

***Town of Tyngsborough
Planning Board***

25 Bryants Lane,
Tyngsborough, Massachusetts 01879-1003
Office: (978) 649-2300 ext 115
Fax: (978) 649-2301

TYNGSBOROUGH PLANNING BOARD

RULES AND REGULATIONS

SPECIAL PERMITS

Adopted: February 4, 1988

TYNGBOROUGH PLANNING BOARD
RULES AND REGULATIONS
SPECIAL PERMITS

I. GENERAL

The Tyngsborough Zoning By-Laws specify particular development activities in certain zoning districts in the Town, which require a Special Permit from the Planning Board prior to construction. If, upon consulting with the Zoning By-Laws, a person determines that a Special Permit is required from the Planning Board then the procedures outlined in these Rules and Regulations shall be followed to apply for such a Special Permit from the Board.

Any person who desires to obtain a Special Permit from the Planning Board shall submit a written application (Form 1) accompanied by the information required by these Rules and Regulations and the Town of Tyngsborough Zoning By-Laws, as well as a certified list of parties in interest (Form 2), and a Designer's Certificate for the proposed plan (Form 3). In addition if an Engineering review is required (Form 5) will also be submitted.

II. MANDATORY FINDINGS

The Planning Board shall not issue a Special Permit unless, without exception, it shall find that the proposed use:

- 1.) is in harmony with the purpose and intent of the Zoning By-Laws
- 2.) will not be detrimental or injurious to the neighborhood in which it is to be located
- 3.) is appropriate for the site question
- 4.) complies with all applicable requirements of the Zoning By-Laws

III. QUORUM REQUIREMENT AND REQUIRED VOTE

All special permit hearings and meetings at which the Board renders a decision regarding a special permit application shall require a quorum of four members of the Board.

A special permit shall require a concurring vote of at least four members of the Board.

The record shall show the vote of each member upon each question, or if absent or failing to vote, indicate such fact. The Board shall set forth clearly the reason for its decision(s).

IV. APPLICATIONS

1. Forms

Every application for action by the Board shall be made on the official form (Form 1) including the certified list of the parties in interest (Form 2) endorsed by the Assessor's office of Tyngsborough as well as the Designer's Certificate (Form 3) also (Form 5) is required if an engineering review will be conducted. Ten copies of such application form shall be submitted.

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2. Plan of Land

Every application shall be accompanied by ten (10) copies of a professionally engineered and designed plan with following:

- (1) _____ North Point
- (2) _____ Date
- (3) _____ Scale, 1 inch = 40 feet
- (4) _____ Legend
- (5) _____ Plan name
- (6) _____ Index sheet, if needed
- (7) _____ Title block
- (8) _____ Name(s) and address(es) of record owner(s)
- (9) _____ Boundary of property, which the application pertains to
- (10) _____ Zoning classification and zone boundaries, if passing through property
- (11) _____ Surveyor: name, address, signature, and seal
- (12) _____ Engineer: name, address, signature, and seal
- (13) _____ Locus Plan
- (14) _____ Names of abutters within 300 feet of the subject property
- (15) _____ Existing public ways within 300 feet of the subject property
- (16) _____ Tyngsborough Assessor's map and lot number for the property
- (17) _____ Existing topography of the property in two (2) foot contour intervals
- (18) _____ Proposed topography of the property after development in two (2) foot contour intervals
- (19) _____ Total lot areas and net dry lot area for the property
- (20) _____ Easements on the subject property
- (21) _____ Location of all wetland areas on the property, as defined by MGL Chapter 131
- (22) _____ Location of base flood elevation, or if none exists, a statement to that effect
- (23) _____ Location, shape, and size of all existing and proposed buildings, septic systems, and private wells on the property of within 300' of the property line
- (24) _____ Location and definition of all major site features, such as rock formations, water courses, historical landmarks, and stonewalls
- (25) _____ Locations of existing and proposed underground utilities on the property
- (26) _____ Location of all existing and proposed storm water drainage systems pertaining to the property
- (27) _____ Detailed profiles of storm drainage system for the site
- (28) _____ Lot frontage on a public way, lot width, front and side yard dimensions from the proposed buildings
- (29) _____ The precise location, dimensions and number of all proposed parking spaces
- (30) _____ Soil types on the property per the U.S. Soil Conservation Service detailed soil maps for the Town of Tyngsborough
- (31) _____ Detailed profiles of the entrances to the site from all public ways
- (32) _____ Detailed profiles of the proposed parking and driveway areas on the site including depth of gravel, pavement, and sloped granite curbing.

