the Board desires to take, may be conducted at the convenience of the Board and shall not be deemed to be meetings.

#### 1.11. VOTES

The vote of each member designated to sit on any matter shall be recorded by the Clerk. No member shall vote on a matter, which is required by law to be decided after public hearing, unless the member attended all but one of the sessions of the public hearing.

Decisions of the Board shall be by majority vote unless otherwise required by law. A vote of at least four members shall be required to grant a special permit or variance, or to reverse any decision of a zoning or building official upon any administrative appeal.

## ARTICLE 2

### APPLICATIONS, PETITIONS AND APPEALS

#### 2.1. FORM FOR APPEAL

All applications, petitions and appeals to the Board shall be made on a form approved by the Board (See Appendix). Any communication purporting to be an application may be deemed to be incomplete and treated as a mere notice of intention to seek relief, until such time as it is submitted on the approved form, and is accompanied by all required fees, lists and other information required by these rules. The Board reserves the right to reject any application that is incomplete. The fact that an application is discussed at a scheduled meeting shall not be deemed to be acceptance of an application.

#### 2.2. MANNER OF FILING

The original of all application forms as are hereinafter specified for each particular type of relief sought, including site plans, required attachments, briefs to the Board, and other documents attached to the application, if any, shall be filed in the office of the Town Clerk by hand-delivery or by mail. Ten copies of the complete application package shall be forthwith delivered to the Board, either by mail or by delivery to the Town Clerk in care of the Board, which shall contain the date and time of filing certified by the Town Clerk. Filing fees, advertising and mailing fees or other fees or information required in the application forms should be included with the original documents filed with the Town Clerk.

Filing fees shall be made payable to the Town of Lancaster and shall be in the amount specified in the schedule of fees approved by the Board (see Appendix).

#### 2.3. CERTIFIED LIST OF PARTIES IN INTEREST

A list of parties in interest shall be attached to the original application, petition or appeal. Said list shall include the name and address of petitioner, owner of the land affected if petitioner is not the owner, abutters, owners of land directly opposite on any public or private way or street, and abutters to abutters whose property is located within three hundred (300) feet of the property line of the land which is the subject of an application or appeal. The names and addresses of owners shall be determined by reference to the most recent applicable tax list, including owners in adjoining towns.

The list of parties in interest shall also include the Planning Boards of Lancaster,

Sterling, Clinton, Bolton, Harvard, Leominster and Lunenburg.

The list shall be certified by the Town Assessor.

#### 2.4. FILING PERIOD

Any administrative appeal must be filed with the Town Clerk within thirty (30) days of the date of the order or decision being appealed from, specifying the grounds for appeal and containing a copy of the order or decision appealed from.

#### 2.5. FINDINGS OF FACT

Each application, petition or appeal shall be accompanied by a "FORM B - REQUEST FOR FINDINGS OF FACT" which shall be tailored to the specific facts of the case. The REQUEST FOR FINDINGS OF FACT may be supplemented by, or consolidated with, a BRIEF TO THE BOARD containing any relevant arguments, facts, legal issues, or reference to exhibits or other evidence which the applicant, appellant or petitioner, or other party in interest wishes the Board to consider.

All parties in interest should carefully consult the Zoning By-law, the Zoning Act and other pertinent laws or regulations as to the facts necessary and legal criteria required by the Board to render its decision and, where appropriate, seek assistance from counsel or other consultants.

#### 2.6. SITE PLAN

Each application, petition or appeal which seeks a permit for new construction shall be accompanied by a site plan of at least 8.5"x 11", drawn to scale, containing the following information:

- Property lines and boundaries;
- Name and address of record owner;
- Names and location of adjacent streets;
- North arrow and scale;
- Zoning District and any zone lines in vicinity;

- Existing and proposed buildings or additions including number of stories and height of all structures;
- Paved areas, existing and proposed parking or loading spaces;
- Existing utility lines including septic and underground structures;
- Locations of structures on adjoining property;
- Lot area and dimensions, including setbacks where new construction or additions are proposed;
- Other information as required in the Zoning By-law unique to the type of relief being sought (e.g. special permits, variances, uses requiring site plan review, comprehensive permits may require additional plans and data.).

## 2.7. REVIEW FEES

If the Board determines upon review of any application for a permit, special permit, comprehensive permit or variance that it requires technical assistance or professional advice, the Board may employ such consultants as the Board shall deem reasonably necessary or desirable.

Whenever possible, the Board shall work cooperatively with the applicant to identify appropriate consultants and to obtain applicant's agreement to reimburse the fees and expenses of the consultant. The Board may obtain deposits from the applicant to be used as retainers for services.

Alternatively the Board may, by majority vote, require the applicant to pay a reasonable review fee to employ consultants to be chosen by the Board alone.

Review fees shall only be imposed to review plans and studies prepared on behalf of the applicant in connection with the applicant's specific project or proposal.

All written results and reports of outside consultants shall be made part of the record of the Board's proceedings.

