

**TOWN OF WAKEFIELD
ZONING BOARD OF ADJUSTMENT**

2 High Street
Sanbornville, New Hampshire 03872

**INSTRUCTIONS
SPECIAL EXCEPTION**

Please read carefully prior to filling out the attached application.

ALL BLANKS MUST BE FILLED IN FULLY AND COMPLETELY. APPLICATION MUST BE CONSIDERED COMPLETE ENOUGH TO PROCEED IN ORDER TO SCHEDULE A HEARING.

The Board strongly recommends that before making any appeal to the Board, including the requesting of a Special Exception, that you become familiar with the Wakefield Zoning Ordinance, and also the New Hampshire Statutes, RSA Chapters 672-677. You may review the Zoning Ordinance at the Town Hall.

SPECIAL EXCEPTION: Certain sections of the Zoning Ordinance allow certain uses by the granting of a Special Exception, upon the applicant meeting certain specified conditions. The necessary conditions for each special exception are given in the Zoning Ordinance. Your appeal for a Special Exception will be granted if you can show that the conditions stated in the ordinance are met. *Before filing an application for Special Exception*, check the Zoning Ordinance and ensure that the use you are contemplating is allowed by Special Exception, and only then can you apply for a Special Exception.

Although "in practice a sharp distinction between exceptions and variances may not in all cases be readily made, there is a major difference between the two: there is no necessity for a hardship to exist in order to qualify for a special exception." See Stone vs. Cray, 89 N.H. 483 (1938, and its progeny.

Yet, in the Wakefield Zoning Ordinance, Section 5.02, **certain conditions must be met** for a special exception to be granted, and the Board "shall take into consideration the following conditions:

1. The proposed use(s) shall be only those allowed in this Ordinance by Special Exception;
2. The specific site is an appropriate location and of adequate size for the use;
3. The use, as developed, will not adversely affect the character of the area in which the proposed use will be located;
4. There will be no nuisance or serious hazard to vehicles or pedestrians;

5. The use will not place excessive or undue burden on Town services and facilities;
6. There would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be located."
Section 5.02, Zoning Ordinance

NOTE: *Applicants must review Section 5.02(B) of the Ordinance and address any or all of the conditions set forth thereon and that are applicable to your particular application.*

If you are applying for a Special Exception, you **must also cite on the application the Section number** of the Ordinance which sets forth the *special requirements* for this particular special exception and use. Please see page 2, para. E, of the Application for Special Exception, and ensure that the information is complete and accurate.

You must also prepare and provide a list of all abutting property owners and attach a copy to your application. You must prepare **four sets of mailing labels** for the abutters, owners, and Association if your property is in an Association Subdivision. A tool on the town's website, www.wakefieldnh.com, can create the abutters' list for you. Click on the "Maps" button on the website's home page, type in the address or Map and Lot numbers in the search bar, click on the owner and address listing, and then click on the round icon with the three houses on it. A list of abutters' map and lot numbers will appear. Click on the round document icon, and the option to print a Mailing Labels PDF will appear. Click on that, and a list of label-ready abutters will pop up, ready to print on standard Avery Address Labels 5160 or a generic brand with a similar layout.

NOTE: The abutters list must be current, with names and addresses being no older than 5 days prior to the date of the Variance Application.

Once your application is complete, you may either deliver the completed application, together with attachments, to the office of the Board of Selectmen or send the application by mail to the Clerk, Zoning Board of Adjustment, together with the following fees:

- **Application Fee - \$125.00**
- **Public Notice Fee - \$125.00, to include newspaper notice.**
- **Certified Mail Fee – Based on current U.S. Postal Service rates per notice for each applicant, each agent for applicant, each attorney for applicant, each abutter and each interested party entitled to notice under New Hampshire Law. *Please check with Land Use Clerk for current postal rates.***

The total check or money order must be made payable to the Town of Wakefield and must be paid in full at the time of filing your application.

Note: The applicant shall pay for all additional fees for public notice and certified mail as may be required by the Board's Rules of Procedure.