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- (33)_____ Delineation of site buffer/screening areas, including approximate location and number of vegetative plantings, solid brick, stone or wood fence, if required
- (34)_____ Details and location of all underground municipal water, or sewer systems or gas lines to service the site, if applicable
- (35)_____ Location of proposed stump and boulder burial area(s) on the site
- (36)_____ A Designer's Certificate for the plan (Form 3)
- (37)_____ Location, dimensions, and type of proposed signs for the site
- (38)_____ Location and shielding of proposed waste storage containment area
- (39)_____ Location of proposed fire lanes
- (40)_____ A building elevation plan where gross floor area is greater than 7,500 sq. ft., as per 1.16.22

3. Supporting Information

- (1)_____ Hydrological Calculations - A minimum of three (3) copies of hydrological calculations for the subject property in both the pre- and post- development states shall be filed with the application to the Board. The calculations shall demonstrate that the proposed drainage system will maintain or decrease the runoff rate from the pre-development to the post-development state for the 25-year storm event.
- (2)_____ Landscape Plan - A landscape plan shall be prepared by a Registered Landscape Architect, as per sections 1.16.22 and 3.13 of the Tyngsborough Zoning By-Laws, if applicable.
- (3)_____ Parking and Loading Area Calculations - A minimum of three (3) copies of calculations for proposed parking and loading areas demonstrating compliance with applicable regulations under Section 3.10 of the Tyngsborough Zoning By-Laws.
- (4)_____ Traffic Study - If required according to the Tyngsborough Zoning By-Laws, a minimum of three (3) copies of a traffic study prepared by a qualified registered traffic engineer according to definitions and methods of estimation as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209, or later editions.
- (5)_____ Environmental Protection - Information shall be submitted for major business or industrial site plans, as requested by the Planning Board, in order to demonstrate compliance with environmental protection standards outlined in Section 3.14 of the Tyngsborough Zoning By-Laws.

V. REPORTS FROM OTHER TOWN BOARDS OR AGENCIES

As required under the Tyngsborough Zoning By-Laws Section 1.16.12, the Planning Board shall transmit or cause to be transmitted a copy of the application and plan(s) to the other Boards and Departments, or committees, as it deems necessary. At a minimum, all applications for special permits shall be submitted to the Board of Selectmen, the Building Inspector, the Conservation Commission, and the Board of Health. Other referrals may involve, at the Boards' discretion, the Police Chief, Fire Chief, Highway Department, Road Commission, Sewer Commission, Water Commission, or other Boards or agencies which the Planning Board deems to be necessary and in the best interest of the Town.

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Any Board or agency to which special permit applications are referred for review shall make such recommendations or reports as they deem appropriate and shall send a copy to the Planning Board. Failure of any Board or agency to make a recommendation or submit a report within 35 days of receipt of the petition from the Planning Board shall be deemed a lack of opposition.

VI. PUBLIC HEARING AND DECISION

The Planning Board shall hold a public hearing no later than 65 days after the filing of an application but no earlier than 35 days from the date of application filing if the Planning Board deems it advisable to have Boards or officials from the Town review the application prior to the hearing.

Notice of the public hearing shall be advertised as required under MGL Chapter 40A (each of two successive weeks; the first publication not less than 14 days prior to the hearing date). The notice shall also be posted in the Town Hall and shall be mailed postage prepaid to the applicant and to parties in interest (as provided in Form 2). Notice shall also be sent to abutting Town Planning Boards and to other Boards and officials of Tyngsborough, which the Planning Board deems appropriate.

The Planning Board shall issue a decision no later than 90 days following the close of the hearing. The Board shall outline its decision in detail whether approved, approved with conditions, or disapproved (Form 4) and shall file such decision with the Town Clerk, including a detailed record of its proceedings indicating the vote of each member upon each question, within fourteen (14) days of such decision. Notice of the decision shall also be mailed to the petitioner for the special permit, as well as to all parties in interest furnishing their name and address to the Planning Board at the close of public hearing, and to the Town Clerk, and the Building Inspector.

Failure of the Board to take final action upon a special application within 90 days following the close of the public hearing shall be deemed to be a grant of the permit applied for.

VII. PERFORMANCE BONDS OR OTHER SECURITIES

The Planning Board may require, as a condition of the granting of a special permit, that a performance bond or other security, covenant, or agreement with the Town be established as it deems appropriate to protect the neighborhood and the interests of the Town.

VIII. EFFECTIVE DATE OF SPECIAL PERMIT

No special permit, or renewal and extension shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed, that it has been dismissed or denied, is recorded in the North Middlesex Registry of Deeds. The fee and recording shall be the responsibility of the owner/applicant.

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IX. WITHDRAWAL

An application may be withdrawn without prejudice by the petitioner by notice in writing to the Planning Board at any time prior to the public hearing notice publication, but thereafter it can only be withdrawn with the approval of the Board.

X. RECONSIDERATION

Once a decision has been voted by the Board and the meeting at which the decision was made is adjourned, there shall be no reconsideration of a decision by the Board.

XI. REAPPLICATION

No appeal, application or petition which has been unfavorably and finally acted upon by the Board shall be acted favorably upon within two (2) years after the date of final unfavorable action unless the Board finds, by a vote of four members of the Board, specific and material changes in the conditions upon which the previous unfavorable action was based. The Board shall describe such changes in the record of its proceedings, after notice is given to parties of interest of the time and place of the proceedings when the question of such consent will be considered.

XII. LIMITATION ON GRANTS

If an application is granted by the Board, construction or use shall be commenced within two (2) years or shorter period as specified by the Planning Board in its decision from the date of filing of the Board's decision in the office of the Town Clerk.