In imposing review fees, the Board shall comply with the provisions of G.L. c. 30B, ss. 1-19. Any invitation for bids or request for proposals shall indicate that award of the contract is contingent upon payment of the review fee. If the applicant fails to either pay the

review fee or appeal the selection of a consultant in writing within ten days of receiving written notification of selection of a consultant, the Board may deny the permit being applied for.

The applicant may appeal the selection of a consultant to the Board of Selectmen solely upon the grounds that the consultant selected has a conflict of interest or does not possess the minimum required qualifications (i.e. either 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).

In the event that no decision is made by the Board of Selectmen within thirty (30) days from filing the appeal, the appeal shall be deemed denied. Failure to pay the review fee within five (5) days after the appeal has been denied by the Selectmen's decision or inaction shall result in denial of the requested permit.

The required time limits for action upon the application shall be extended by a period of time equal to the duration of the appeal.

Review fees shall be deposited into a special account established by the Town Treasurer pursuant to G.L. c. 44, s. 53G, and shall be expended only for the purposes described above. Any unused excess in the account, plus accrued interest, shall be returned to the applicant within thirty days of completion of the project or written withdrawal of the proposal or application.

## 2.8. AMENDMENTS TO APPLICATIONS, PETITIONS, APPEALS

The Board shall vote only upon the specific application, petition or appeal which is the subject of the relief contained in the documents as filed and described in the notice of public hearing. Any proposed modifications or amendments must be presented at a public meeting or hearing on the matter. The Board shall determine whether the proposed amendments are reasonably within the scope of the original application and if determined to exceed the scope of the public notice, shall require that the applicant request an extension of time to permit a new notice to parties in interest to be mailed, published and posted at applicant's expense. Normally, modifications or amendments to plans or proposed uses or structures which constitute a decrease in degree or extent of a use or proposed construction shall not require a new notice. Nothing herein shall be deemed to prohibit a Board from imposing conditions upon the grant of a permit, which may require alterations or amendments to plans.

## 2.9. WAIVER OF RULES AND REGULATIONS

The Board may, in its sole discretion, waive strict compliance with any provision of these Rules and Regulations where such waiver is consistent with public interest and the proper performance of its duties, except in such cases where the requirements sought to be waived are required by either a statute or the Zoning By-law.

#### 2.10. BOARD REQUESTS FOR INFORMATION

The Board may request further information, studies, plans or other evidence which it deems reasonably necessary in order to properly decide the matter pending before it. In cases where the Board is required to render a decision within specific time limits it may also require extensions of the time period within which it must render and file its decision upon the matter. Failure to furnish such information as is reasonably requested by the Board in a timely fashion may constitute grounds for denial of the relief sought.

## **ARTICLE 3**

### **HEARINGS**

#### 3.1. NOTICE

Notice of public hearing shall be published in a newspaper of general circulation in Lancaster once a week for two consecutive weeks. The first publication shall not be less than fourteen days before the day of the hearing. In addition, a copy of the notice shall be posted in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of the hearing. A copy of the notice shall also be sent by mail, postage prepaid, at least fourteen days before the hearing to all parties in interest.

The public hearing notice shall contain the name of the applicant, appellant or petitioner; a description of the land affected with street address or other means of identification of the property affected; the date, time and place of the public hearing; the subject matter of the hearing; and the nature of the permit or relief requested.

#### 3.2. HEARINGS OPEN TO PUBLIC

All hearings shall be open to the public. No person shall be excluded unless he or she is deemed to constitute a hindrance to the proper performance of the duties of the Board.

#### 3.3. REPRESENTATION

An applicant may appear personally and/or with representation by a duly authorized attorney or agent. In the event of the unexcused absence of the applicant or his representative at any hearing upon the matter, the Board may issue a decision upon the matter based upon all information submitted and available to it.

#### 3.4. ORDER OF BUSINESS AND CONDUCT OF HEARING

- A. The Chairman shall call the hearing to order and read the notice of hearing as published.
- B. The Chairman may request interested parties to register their attendance on a log or attendance sheet.

- C. The applicant, appellant or petitioner shall present its case to the Board, including the submission of documentary evidence, oral evidence or other matters which it desires the Board to consider, including exhibits, documents, charts, plans, models, displays, video or photographic presentations, etc. Normally, the proponent will be allowed to complete its presentation before the Board will entertain public comment or evidence from other parties. The Chairman may alter the order of presentation where the interests of clarity or circumstances warrant.
- D. Members of the Board may direct appropriate questions to any party, witness or speaker during the hearing.
- E. Representatives of any department, board or agency of the Town shall be afforded an opportunity to be heard.
- F. Parties in interest shall be afforded an opportunity to be heard.
- G. The proponent may rebut matters raised by any opponent.
- H. The Chairman shall have the right to limit the length of oral presentations, to limit or exclude repetitive or immaterial argument or evidence and shall require that any questions addressed to the proponent be directed through the Chairman.
- I. All exhibits submitted for consideration shall be retained by the Board and may be appropriately marked or numbered.
- J. Board members may request additional information and the Board may, by majority vote, continue a hearing to a date certain to enable a proponent or party in interest to present further evidence.
- K. In the event of adjournment of any session of a public hearing to a date and time announced at the time of adjournment, no further notice other than posting of the meeting pursuant to the Open Meeting Law shall be required.
- L. The length of each session shall be determined by the Chairman.
- M. Upon the conclusion of the presentation of evidence and argument by the applicant and other interested parties the hearing shall be declared closed. The Board shall publicly deliberate and render a decision by vote at a public meeting on or before the deadline for such decision as required by law. If requested the Chairman shall announce the date by which its decision must be rendered and filed with the Town Clerk.

