



Town of Leicester PLANNING BOARD

LEICESTER, MASSACHUSETTS, 01524-1333

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www.leicesterma.org

Leicester Planning Board Special Permit Regulations May 21, 2019

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I. Application Requirements

Applicants for Special Permits shall submit thirteen (13) copies (except where noted below) of the following to the Town Clerk:

A. Application Form

Application Forms are available at Town Clerk's Office, Planning Board Office, and on the Planning Board's page on the Town's website at www.leicesterma.org.

B. Certified Abutters List

Certified Abutters Lists are available from the [Leicester Assessors Office](#). (Please be advised that it may take up to 10 days for the Assessors Office to provide a Certified List). Only 1 copy of the Abutters List is required.

C. Fees

Fees shall be submitted in accordance with the [Planning Board's Fee Regulations](#). All checks must be made payable to the Town of Leicester.

D. Digital/Electronic Submittal

Electronic (.pdf) version of ALL application materials (application form, narrative, plans, stormwater/drainage report, etc.), submitted on a USB drive or CD. All files must have logical file names that identify file contents (e.g. Mike's Sporting Goods Application Form 5-2017, Mike's Sporting Goods Drainage Report 5-2017, etc.). If separate plan sheets are submitted as separate files, file names must be numbered so that electronic plans are in the same order as paper copies.

E. Special Permit Criteria Evaluation

A written description of how the proposed project meets the special permit criteria applicable to the project (see **Section IV** below).

F. Other Submittal Requirements

1. General Requirements

For Special Permits authorized by the Planning Board, submit plans and related submittals in accordance with the requirements for site plan submissions specified in the Board's [Site Plan Review Regulations](#), except as specified below.

2. Reuse of Existing Structures

When a Special Permit from the Planning Board is for a new use requiring a special permit, but involves the reuse, alteration or reconstruction of an existing structure, the Board may waive certain Site Plan submittal requirements in accordance with Section 5.3 of the Leicester Zoning Bylaw and the Planning Board's Site Plan Review Regulations.

3. Senior Village Developments

For Special Permits for Senior Village Developments, submit the following:

- a. A site plan and related documents in accordance with Section 5.2 of the Leicester Zoning Bylaw and the Board's Site Plan Review Regulations. The site plan shall also clearly identify project density (units per acre); location, number of acres, and proposed use of common open space; location and number of acres of wetlands as defined pursuant to MGL Ch.131, Section 40; and total project area.

- b. A preliminary subdivision plan under the applicable Leicester Subdivision Rules & Regulations at the time of application. Applicants shall make a subsequent filing of a Definitive Subdivision plan, as specified under Section 5.7.04.F. of the Leicester Zoning Bylaw.

4. Two-Family Dwellings & Parking of Commercial Vehicles Accessory to Residential

For Special Permits authorized by the Planning Board for a two-family dwelling and conversion of single-family dwelling to a two-family dwelling, and parking of a commercial vehicle accessory to a residential use (Zoning Bylaw §3.2.08A), the Applicant shall submit five (5) copies of a Registered Plot Plan prepared by a licensed surveyor or civil engineer. **IMPORTANT:** A tape survey is NOT ADEQUATE and will not be accepted. The registered plot plan must show:

- a. Existing and proposed lot lines and structures.
- b. Location of proposed driveway(s)
- c. Zoning District in which the property is located, including boundaries between Zoning Districts where relevant.
- d. Lot area

5. Municipal Utilities

For Special Permits for municipal utilities authorized under Section 4.3.02 of the Leicester Zoning Bylaw, submit five (5) copies of a Registered Plot Plan prepared by a licensed surveyor or civil engineer. **IMPORTANT:** A tape survey is NOT ADEQUATE and will not be accepted. The registered plot plan must show:

- a. Existing and proposed lot lines and structures
- b. Zoning District(s) in which the property is located, including boundaries between Zoning Districts where relevant.
- c. All relevant distances to boundary lines that are not in compliance
- d. Lot area, indicating if lot area is not in compliance.

6. Adaptive Reuse

For Special Permits for Adaptive Reuse (Section 5.10), applicants shall submit a site plan and related documents in accordance with Section 5.2 of the Leicester Zoning Bylaw and the Board's Site Plan Review Regulations. In addition, applicants shall submit a concise narrative including the following:

- a. architectural history of all structures on the site, including period, style, method of building construction, and association with any particular architect or builder
- b. any important association with one or more historic persons or events
- c. any cultural, political, economic or social history of the site or any structures to the Town, Commonwealth of Massachusetts or the United States of America

7. Large Wind Facilities

For Special Permits for Large Wind Facilities (Section 5.11), applicants shall submit a site plan and related documents in accordance with Section 5.2 of the Leicester Zoning Bylaw and the Board's Site Plan Review Regulations. In addition, applicants shall submit the following:

- a. A plan indicating distances from the base(s) of the wind turbines and existing and proposed structures and property lines (this information may be shown on the required site plans).

