



TOWN OF LINCOLN, NH
 Planning & Zoning Department
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APPLICATION FOR A VARIANCE

Per NH RSA 764:33, effective 1/1/2010

To: Zoning Board of Adjustment,
 Town of Lincoln

Do not write in this space.

Case No. _____

Date Filed: _____

Name of Applicant: _____

(Signed – Planner)

Address of Applicant: _____

E-mail Address of Applicant: _____

Telephone Number of Applicant _____

(if same as applicant, write "same")

Name of Property Owner: _____

Address of Property Owner: _____

E-mail Address of Property Owner: _____

Telephone Number of Property Owner: _____

(if same as applicant, write "same")

For property located at _____

(Number, Street, Tax Map & Lot #)

APPLICATION FOR A VARIANCE

A variance as defined by Land Use Plan Ordinance Article IV and under Article VIII.

A variance is requested from Article _____, Section _____, Paragraph _____
 of the Land Use Plan Ordinance to permit:

Facts in support of granting the variance:

- 1. Granting the variance (would – would not) be contrary to the public interest because:**

- 2. If the variance were granted, the spirit of the ordinance would be observed because:**

- 3. Granting the variance would do substantial justice because:**

- 4. If the variance were granted, the values of the surrounding properties would not be diminished:**

AND

- 5. Unnecessary Hardship**

- A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:**

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

AND

ii. the proposed use is a reasonable one because:

OR

- B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist, if and only if, 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.

Applicant(s) Name

Property Owner(s) Name

Applicant(s) Signature

Date

Property Owner(s) Signature

Date

Conditions Explained:

A variance is a relaxation or waiver of any provision of the ordinance authorizing the landowner to use his/her land in a manner that would otherwise violate the ordinance and may be granted by the ZBA on appeal. "Variances prevent the ordinance from becoming confiscatory or unduly oppressive as applied to individual properties uniquely situated." *Sprague vs. Acworth*, 120, N.H. 641 (1990).

The Lincoln Land Use Ordinance cannot limit or increase the powers of the ZBA to grant variances beyond the statutory authority. Each of the following conditions must be found in order for a variance to be legally granted.

Condition 1: Granting the variance will not be contrary to the public interest. Does the variance alter the essential character of the neighborhood? Does the variance threaten the health, safety or general welfare of the public? The court has ruled that this means that granting the variance will cause no harm - such things as increasing traffic congestions, decreasing traffic safety, decreasing the tax base, creating the potential for sewage/septic overloading, and increasing the risk of damage to water quality may be contrary to the public interest. To be contrary to the public interest the variance must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance.

Condition 2. The variance is consistent with the spirit of the ordinance. The court has said a project that creates congestion beyond that envisioned in the zoning ordinance, or one that threaten wetlands protected by a Wetlands Ordinance are examples of being contrary to the spirit. Another example, if the purpose for the minimum road frontage is to prevent overcrowding and the lot had ample width at the building line, but narrowed to less than the minimum requirements for road frontage, a variance might not violate the spirit of the ordinance because it would not result in overcrowding. In 2004, in *Bacon v. Town of Enfield*, they added that the ZBA could consider the cumulative impact of a particular variance if it was granted to everyone in a similar situation, not just the impact of the applicant alone. Will the variance unduly and in a marked degree conflict with the ordinance such that it violates or undermines the legal purposes the zoning ordinance serves or the reasons it was enacted? Look at the goals of the zoning ordinance and review the Master Plan.

Condition 3: Substantial justice would be done by granting the variance. This condition becomes important if other conditions do not provide a clear answer. It encourages the ZBA to step back and take a broad look at balance of public vs. private interest. Rule: Any loss to the individual that is not outweighed by a gain to the general public is an injustice. The injustice must be capable of relief by granting a variance that meets the other four qualifications. Is the proposed development is consistent with the area's present use? It allows the Board to consider if a variant use would have less impact than a permitted use, or if it is similar to adjoining uses.

Condition 4: Granting the variance will not diminish the value of surrounding properties. The court has said that blocking a view of the water, blocking a view of the sunset, and blocking sunshine would decrease property values. It has said that a use consistent with abutting uses does not decrease property values.