- N. During deliberations the Board may request additional information or clarification of evidence from interested parties or town officials, including opinions from Town Counsel.
- O. The Board may individually or collectively conduct any view or inspection of the premises, which it deems necessary or desirable prior to rendering its decision. Views shall be conducted in the presence of or upon agreement of the property owner if presence on privately owned property is required for conduct of the view.

### 3.5. WITHDRAWAL

Any appeal, application or petition may be withdrawn without prejudice at any time prior to the publication and mailing of notice of the hearing. Thereafter, the Board may, by majority vote, upon the proponent's request, grant leave to withdraw without prejudice at any time prior to a final, unfavorable decision upon the matter.

## ARTICLE 4

### DISPOSITION BY THE BOARD

#### 4.1. VOTING REQUIREMENTS

##### *Super Majority*

A vote of at least four (4) members of the Board shall be required to:

- A. Grant a Variance;
- B. Grant a Special Permit;
- C. Reverse any order decision of an administrative official under the Zoning By-law.

##### *Majority*

The concurring vote of at least three (3) members of the Board shall be required to approve an application for a Comprehensive Permit.

#### 4.2. RECONSIDERATION

Once a matter has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Board except in accordance with G.L. c. 40A, Section 16.

#### 4.3. AMENDMENT OF FINDINGS AND DECISIONS

The Board may clarify any order or decision or amend a decision by adding supplementary findings and statements of reasons, provided that such action is approved by majority vote of the Board at public meeting and such supplementary matters are filed with the Town Clerk.

#### 4.4. EFFECTIVE DATE

Decisions of the Board upon any application, petition or appeal shall not take effect until the Board's written decision is filed with the Town Clerk and the time for appeals has

expired. Construction of structures or uses of property pursuant to Special Permits or Variances may not lawfully commence until the Board's written decision, together with any plans referred to therein, containing the Town Clerk's certification that no appeals have been filed and that the decision is final, is recorded (See Section 4.9 below).

Decisions of the Board upon Comprehensive Permits shall be final when rendered by vote of the Board.

#### 4.5. NOTICE OF DECISION

In all cases decided under the provisions of the Zoning Act, a written notice of decision shall be mailed to the applicant, petitioner or appellant; to the parties in interest; and to persons present at the hearing who request a copy and provide the Board with their address.

Notices of decision shall specify that appeals, if any, shall be made pursuant to G.L. c. 40A, Section 17 and notice of such appeal shall be filed in the Town Clerk's office within twenty (20) days following the filing of the Board's decision.

#### 4.6. WRITTEN DECISION

Decisions of the Board shall be in writing and signed by the Chairman and/or the Clerk. A copy of the decision and any plans referred to therein shall be filed with the Town Clerk and the Planning Board. A copy shall be provided to the owner and applicant. The written decision shall contain the following:

- A. Case Number;
- B. Date decision rendered;
- C. Name and address of applicant and owner of land;
- D. Time, date and place of public hearing;
- E. Dates and manner of notice;
- F. Statement that parties in interest were notified;
- G. Statement that decision and plans have been filed with Town Clerk and Planning Board;

- H. Summarized account of the hearing;
- I. Identification of land affected;
- J. Reasons for decision and factors establishing compliance with statutory and/or zoning by-law requirements;
- K. Recitation of any conditions imposed upon permit.

#### 4.7. DETAILED RECORD

The Board shall make a detailed record of its proceedings and file a copy of the record in the office of the Town Clerk within fourteen days (14) after the date of the decision.

#### 4.8. TOWN CLERK CERTIFICATION

Upon the expiration of 20 days following filing of the decision, applicant shall request the Town Clerk to certify on a copy of the decision that no appeal has been filed and that the decision is final. In the event that appeal is filed, and upon certification by the clerk of the applicable court that any appeal has been dismissed or denied, the Town Clerk will issue a certificate that the decision is final.

#### 4.9. RECORDING

Decisions shall not take effect until a certified copy has been obtained from the Town Clerk and has been recorded in the applicable Registry of Deeds and is indexed in the grantor index under the name of the owner of record or noted on the owner's certificate of title.