When your properly completed application is received and accepted as complete, the Board will schedule a Public Hearing within 30 days. Public Notice of the hearing will be posted in the Granite State News at least 5 days prior to the hearing, and notices of hearing will be mailed to you and to all abutters at least 5 days prior to the hearing. You and all other parties will be invited to appear in person or by agent or counsel to state reasons and give other information in support of the application for Special Exception.

During the Public Hearing, the Board will reach a decision to grant, conditionally grant, deny or continue the Public Hearing if deemed necessary by the Board to obtain further information. At the conclusion of the hearing or continued hearing, the Board will vote on your application, and you and other parties to the case will be sent a Notice of Final Decision. Notice of Decision will also be published in the Granite State News following the decision.

If you believe the Board's decision is erroneous, **you and any other person** directly affected thereby has a right to appeal. To appeal, you must first (before proceeding to any Court) request a Rehearing in writing, stating all reasons why the decision was erroneous under the law, unlawful or unreasonable, and/or present facts which were not presented, or were not available at the time of hearing, or were not considered by the Board in its determination of the case which would render the decision unlawful or unreasonable. This request, known as a ***Motion for Rehearing***, must be received by the Board's Clerk or filed with the Selectmen's Office, ***no later than 30 days following the date of hearing***. The request for rehearing may be in the form of a letter, signed by you or your agent/counsel, and must contain all bases for rehearing as described above. The request ***must set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable.***

The attached application form must be properly and completely filled out. Follow the following checklist to ensure you have properly filled out the application, as well as you have attached the required documents and fees:

- A. All **“property owner”** and **“applicant”** information is complete, page 1. _____
- B. The correct **Map and Lot #**, as well as **911 address, square foot and frontage information** is included, page 1. _____
- C. The **“location of property”** is complete. (Provide detailed directions from the Wakefield Town Hall, with mileage and landmarks, when needed) page 1. _____
- D. The **Zone** is specified (check and circle the applicable zone), page 1 _____
- E. If an overlay or other such district is applicable to your property, you must **Attach a statement as to how your application relates to the requirements Of such district** _____
- F. **Initial and date, bottom of page 1** _____

G. **Each question is answered on page 2**, completely and fully. _____

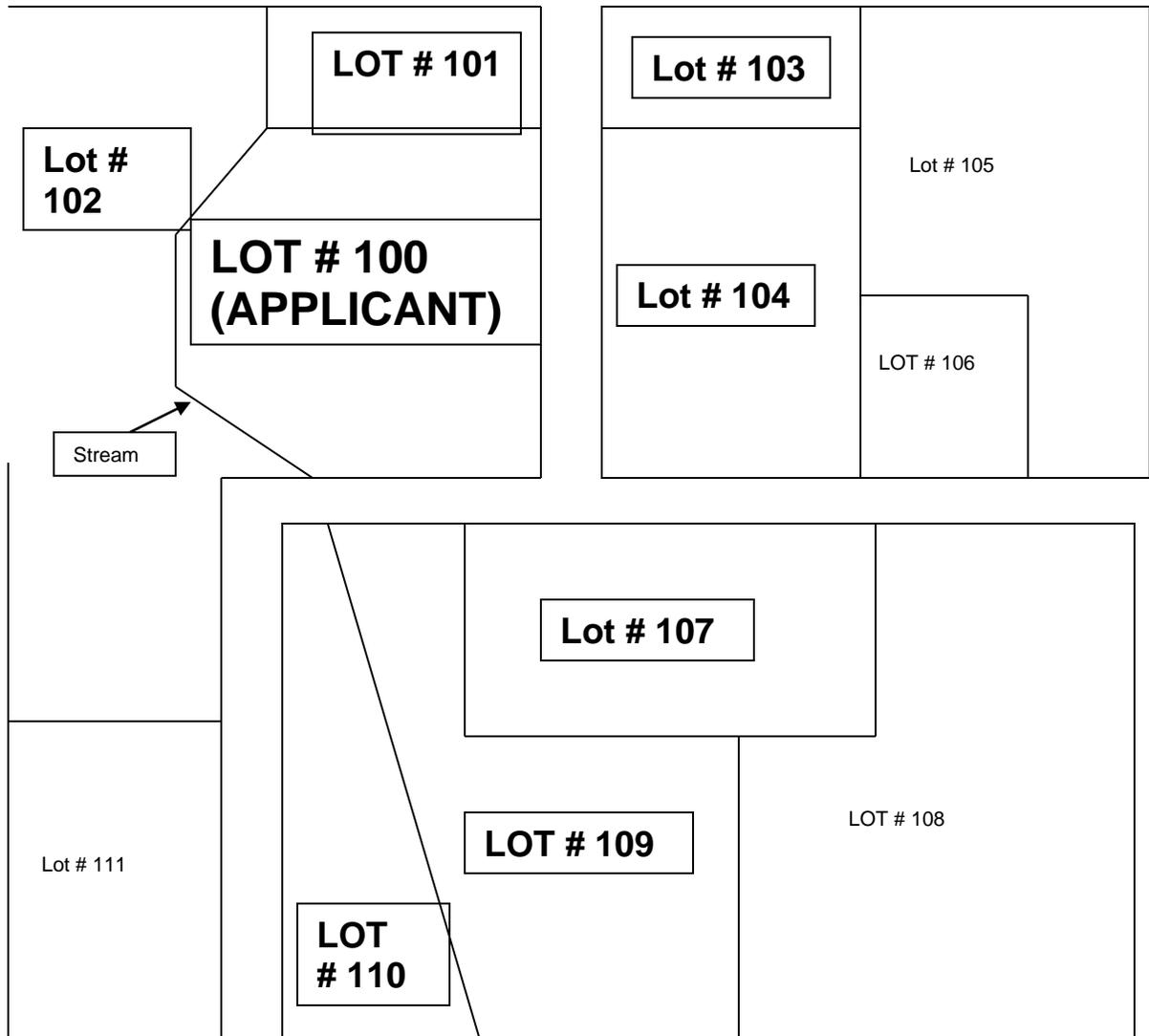
H. Under “**proposed Use**” **paragraph D on page 2** be sure you have fully explained the issue or what you want to do on your property but which is permitted only after obtaining a Special Exception. _____