AND

Condition 5. Denying the variance will create an unnecessary hardship for the applicant. The definition of "unnecessary hardship" shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance. Under RSA 674:33, I(b)(5):

1. Owing to special conditions of the property that distinguish it from other properties in the area:
 - a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. [The Relationship Test]
 - b. The proposed use is a reasonable one. [The Reasonable use Test]

Think about how would granting the variance affect neighboring properties and the municipality's zoning goals generally?

2. If you cannot establish the criteria in subparagraph (1), an unnecessary hardship will be deemed to exist, if and only if, 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.



Town of Lincoln

ABUTTERS LISTING

The following information must be submitted for proper notification of any meeting or public hearing to be held before the Lincoln Planning Board or Lincoln Board of Adjustment. It is the responsibility of the applicant to provide the Planning Board with the names and addresses of abutters and others to be notified. The Planning Board shall notify the abutters and others by certified mail of the date upon which the proposal will be considered by the Planning Board, with notice to be mailed at least 10 days prior to the Planning Board meeting.

State of New Hampshire RSA 672:3 defines abutter as follows:

"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.

This form must be properly filled out.

LISTING

Applicant(s):

Name

Mailing Address (including Zip Code)

Property Owner(s):

Name

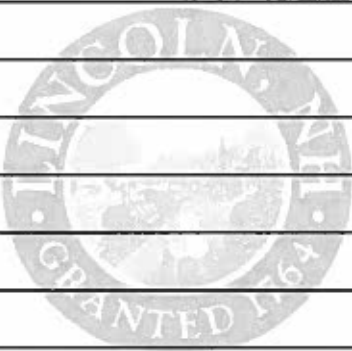
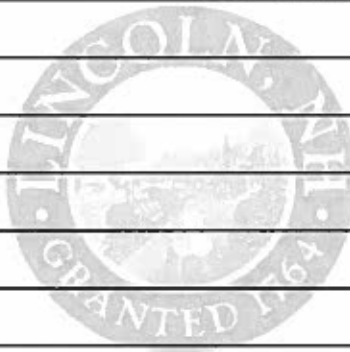
Mailing Address (including Zip Code)

Agent(s):

Name

Mailing Address (including Zip Code)

(Continued on back side)

A circular seal for Lincoln High School. The outer ring contains the text "LINCOLN HIGH" at the top and "GRANTED 1864" at the bottom. The center of the seal features a landscape illustration with a building, trees, and a body of water.

FEES AND COSTS SHEET (Effective Date July 21, 2020)

Property Owner Name: _____

Owner's Mailing Address: _____

Owner's Phone: _____

Owner's Email Address: _____

Property Address: _____

Map/Lot: _____ Project Name: _____

FEES:	AMOUNT
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PLANNING BOARD (PB) AND ZONING BOARD OF ADJUSTMENT (ZBA):

Most matters that appear before the PB or ZBA require Abutter Notices sent by certified mail, return receipt requested and publication in a local newspaper and on the Town's website as well as posting in two public places in Town.

NOTICE FEES:

\$150 (approx.) Legal Notice fee (Newspaper publication) – at cost* \$ _____

*Publication of Legal Notices is currently estimated to be \$150.

The cost of Publication in the Newspaper will be passed onto Applicant as costs vary depending on size of ad and which newspaper is used.

\$5+ Abutter Notice fee per Abutter** \$ _____

* **PLUS** USPS Certified Mail, Return Receipt Requested rate per name on Abutter List
PLUS three labels (\$.025/each label). \$ _____

Postal fees are subject to change according to rate increases by USPS.

The Town of Lincoln reserves the right to increase postal rates accordingly.

†Current Cost to prepare & mail abutter notices for up to 1 ounce (**for each abutter**)

(\$5.00 per Notice **PLUS** \$7.10 for Certified Mail, Return Receipt Requested;

PLUS \$.75 per abutter [\$0.25 per label, 3 labels per abutter] => **\$12.85**.†

†This rate is subject to change depending on the weight of the mailing. Difference in cost to be paid by Applicant.