#### 4.10. DURATION AND LAPSE OF PERMITS

Special Permits and Variances shall lapse unless rights granted there under are exercised and, in the case of permits for construction, unless construction commences within certain defined time limits as set forth in the Zoning By-law, the Zoning Act and the State Building Code. Variances must be exercised within one (1) year and Special Permits must be exercised within two (2) years.

#### 4.11. EXTENSIONS AND RENEWAL OF VARIANCES AND SPECIAL PERMITS

A. Variance Extension/Renewal. Variances may be extended for one, six-month period, if the petitioner files a written request for extension with the Board in compliance with G.L. c. 40A, s. 10. Such requests must be filed at least 30 days prior to the lapse date, and may be acted upon by the Board without a public hearing. If rights granted under a variance expire due to failure to exercise such rights or failure to extend for six months, then variances shall be null and void unless renewed by the filing of a new petition in conformity with all requirements for new petitions. The fact that a variance has been previously granted shall not entitle a petitioner to any renewal.

B. Special Permit Extension/Renewal. Special Permits may be extended by the Board for good cause upon written request by the Applicant. Requests to extend special permits for good cause may be granted by the Board without public hearing. Special permits, which have lapsed due to the failure to exercise the rights granted there under, or failure to establish good cause for an extension, shall only be reestablished upon reapplication in the same manner as an original application.

C. Renewal of Permits with Limited Duration. Certain Variances and Special Permits may be granted upon conditions limiting their duration and/or imposing other conditions and limitations. In such cases the duration of the permit shall be set forth in the decision. Renewals of such permits may be granted for successive periods by the Board provided that a written application for renewal is made to the Board at least ninety (90) days prior to the expiration date accompanied by the applicable forms and fees as required for an original application (See Appendix). Notice and publication of hearing shall be made and shall state that the renewal may be granted automatically unless a written objection is received by the Board on or before the date set for hearing. If no written objection is received, the Board may renew the permit automatically. If an objection is received, or if the Board determines that a permit should not automatically be renewed, it shall so notify the applicant and the matter shall be heard and decided as in the case of a hearing upon an original application. Renewals may be made upon the same conditions or with additional conditions. The Board may, in appropriate cases, delete or modify the conditions as to time or use, and renewals may be denied. Grounds for denial, modification or limitation of rights previously granted may include:

1. Non-compliance with conditions imposed by the Board or with the applicant's representations in plans, applications, etc. (e.g. failure to properly maintain the premises, failure to maintain privacy or buffer areas, exceeding

scope of relief originally granted, etc.);

2. Failure of applicant to meet the requirements for the type of relief being renewed (e.g. causing detrimental effect on the neighborhood or abutting owners);
3. Failure to produce evidence of recording;
4. Failure to maintain structures, improvements and uses in conformity with applicable building, health and other regulations;
5. Failure to comply with G.L. c. 40, s. 57 and the By-laws of the Town of Lancaster regarding payment of taxes, fees, assessments or municipal charges;

Decisions granting renewal shall be filed and recorded in the same manner as original applications. Decisions denying renewal shall also be filed with the Building Inspector.

Failure of a holder of a permit or variance of limited duration to seek renewal in accordance with these rules shall be deemed abandonment of the rights granted. Permits of limited duration which were granted before the adoption of these rules, or permits which were required to be annually renewed by the Board of Selectmen shall be hereinafter renewed only in accordance with these rules.

## ARTICLE 5

### COMPREHENSIVE PERMITS

#### 5.1. PURPOSE AND AUTHORITY

The rules contained in this Article govern procedures to be followed in connection with applications for the grant of "comprehensive permits" governed by G.L. c. 40B, ss. 20-23. These rules shall be implemented in conformity with the regulations of the Housing Appeals Committee (760 CMR 30.00 and 31.00), and with the Guidelines for Local Review of Comprehensive Permits, published by the Executive Office of Communities and Development.

#### 5.2. LOCAL OFFICIAL DEFINED

When used herein the term "Local Official" means the Housing Partnership, Planning Board, Board of Health, Board of Selectmen, Conservation Commission, Sewer District Commission, Department of Public Works, Historical Commission, Fire Department, Police Department, School Committee, Building Inspector or other local official or board.

#### 5.3. APPLICATION

Applications for a comprehensive permit shall be made on a form approved by the Board, and shall be filed, together with ten additional copies of the application (10 sets) with the Town Clerk, together with the applicable filing fee, publication and administrative fees and certified abutter lists as set forth in Article 2. The application and each copy shall have annexed thereto the following plans, reports and information, which shall be arranged in sections in the order herein, specified:

- A. Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, dimensions and materials specifications for streets, drives, parking areas, walks and paved areas; proposed landscaping improvements, open space and recreational areas proposed; locations of septic systems and appurtenant structures; zoning districts and boundaries; wetlands and water bodies, including intermittent creeks, streams and drainage swales and detention areas.
- B. A report describing existing site conditions as well as a report of existing site conditions in the surrounding areas containing as a minimum:

- Location of existing buildings and utilities;
  - Traffic patterns and character of open areas;
  - Topographical features both existing and proposed;
  - Existence and location of any existing features of historical or archaeological significance.
- C. Preliminary architectural drawings, drawn to scale, signed by a registered architect, containing at least the following information as to each proposed building:
- Typical floor plans;
  - Typical elevations and sections;
  - Construction type;
  - Exterior finish.