- b. A description of the wind facility and the technical, economic and other reasons for the proposed location, height and design.
- c. Wind System specifications, including manufacturer and model, rotor diameter, tower height, and tower type (freestanding or guyed)
- d. Any available manufacturers warranties, specifications or engineers drawings that apply to the tower structure, installation, system machinery or related equipment.
- e. A written statement that the proposed wind facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA)
- f. Proof of liability insurance that satisfies the Zoning Bylaw,
- g. Existing and maximum projected noise levels from the wind facility.
- h. Operation & Maintenance Plan
The applicant shall submit a plan for maintenance of access roads, as well as general procedures for operational maintenance of the wind facility.
- i. Construction Simulations.
The special permit granting authority shall select between three and six sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the wind facility. View representations shall have the following characteristics:
 - 1) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g. superimpositions of the wind facility onto photographs of existing views).
 - 2) All view representations will include existing, or proposed, buildings or tree coverage.
 - 3) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc...).
 - 4) Location of viewpoints shall be shown on the Locus Plan described in the Site Plan Regulations or on a separate Town map of suitable scale to show the location of viewpoints in relation to the project site.

8. Small Wind Facilities

For Special Permits for Small Wind Facilities (Section 5.12), applicants shall submit thirteen (13) copies of the following:

- a. A Registered Plot Plan prepared by a licensed surveyor or civil engineer. (A tape survey is not adequate and will not be accepted). The plot plan must show:
 - 1) Existing and proposed structures and overhead utility lines
 - 2) Lot lines
 - 3) Zoning District(s) in which the property is located, including boundaries between Zoning Districts where relevant.
 - 4) All relevant distances from the base of the wind turbines and existing and proposed structures and property lines
 - 5) Lot area

- b. A description of the wind facility and the technical, economic and other reasons for the proposed location, height and design.
- c. Wind System specifications, including manufacturer and model, rotor diameter, tower height, and tower type (freestanding or guyed)
- d. Any available manufacturers warranties, specifications or engineers drawings that apply to the tower structure, installation, system machinery or related equipment.
- e. A written statement that the proposed wind facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA).
- f. Existing and maximum projected noise levels from the wind facility.
- g. A rendering of the proposed wind turbine showing the design and color of the proposed turbine (this may be a manufacturer's illustration, photograph of an identical wind turbine, or other representation that clearly illustrates the proposed wind turbine).
- h. Construction Simulations.
The special permit granting authority may require post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the wind facility. View representations shall have the following characteristics:
 - 1) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g. superimpositions of the wind facility onto photographs of existing views).
 - 2) All view representations will include existing, or proposed, buildings or tree coverage.
 - 3) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc...).
 - 4) Location of viewpoints shall be shown on the Locus Plan described in the Site Plan Regulations or on a separate Town map of suitable scale to show the location of viewpoints in relation to the project site.

9. Open Space Residential Developments

For Special Permits for Open Space Residential Developments (Section 5.13), applicants shall submit thirteen (13) copies of the following:

- a. Concept plan.
All applicants for Open Space Residential Development special permits shall submit a concept plan prepared by a professional landscape architect registered in Massachusetts. The concept plan shall contain the following information, in addition to the requirements of a preliminary plan as specified in the Leicester Subdivision Rules and Regulations, and information sufficient to illustrate and establish that the concept plan standards and special permit criteria of Section 5.13 have been met:
 - 1) Existing landscape features, such as steep topography, including a delineation of areas with slopes over 25%, wetlands, springs, lakes and ponds, streams, rock outcrops, boulder fields, stone walls, cliffs, forest glades, drumlins, high points, hilltops and ridges.

- 2) Existing open areas, such as forests, farm fields, meadows and major long views.
 - 3) In the event the parcel includes previously disturbed land, the applicant shall include a reclamation plan.
- b. Conventional Subdivision Sketch Plan
- The applicant shall also submit a sketch plan at the same scale showing how development of the parcel would be achieved by a conventional subdivision plan, in accordance with all applicable land use regulations.