PLAN OR SKETCH REQUIREMENTS
ZONING BOARD OF ADJUSTMENT

A plan or detailed sketch is required as part of your application and presentation of your application to the ZBA. Since a similar plan is usually necessary for a building permit application and for the Planning Board in a Site Review, that plan may serve both purposes. Although a hand-drawn sketch may be used, it *must be to scale, be detailed enough to provide dimensions of property, applicable structures and specific to the use or activity you intend and which is subject of the application.* The more information you provide on the plan or sketch, the better the Board will understand your appeal. This plan or sketch shall contain the following features, if relevant:

For all appeals seeking Dimensional Relief, a stamped, certified survey may be required. However, all plans submitted should include as much of the following information as is reasonable.

1. Submitted plans must be current and up to date.
2. Drawn to scale, with drawing number and north arrow.
3. Signature and name of the plan preparer.
4. The lot dimensions, bearings and any bounding streets and their right-of-way widths or half sections.
5. Location and dimensions of existing or required service areas, buffer zones, landscaped areas, recreation areas, safety zones, signs, rights-of-way, streams, drainage, conservation or other easements, wetlands, steep slopes.
6. All existing buildings or other structures with their dimensions including encroachments.
7. All proposed buildings, structures with their dimensions and encroachments indicating "proposed" on the plan for each.
8. All setback dimensions.
9. Elevations, curb heights and contours.
10. Location and numbering of parking spaces and lanes with their dimensions. Indicate how required parking spaces are computed.
11. Dimensions and directions of traffic lanes and exits and entrances.
12. Any required loading and unloading and trash and snow storage areas.



AN ABUTTER IS DEFINED AS ANY PROPERTY EITHER **DIRECTLY ADJACENT TO, DIAGONALLY ACROSS FROM, OR ACROSS THE STREET OR STREAM FROM** THE PROPERTY IN QUESTION. IN THE EXAMPLE ABOVE, WITH THE LOT IN QUESTION BEING **#100**, THE ABUTTERS WOULD BE THE FOLLOWING: **101, 102, 103, 104, 107,109 AND 110.**

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