The matters required in paragraphs A and B may be combined in any plans submitted provided that existing and proposed conditions are clearly distinguished. All plans proposing five (5) or more housing units shall be prepared on plans, which are stamped by a registered professional engineer and/or registered architect.

- D. A tabulation of proposed buildings by type, size, number of bedrooms, floor area and ground coverage, percentage of lot coverage by structures and paved/parking areas, and percentage of unoccupied open space.
- E. If the land is proposed to be subdivided, a preliminary plan of subdivision shall be submitted in conformity with the requirements of the Rules and Regulations of the Lancaster Planning Board as to the contents thereof.
- F. A utilities plan showing the proposed location and types of proposed sewage treatment facilities, services for domestic water supply and fire protection water supply (including location of hydrants), proposed structures and facilities for surface drainage and storm water runoff.
- G. Documents evidencing that the applicant meets the jurisdictional requirements of 760 CMR 31.01 sufficient to establish:

- That applicant is a public agency, a non-profit organization or a limited dividend organization;
  - That the project is eligible for funding under a low and moderate income housing program (site approval letter from a qualifying subsidizing agency); and
  - Evidence that applicant has interest in, and control over the site.
- H. A complete list of requested exceptions to local codes, by-laws and regulations containing a specific reference to each code, by-law or regulation section which the applicant seeks to have the board grant exception from. General statements or plan references will not be sufficient. In addition, the list of requested exceptions should refer the Board to applicable locations on the plans where local regulations will not be adhered to. For purposes of this section, "local codes, by-laws or regulations" shall include but not be limited to the Lancaster Zoning By-Law, the Subdivision Control Regulations, Board of Health Regulations and the General By-laws of Lancaster.
- I. A copy of the most recent deed and plan of record of the site and all documents demonstrating applicant's interest in the site. If the site is subject to any options to purchase, a complete copy of said agreement shall be provided.
- J. Evidence of local need for the type and number of housing units proposed by the applicant shall be provided.
- K. Other documents which the applicant may wish the Board to consider in support of its application may be submitted either with the above or at the public hearing such as traffic counts and circulation plans and studies; drainage and hydrological studies detailing methods proposed to mitigate and decrease off-site, adverse drainage impacts; proposed signage plans and details; landscaping plans; subsurface test data, geological data and studies; percolation data; housing preference to be afforded to local residents; management plans describing proposed maintenance of community facilities and common areas, including memberships; methods proposed to insure completion of roads and improvements including surety and bonding; mechanisms proposed to ensure the continued affordability of housing units; construction timetables and sequences; all state and local permits, approvals and fee schedules which the applicant will not seek exceptions from and which will be required to complete the development.

#### 5.4. NOTICE TO LOCAL OFFICIALS

Within seven days after filing of the application, the Board shall notify each local official of the application, shall send such official a copy of the complete application and attachments thereto upon request and shall request said officials to review and comment upon the plans and shall invite the participation and comment of the local officials at the public hearing.

#### 5.5. PUBLIC HEARING AND DECISION

The Board shall hold a public hearing on the application within thirty days of its receipt and shall render a decision based upon a majority vote of the Board within forty (40) days after termination of the public hearing, unless such time is extended by written agreement between the applicant and the Board. The hearing shall be conducted in the same manner and subject to the same Rules applicable to other applications, petitions and appeals before the Board, including the employment of consultants and assessment to applicant of review fees.

#### 5.6. BOARD ACTION

In acting upon an application, the Board may:

- A. Grant a comprehensive permit upon the terms and conditions contained in the application;
- B. Deny a comprehensive permit on the grounds that such permit is not consistent with local needs;
- C. Approve a comprehensive permit upon such terms and conditions that shall make the grant of the permit consistent with local needs and that shall not make the proposed construction or operation of the housing units uneconomic.

#### 5.7. APPEALS

Any party aggrieved by the Board's action upon an application for a comprehensive permit may appeal to the appropriate Court or Agency as set forth in G.L. c. 40B, ss.22.

**ARTICLE 6**

**AMENDMENT**

These rules and regulations may be amended, revised, or repealed from time to time by majority vote of the Board. Any such amendment, revision or repeal shall become effective upon filing in the Office of the Town Clerk.