10. Ground-Mounted Solar Energy Systems

- a. Applicants for Small-Scale Ground-Mounted Solar Energy Systems and Medium-Scale Solar Energy Systems less than 3,000 square feet of surface area (Section 5.14) shall submit the following:
 - 1) A Registered Plot Plan prepared by a licensed surveyor or civil engineer. (A tape survey is not adequate and will not be accepted). The plot plan must show:
 - a) Existing and proposed structures and overhead utility lines
 - b) Lot lines
 - c) Zoning District(s) in which the property is located, including boundaries between Zoning Districts where relevant.
 - d) All relevant distances from the base of solar array(s) and existing and proposed structures and property lines
 - e) Lot area
 - 2) Solar energy specifications, including manufacturer and model, area, height and type of ground mounting system.
- b. Applicants for Medium-Scale Ground-Mounted Solar Energy Systems of 3,000 sf. or more of surface area and Large-Scale Ground-Mounted Solar Energy Systems (Section 5.14) shall submit applications in accordance with the Planning Board's Site Plan Review Regulations, including the submittal requirements specific to Ground-Mounted Solar Energy Systems.

11. Earth Filling Operations and Earth Removal Operations

- a. Applicants for Earth Filling and Earth Removal Operations (Section 5.16), shall submit the following:
 - 1) **Site Plan:**

A site plan prepared by a registered professional engineer at a scale of up to 1:40 or other scale approved by the Board and on standard sheets up to 24"x 36". Only 2 copies are to be submitted full-size, the remaining 11 copies shall be submitted at 11" x 17". All plan sets shall be stapled together as complete plan sets and may be submitted folded or rolled. Site Plans shall contain the following information:

 - a) Name of the project, property boundaries, location map, date, north arrow and scale, and the name and address of the owner and registered engineer, architect or landscape architect who prepared the plan.
 - b) The location of all existing and proposed roads, driveways, parking and loading areas, fences and walls; and the number of parking and loading spaces provided.

- c) The location, height, size, and design of all proposed signage and lighting fixtures.
- d) Proposed landscaping, including size and type of plant material. (Please refer to the Planning Board's Landscaping Regulations.)
- e) The location of existing and proposed utility systems, including water, sewerage or septic systems, storm drainage system, and other utilities.
- f) Existing and proposed topography at two (2) foot contour intervals, including natural features, water sources, wetlands and 100-year floodplain.
- g) The location where earth removal or filling is proposed and the volume of material to be moved.
- h) Erosion and sedimentation control plan

The above required information may be provided on several sheets to legibly show the required information.

2) Locus Plan

The applicant shall provide a locus plan at a scale of one inch equals one hundred feet (1" = 100') or other such scale as may be approved by the Planning Board, showing the entire project site and its relation to surrounding properties, buildings and roadways, and zoning district boundaries within one thousand (1,000) feet of the project boundaries or such other distance as may be approved by the Planning Board. Locus plans shall clearly identify abutting residential structures.

3) Stormwater Report

Three (3) paper copies shall be submitted at the time of application, although the Board may request additional copies. Refer to the Planning Board's Stormwater Regulations for details.

4) Traffic Study

A traffic study (3 paper copies) that includes information on placement of access roads, sight distance at the point of entrance onto public ways, proposed truck routes to and from the site and estimated numbers of trucks per day entering and exiting the site.

5) Restoration Plan

The applicant shall submit a detailed plan for restoring the premises upon cessation of earth removal or earth filling operations. Restoration shall be completed within one year of the expiration of the permit or upon completion of removal of the area covered by the bond or other security.

6) Additional Requirements

a) Earth Removal Operations

Documentation and information pertaining to the following: location of proposed earth removal site or sites, type of earth material to be removed, depth of excavation, estimate of total material to be removed, purpose of earth removal, method of earth removal, method of and routes of transportation, duration of earth removal operations, phasing schedule and amount of material estimated to be removed per phase if applicable, the

finished grade of the site, disposition of all rocks, boulders, stumps and brush, and depth of normal high groundwater.

b) **Earth Filling Operations**

A Soil Management Plan (3 copies) signed and stamped by a Massachusetts Licensed Site Professional (“LSP”). The LSP shall specifically state that "The subject plan has been designed to meet the requirements of Leicester's Earth Filling Bylaws and Regulations, and any other applicable Federal or State regulation pertaining to the transport and use of earth materials for fill. It is my professional opinion that this plan and the proposed regulated activity, once executed and completed, will be substantially protective of human health, public safety, welfare and the environment". The Soil Management Plan shall contain sufficient detail to document that requirements of this Leicester’s Bylaws and Regulations will be met. The plan shall specifically require that Massachusetts Contingency Plan Bill of Lading (“BOL”) documents and procedures (310 CMR 40.0030) will be exclusively used for the transport and acceptance of earth materials for fill. The Soil Management Plan shall specifically include the following, at a minimum:

- i. Summary of environmental pre-fill characterization findings and sample locations;
- ii. Verification of Fill Material Origin and Acceptance Procedures;
- iii. Record Keeping Practices;
- iv. Site Security, Fill Operation Inspection, and Site Control;
- v. Transport Routes, Times, and Duration of Anticipated Fill Activities;
- vi. Qualifications of Applicant Personnel Responsible for adhering to the Soil
- vii. Management Plan and Leicester's Earth Filling Regulation;
- viii. Erosion, Dust, and Storm Water Controls, Inspection and Maintenance;
- ix. Quality Assurance/Quality Control Procedures;
- x. Emergency Response and Notification Procedures, including pertinent telephone numbers and contact individuals/firms;
- xi. Total proposed Fill Material volume;
- xii. Daily Personnel Responsibilities and Operation Management Procedures;
- xiii. Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environment during the fill operations;

II. Application Distribution

The Planning Board will distribute plans and application materials to the following Boards and Departments for comment:

1. Town Engineer
2. Building Inspector/Zoning Enforcement Officer
3. Police Department
4. Fire Department
5. Highway Department
6. Conservation Commission
7. Zoning Board of Appeals
8. Board of Health
9. applicable Water District
10. applicable Sewer District
11. Historical Commission

III. Notification Requirements

- A. After filing with the Town Clerk, the application will be forwarded to the Planning Board. You will receive instructions from the Planning Board outlining the notification process, a copy of the public hearing notice, and a list of addresses of Planning Boards of every abutting city and town.
- B. At least ten days prior to the hearing, you must send a copy of the public hearing notice to all certified abutters and abutting Planning Boards **by certificates of mailing or certified mail.**
- C. The public hearing will also be advertised in a local newspaper. This expense is the responsibility of the applicant. If a project is also subject to a Project Review Fee, the Applicant may choose to have this expense paid from the applicable 53G Project Review Account; otherwise, the Board will notify the Applicant of the cost and request separate payment.

IV. Board Decision/Special Permit Criteria

- A. At the public hearing, the Board will decide on the application. A four-fifths (4/5) vote is required for approval.
- B. In accordance with MGL, 40A, Section 9, special permits may be issued only for uses which are in harmony with the general purpose and intent of the Zoning Bylaw.
- C. For Special Permits authorized under Section 5.5, 5.6, 5.7, 5.8, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, and 5.16 of the Leicester Zoning Bylaw the Planning Board may grant a special permit if the conditions specified in the applicable sections of the Zoning Bylaw are met.
- D. For all other Special Permits issued by the Planning Board, the Board may grant a special permit if the following conditions are met:
 1. Such use will not nullify or substantially derogate from the intent and purpose of this Bylaw;

2. Such use will not constitute a nuisance; and
3. Such use will not adversely affect the neighborhood in which the lot is situated.
4. Such use complies with the Standards for Site Plan Approval in the Leicester Zoning Bylaw.
5. The Board may also provide for other conditions that it deems necessary.

V. After the Hearing

- A. After the Board vote, the Board will file a written Decision with the Town Clerk within 14 days. A copy of the Decision will also be sent to the applicant.
- B. There is a 20-day appeal period after the Decision has been filed with the Town Clerk.
- C. If no one appeals the decision within the 20-day period, the Town Clerk issues a certificate indicating that no appeal has been received.
 1. The applicant must pick up a copy of the Certificate and the Decision from the Town Clerk's Office.
 2. The Certificate and the Decision must be recorded at the Worcester District Registry of Deeds.
 3. The applicant shall provide the Planning Board with a copy of the Decision bearing the stamp of the Registry of Deeds or the Land Court indicating the date and time of recording or registration and the book and page number assigned to the document.
- D. At this point, the applicant may make use of the Special Permit in his/her application to the Building Inspector for a Building Permit (the Building Inspector will also require a copy of the *recorded* Decision).

Adopted by the Leicester Planning Board on June 3, 2003, amended February 1, 2005, May 7, 2007, March 3, 2009, July 7, 2009, October 19, 2011, June 20, 2017, and May 21, 2019.

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