RECORDING FEES*:

\$12 Voluntary Lot Merger Form to record in Registry of Deeds – no LCHIP fee required \$ _____

\$25 LCHIP fee for each plan being recorded in the Registry of Deeds (Mandated by State of NH) \$ _____

[LCHIP stands for NH Land and Community Heritage Investment Program]

***Separate certified check or money order payable to:

"Grafton County Registry of Deeds"

\$25+ Registry fee – Processing fee **PLUS** Recording Fee from Grafton County Registry of Deeds \$ _____

Current Cost to record PLANS:		
A.	8 ½" X 11"	= \$11
B.	11" X 17"	= \$11
C.	17" X 22"	= \$16
D.	22" X 34"	= \$26

*For fees and costs to record other types of documents in the Registry of Deeds, check Registry of Deeds website.

PLANNING BOARD:

Site Plan Review:

• **Minor Projects:**

\$50+ Fee for Site Plan Review for **minor projects****** \$ _____
******PLUS** Legal Notice, Abutter Notices and Registry Fees+\$5 per \$10,000
Estimated Cost of Construction (ECC) \$ _____

• **Major Projects:**

\$500+ Fee for Site Plan Review for **major projects*** \$ _____
***PLUS** Legal Notice, Abutter Notices and Registry Fees \$ _____
PLUS \$5 per \$10,000 Estimated Cost of Construction (ECC) \$ _____
PLUS
\$0 to \$2,500,000 ECC \$2.50 per \$10,000 of ECC \$ _____
\$2,500,001 ECC to \$10,000,000 ECC \$2.00 per \$10,000 of ECC \$ _____
\$10,000,001 ECC to \$15,000,000 ECC \$1.50 per \$10,000 of ECC \$ _____
Over \$15,000,001 ECC \$1.00 per \$10,000 of ECC \$ _____

• **Modification of Prior Approvals:**

\$500 Site Plan Review – Modification of Approval if Abutter Notices are Required** \$ _____
****PLUS** LCHIP, Legal Notice, Abutter Notices and Registry Fees \$ _____
\$500 Site Plan Review – *de minimis* Modification of Approval if **NO** Abutter Notices are Required \$ _____

Subdivision - (Payable at Time of Design Review Application Submission)

• **Minor Projects:**

\$300+ **Minor Subdivision***** \$ _____
*****PLUS** LCHIP, Legal Notice, Abutter Notices and Registry Fees \$ _____
\$200 **Minor Subdivision** – Modification of Approval \$ _____

• **Major Projects:**

\$600+ **Major Subdivision** – Base fee **PLUS** \$75/ lot, plat, site, or other division of land including
Units per RSA 672:14**** \$ _____
******PLUS** LCHIP, Legal Notice, Abutter Notices and Registry Fees \$ _____
\$500 **Major Subdivision** – Modification of Approval \$ _____

• **Condominium Project that also require Site Plan Review Approval:**

\$0 **No additional fees for Subdivision. See Site Plan Review fees.** \$ _____

• **Lot Line Adjustments & Boundary Agreements & Lot Mergers:**

\$150+ **Minor Lot Line Adjustment and Boundary Agreements******* \$ _____
*******PLUS** LCHIP, Legal Notice, Abutter Notices and Registry Fees \$ _____
\$50+ **Lot Merger PLUS** Registry Fees \$ _____

PERMIT FEES:**Commercial, Institutional, Multi-Family, And Other Non-One-And Two-Family Residential Construction (ALL CONSTRUCTION) Land Use Authorization Permit:**

\$100+ +\$1.00 per \$1,000 of construction cost, \$15,000 maximum \$_____

One- And Two-Family Residential Land Use Authorization Permit:

\$350 **Finished Dwellings** \$_____

Renovations, additions, alterations, etc.