**APPENDIX I**

**APPROVED FORMS**

Instructions (for use by all applicants)

FORM A - Application for Hearing (all applicants)

FORM B - Request for Findings of Fact (use one of following Form B's applicable to the permit or relief):

FORM B - Variance

FORM B - Special Permit

FORM B - Comprehensive Permit

FORM B - Miscellaneous

FORM C - Certified List of Parties in Interest

FORM D - Revenue Certification



**Town of Lancaster, Massachusetts**  
*Office of Community Development and Planning*

**LANCASTER BOARD OF APPEALS**  
**VARIANCE APPLICATION**

- 1.) Instructions
- 2.) Form A -- Application for Hearing
- 3.) Form B -- Variance
- 4.) Form C -- Certified List of Parties in Interest
- 5.) Form D -- Revenue Certification

The Variance Application must also be accompanied by two (2) copies of a scaled, full-size plan and one (1) reduced copy of that plan no larger than 11" x 17", which incorporates the following elements, as a minimum:

- a) Scale
- b) Locus
- c) North arrow
- d) Title block
- e) Date
- f) The existing and proposed topography of the project site
- g) Location of all existing and/or proposed structures including, but not limited to, dwellings, septic areas, wells, driveways, lawn/yard areas, grading contours, etc.
- h) Distances from lot lines/easement areas/setback limitations, etc.
- i) Locations of structures on adjoining properties.
- j) Existing or proposed landscaping (e.g., trees having a caliper greater than 4" in diameter, bushes, shrubs, etc.)

<b>Variance</b>	\$150.00 for a single-family dwelling
<b>Application Fee:</b>	\$250.00 for a multi-family dwelling or commercial property
<b>Advertising Fee:</b>	\$30.00

Checks should be made payable to the *Town of Lancaster*.



**Town of Lancaster, Massachusetts**  
*Office of Community Development and Planning*

**LANCASTER BOARD OF APPEALS**  
***SPECIAL PERMIT APPLICATION***

- 1.) Instructions
- 2.) Form A -- Application for Hearing
- 3.) Form B -- Special Permit
- 4.) Form C -- Certified List of Parties in Interest
- 5.) Form D -- Revenue Certification

The Special Permit Application must also be accompanied by two (2) copies of a scaled, full-size plan and one (1) reduced copy of that plan no larger than 11" x 17", which incorporates the following elements, as a minimum:

- a) Scale
- b) Locus
- c) North arrow
- d) Title block
- e) Date
- f) The existing and proposed topography of the project site
- g) Location of all existing and/or proposed structures including, but not limited to, dwellings, septic areas, wells, driveways, lawn/yard areas, grading contours, etc.
- h) Distances from lot lines/easement areas/setback limitations, etc.
- i) Locations of structures on adjoining properties
- j) Existing or proposed landscaping (e.g., trees having a caliper greater than 4" in diameter, bushes, shrubs, etc.)

***Special Permit***                      \$150.00 for a single-family dwelling  
***Application Fee:***                \$250.00 for a multi-family dwelling or commercial property

***Advertising Fee:***                \$30.00

Checks should be made payable to the *Town of Lancaster*.

## INSTRUCTIONS

### APPLICATION PROCEDURE

- Obtain application forms from the Community Development and Planning Office located at the Town Hall on the 2<sup>nd</sup> floor.
- Complete applicable forms and required exhibits (see Zoning Bylaw for specifics).
- Complete and have Assessor certify list of parties in interest (Form C).
- Complete and have Town Collector certify Revenue Certification (Form D).
- File with Town Clerk completed signed application and forms.
- Applicants will be notified of public hearing date.
- The Board's rules should be reviewed prior to hearing.
- Additional exhibits may be submitted at hearing.
- Do not attempt to discuss case with Board members.
- Applicant must appear personally or by an authorized representative.
- Approved permits allowing use of construction will not take effect until appeal periods expire, the decision is recorded, and proof of recording is submitted to the Community Development and Planning Office.

FORM A

APPLICATION FOR HEARING

TO THE ZONING BOARD OF APPEALS OF THE TOWN OF LANCASTER:

I, the undersigned respectfully petition your Honorable Board for a hearing upon Applicant's Request for [variance, special permit, comprehensive permit, appeal].

(1) Applicant \_\_\_\_\_  
Name Address Telephone

(2) Owner \_\_\_\_\_  
Name Address Telephone

(3) If there is an option to purchase; the name and address of the prospective purchaser  
\_\_\_\_\_

(4) The record Title stands in the name of: \_\_\_\_\_ whose  
address is \_\_\_\_\_ by  
a Deed duly recorded in the Worcester District Registry of Deeds, Book \_\_\_\_\_, Page  
\_\_\_\_\_ OR Land Court Title Certificate # \_\_\_\_\_

(5) Said premises are situated in a District classified under the Zoning By-Law of the Town of  
Lancaster as: \_\_\_\_\_

(a) Location of property affected \_\_\_\_\_

(b) Assessor's Book \_\_\_\_\_, Parcel \_\_\_\_\_

(c) State what is located on premises (e.g. number, type and use of buildings; type of vegetation,  
etc. \_\_\_\_\_

(d) State in full what Applicant desired to do upon he properties: \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Signature of Owner

FORM B (Variance)

REQUESTS FOR FINDINGS OF FACT IN  
SUPPORT OF PETITION FOR VARIANCE

Petitioner hereby requests that the Board, upon public hearing and after review of the evidence submitted, find as follows in support of the Petition for Variance:

1. The Petitioner, \_\_\_\_\_ whose address is \_\_\_\_\_, is the (owner) (lessee), (optionee) (\*DELETE INAPPLICABLE TERMS) of certain land situated at \_\_\_\_\_ in the Town of Lancaster and more particularly described in a deed recorded with the Worcester District Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.

If Petitioner is not the owner, complete the following:

The owner of said land is \_\_\_\_\_, whose address is \_\_\_\_\_.]

2. Said land is situated in a district classified under the Lancaster Zoning By-Law as \_\_\_\_\_.

3. Presently located on the premises is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The Petitioner(s) desire(s) to use said premises as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Petitioner requests a variance from the application of the following section(s) of the Zoning By-Law:  
\_\_\_\_\_

6. Petitioner alleges that each of the requirements for the grant of a variance set forth in G.L. c. 40A, Section 10 have been satisfied for the following reasons (attach extra sheets if necessary):

(A) A literal enforcement of the provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the Petitioner for the following reasons:

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(B) Said substantial hardship is owing to circumstances relating to the soil condition, shape, or topography of such land or structures for the following reasons:

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(C) Said substantial hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located, for the following reasons:

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(D) Desirable relief may be granted without detriment to the public good, for the following reasons:

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(E) Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Town of Lancaster Zoning By-Law for the following reasons:

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7. (Applicable only to use variances) Grant of the requested use variance is authorized by Section 10.27 of the Lancaster Zoning By-Law as follows:

(A) Such variance shall be applied only to existing structures, including their adaptation for the intended purpose, in the following respects:

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(B) The proposed use or activity is one which is beneficial to the community at large, or to its existing public or semi-public institution, in the following respects:

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(C) No reasonable alternative is provided in the By-Law for the location of the proposed use, in the following respects:

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Signature of Petitioner

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Signature of Owner

FORM B (Special Permit)

REQUESTS FOR FINDINGS OF FACT IN  
SUPPORT OF PETITION FOR SPECIAL PERMIT

Applicant hereby requests that the Board, upon public hearing and after review of the evidence submitted, find as follows in support of the Application for Special Permit:

1. The Applicant \_\_\_\_\_ whose address is \_\_\_\_\_, is the (owner) (lessee), (optionee) (\*DELETE INAPPLICABLE TERMS) of certain land situated at \_\_\_\_\_ in the Town of Lancaster and more particularly described in a deed recorded with the Worcester District Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.

If Applicant is not the owner, complete the following:

[The owner of said land is \_\_\_\_\_, whose address is \_\_\_\_\_.]

2. Said land is situated in a district classified under the Lancaster Zoning By-Law as \_\_\_\_\_.

3. Presently located on the premises is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The Applicant desires to use said premises as follows and in conformity with the Site Plan filed with this application: \_\_\_\_\_  
\_\_\_\_\_

5. Grant of the Special Permit is authorized by Section \_\_\_\_\_ of the Lancaster Zoning By-Law.

6. Applicant alleges that each of the requirements for the grant of the Special Permit set forth in G.L. c. 40A §9 and the Zoning By-Law are met for the following reasons: (Attach extra sheets if necessary)

(A) The proposed use is in harmony with the general purpose and intent of the Lancaster Zoning By-Law, for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(B) The specific site is an appropriate location for the proposed use, for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(C) The proposed use as developed will not adversely affect the neighborhood, for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(D) There will be no nuisance or serious hazard to vehicles or pedestrians, for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(E) Adequate and appropriate facilities will be provided for the proper operation of the proposed use, for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. (Applicable to requests for Special Permit for Uses in Water Resource District - Section 13.75) The proposed use will conform to any special requirements provided in Section 13.75 of the Zoning By-Law in the following respects: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. (Applicable to a request for extensions or alteration of a pre-existing non-conforming structure or use pursuant to G.L. c. 40A §6 and Section 8, 11 and/or 8.22 of the Zoning By-Law.) The requested change, extension or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood, for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

---

Signature of Owner

FORM B (Comprehensive Permit)

REQUESTS FOR FINDINGS OF FACT IN  
SUPPORT OF PETITION FOR COMPREHENSIVE PERMIT

Applicant hereby requests that the Board, upon public hearing and after review of the evidence submitted, grant the Applicant a Comprehensive Permit in accordance with the provisions of G. L. c. 40B and make the following findings in support of the application:

1. The Applicant, \_\_\_\_\_ whose address is \_\_\_\_\_, is the (owner) (lessee), (optionee) (\*DELETE INAPPLICABLE TERMS) of certain land situated at \_\_\_\_\_ in the Town of Lancaster and more particularly described in a deed recorded with the Worcester District Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.

If Applicant is not the owner, complete the following:

The owner of said land is \_\_\_\_\_, whose address is \_\_\_\_\_.]