\$250 With new water/ sewer fixtures, new bedrooms, and /or new heated spaces renovations, additions, alterations, etc. \$_____

\$0 Other Renovations with no New water/sewer fixtures, no new bedrooms, and/ or no new heated spaces and **less than \$10,000 construction cost** \$_____

\$40 Other Renovations with no New water/sewer fixtures, no new bedrooms, and/ or no new heated spaces and **\$10,000 or more in construction cost** \$_____

\$50 **Non- Habitable structures** (porches, garages, shed, fence, pool, temporary Trailer, retaining walls, etc.) \$_____

\$50 **Land Use Compliance Certificate** – per requested official inspection \$_____

RETAINING WALLS GREATER THAN FOUR FEET IN HEIGHT:

\$0 **Retaining Wall** Land use permit – if included in the application for another Project \$_____

\$50 **Retaining Wall** Land use permit – if not included in the application for another Project \$_____

\$1,500 **Retaining Wall** Greater Than Four Feet (4') in Height **Escrow Account** for 3rd party reviewer With Signed Escrow Agreement with the Town* \$_____

STORMWATER MANAGEMENT PLAN AND/OR EROSION CONTROL PLAN:

\$1,500 **Stormwater Management Plan** (escrow account for 3rd party reviewer With Signed Escrow Agreement with the Town)* \$_____

\$300 Waiver of Stormwater Management Ordinance Requirements – Planning Board Hearing \$_____

\$25 Recording Fee for Stormwater Management Operation & Maintenance (O&M) Plan **PLUS*** \$_____

\$12 Per Page* (for each extra page Stormwater O&M Plan) \$_____

RESUBMITTALS, EXTENSIONS, AND INSPECTIONS:

\$100 **Application resubmittal** (if filed 6 months or more after the date of rejection, must file new application for new permit). \$_____

\$100 **Application resubmittal** –The application fee shall accompany the initial application. The Applicant has one month to supply any items needed for the application to be considered "complete". After 1 month there is a \$100 fee to re-submit the application. \$_____

\$50 **Permit Extension** \$_____

\$75 **Re-Inspection*** \$_____

\$75 **Additional Inspection***
*Re-Inspection Fees and Additional Inspection Fees to be paid prior to scheduling the Final Land Use Compliance Certificate Inspection. \$_____

\$0 Request for **life safety inspection**, to enable occupancy prior to issuing a Land Use Compliance Certificate Issuance \$_____

\$75 Health Inspection - \$75 per Inspection \$_____

MOVING OR DEMOLITION:

\$50 Moving or Demolition \$_____

SIGN, AWNING, OR CANOPY:

\$50 Sign, Awning, or Canopy \$_____

PROJECTS REQUIRING OUTSIDE CONSULTING ASSISTANCE:

\$+ Projects requiring outside consulting assistance (where outside consulting services for plan review, testing or inspection are required) applicant pays for all necessary 3rd party reviews. \$_____

ZONING:

\$50 Zoning Permit only \$_____

\$50 Driveway Permit (Zoning Review) \$_____

\$300+ Special Exception (**PLUS** legal notice **PLUS** abutter notification) \$_____

\$100 Per zoning petition \$_____

\$300+ Variance (**PLUS** legal notice **PLUS** abutter notification) \$_____

\$300+ Appeal of Administrative Decision (**PLUS** legal notice **PLUS** abutter notification) \$_____

\$300+ Equitable Waiver (**PLUS** legal notice **PLUS** abutter notification) \$_____

\$300+ Hearing Under RSA 674:41 (**PLUS** legal notice **PLUS** abutter notification) \$_____

\$100+ Rehearing (**PLUS** legal notice **PLUS** abutter notification) \$_____

TOTAL Application Submission Fees and Costs** \$_____

Administrative Expenses*** \$_____

Technical Review Fee Agreement Costs*** \$_____

TOTAL ESCROW*** \$_____

TOTAL ALL OTHER COSTS & FEES \$_____

***To be paid before acceptance of application*

*** To be paid before final decision
* To be paid before acceptance of application
† To be paid before final decision

AMOUNT RECEIVED FROM APPLICANT \$_____

DATE AMOUNT RECEIVED FROM APPLICANT \$_____

FOR OFFICE USE ONLY

TOTAL AMOUNT DUE _____ **Balance Remaining** _____

TOTAL AMOUNT PAID _____ **Due No Later Than** _____

BALANCE REMAINING DUE _____ **Check Number** _____

Paid Date _____ **Cash** _____

Received By: _____