2. Said land is situated in a district classified under the Lancaster Zoning By-Law as \_\_\_\_\_.

3. Presently located on the premises is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The Applicant desires to use said premises as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5 Applicant is qualified to apply for a comprehensive permit in that: (attach extra sheets if necessary)

(A) Applicant is a (public agency) (non-profit organization) (limited dividend organization) in the following particulars: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(B) The specific project has been determined to be eligible for funding under a low and/or moderate income housing program and has received site approval from a qualifying subsidizing agency as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(C) Applicant has a specific legal interest in and control over the site as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. By the grant of the comprehensive permit, Applicant seeks the following specific exceptions to the below listed provisions of the following local codes, by-laws or regulations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. The grant of the comprehensive permit is reasonable and consistent with local needs for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Owner

FORM B (Miscellaneous)

REQUESTS FOR FINDINGS OF FACT

Applicant hereby requests that the Board make the following findings of fact in support of its application:

1. The Applicant, \_\_\_\_\_, whose address is \_\_\_\_\_, is the (owner, lessee, optionee) (\*DELETE INAPPLICABLE TERMS) of certain land situated at \_\_\_\_\_ in the Town of Lancaster and more particularly described in a deed recorded with the Worcester District Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.

If Applicant is not the owner, complete the following:

[The owner of said land is \_\_\_\_\_, whose address is \_\_\_\_\_.]

2. Said land is situated in a district classified under the Lancaster Zoning By-Law as \_\_\_\_\_.

3. Presently located on the premises is: \_\_\_\_\_  
\_\_\_\_\_

4. The Applicant(s) desire(s) to use said premises as follows: \_\_\_\_\_  
\_\_\_\_\_

5. Request for Extension of Time - Variance, Special Permit. Applicant has requested (extension/renewal) of the rights granted by this Board by decision dated \_\_\_\_\_ filed with the Town Clerk on \_\_\_\_\_, recorded in the Worcester District Registry of Deeds at Book \_\_\_\_\_, page \_\_\_\_\_ on \_\_\_\_\_. Good cause exists for delay in exercising the rights granted by the Board for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_

6. Application for Amendment or Modification of permit or Variance. Applicant has requested modification of the terms and conditions of the (Variance/Special Permit/Comprehensive Permit) granted by this Board by decision dated \_\_\_\_\_, filed with Town Clerk on \_\_\_\_\_, recorded in the Worcester District Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ on \_\_\_\_\_. The reasons for the proposed modification are set forth in detail below (use additional sheets if necessary). Relief can be granted without materially altering the relief previously granted by the Board and the relief still meets or exceeds all of the criteria for the initial grant of the relief as set forth in detail below.

7. Additional/miscellaneous Findings in Support of Application. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Owner

FORM C

CERTIFIED LIST OF PARTIES IN INTEREST

OWNERS NAME: \_\_\_\_\_  
ADDRESS OF PROPERTY: \_\_\_\_\_  
MAP & PARCEL: \_\_\_\_\_

The following is a list of all parties of interest, as defined by Massachusetts General Laws, Chapter 40A, Section 11.

PARTIES IN INTEREST shall mean the Petitioner, abutters, owners of land directly opposite on any Public or Private Street or way and abutters to the abutters within 300' of the property line, even though said land is in another city and/or town, and the Planning Boards of Lancaster and contiguous towns.

NAME	LEGAL MAILING ADDRESS (ZIP)
APPLICANT:	
OWNER:	
AGENT/ATTORNEY:	
LANCASTER PLANNING BOARD	
HARVARD PLANNING BOARD	
BOLTON PLANNING BOARD	
CLINTON PLANNING BOARD	
LEOMINSTER PLANNING BOARD	
SHIRLEY PLANNING BOARD	
LUNENBURG PLANNING BOARD	



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CERTIFIED BY BOARD OF ASSESSORS:

DATE

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FORM D

REVENUE CERTIFICATION

Application/Petition/Appeal of

1. Applicant: \_\_\_\_\_
2. Owner: \_\_\_\_\_
3. Property: Assessors Map \_\_\_\_\_ Parcel \_\_\_\_\_

Pursuant to G.L. c. 40D, Section 57, and the General By-Laws of the Town of Lancaster, the undersigned applicant hereby certifies as follows:

1) The following named persons, firms or corporations constitute the complete list of all parties having an ownership or proprietary interest in the property or use subject to the above-entitled application.

2) Each of the below listed parties have complied with the laws of the Commonwealth of Massachusetts and the Town of Lancaster in that they have not neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period.

NAME OF INTERESTED PARTY	ADDRESS
OWNER:	_____
APPLICANT:	_____
OTHER:	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Signed under the pains and penalties of perjury

\_\_\_\_\_  
Signature of Applicant

DATED: \_\_\_\_\_

CERTIFIED BY TOWN OF LANCASTER TOWN COLLECTOR

\_\_\_\_\_  
DATED: \_\_\_\_\_