XIII. FEE SCHEDULES

The applicant shall file, with the Planning Board, the fee listed below as appropriate to the Special Permit applied for. In addition, all fees associated with professional services of the Planning Board's engineer in review of the Special Permit application and plan shall be reimbursed in total to the Planning Board.

<u>Special Permit Application</u>	<u>Fee</u>
Business site plan (less than 3,000 sq. ft.)	\$250
Industrial site plan (less than 15,000 sq. ft.)	\$250
Major business use (greater than 3,000 sq. ft.)	\$500

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Major Industrial Use (greater than 15,000 sq. ft.)	\$500
Multi-family dwellings (Condominiums, apartment)	\$50 + \$10/unit
Open space development	\$250 + \$25/unit

XIV. **REFERENCES**

General reference should be made by all applicants to the pertinent sections of the Commonwealth of Massachusetts General Law (MGL) Chapter 40A, otherwise known as the Zoning Act. Specific reference to and compliance with the Town of Tyngsborough Zoning By-Laws is also required. The Zoning By-Laws may be obtained from the office of the Town Clerk of Tyngsborough.



FORM 1

Town of Tyngsborough
PLANNING BOARD

25 Bryants Lane,
Tyngsborough, Massachusetts 01879-1003

Planning Office: (978) 649-2300 x-115

Fax: (978) 649-2301

APPLICATION FOR SPECIAL PERMIT

NOTICE TO APPLICANT:

File one completed form with the Planning Board and an exact copy with the Town Clerk. Ten (10) copies of the plan for which a special permit is applied for shall be included with ten (10) copies of this application. Please ensure that all information required pursuant to the Town of Tyngsborough Zoning By-Laws has been included with this application. Lack of such required information filed with the application shall be considered an incomplete/invalid application.

TO THE PLANNING BOARD, TOWN OF TYNGSBOROUGH:

1. The undersigned, being the owner of land included on the attached plan entitled _____ and dated _____, submits this plan and application for a Special Permit according to the requirements of Section _____ of the Tyngsborough Zoning By-Laws.
2. The owner's title to the land is derived under deed from _____ dated _____, and recorded in Middlesex North Registry of Deeds, Book _____, Page _____ or under Certificate of Title No. _____ registered in Middlesex Land Registry District Book _____, Page _____.
3. This application is filed in accordance with the Zoning By-Laws and the Rules and Regulations of the Planning Board regarding Special Permits.
4. This application is accompanied by the Certified List of Parties in Interest (Form 2), the Designer's Certificate (Form 3), and the application fee.

Applicant

Address, Phone

NOTE: This application is not deemed to have been submitted until the following endorsement has been completed by the Tyngsborough Planning Board and the Town Clerk.

Accepted this _____ day of _____, 20__ as duly submitted under the Rules and Regulations for Special Permit Applications of the Tyngsborough Planning Board.

By: _____ (Town Clerk)

By: _____ (Planning Board)



FORM 2

Town of Tyngsborough

PLANNING BOARD

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SPECIAL PERMIT CERTIFIED LIST OF PARTIES IN INTEREST

TO THE PLANNING BOARD OF THE TOWN OF TYNGSBOROUGH:

The undersigned, being an applicant for approval of a special permit for the land shown on Assessor's Map No. _____ as Lot No. _____ submits the attached list of parties in interest, including abutters to the subject property, owners of land within 300 feet of a boundary or part thereof, of the subject property, and owners of land directly opposite on any public or private street from the subject property. All parties of interest are listed as they appear in the most recent applicable tax list of Tyngsborough and abutting Town, if any party of interest is located in another Town.

Applicant

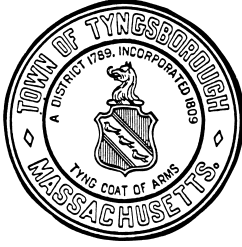
Address, Phone

Accepted by the Tyngsborough Planning Board _____, 20__

TO THE PLANNING BOARD OF THE TOWN OF TYNGSBOROUGH:

This is to certify that at the time of the last taxation made by the Town of Tyngsborough, the names and addresses of the parties in interest to the subject property were as listed on the attached page(s).

Board of Assessors
Town of Tyngsborough



FORM 3

Town of Tyngsborough
PLANNING BOARD

25 Bryants Lane,
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DESIGNER'S CERTIFICATE

_____, Massachusetts

_____, 20__

TO THE TYNGSBOROUGH PLANNING BOARD:

I hereby certify that the accompanying plan, entitled _____
_____ and dated _____, 20__, is true
and correct to the accuracy required by the Rules and Regulations of the Board regarding Special
Permits and the Town of Tyngsborough Zoning By-Laws.

Registered Professional Engineer
MASS. REGISTRATION NO. _____

Registered Land Surveyor
MASS. REGISTRATION NO. _____

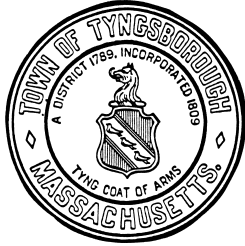
Address

Note: This Certificate is not deemed to have been submitted until the following endorsement has
been completed by the Tyngsborough Planning Board or an authorized agent thereof:

Received and accepted this ____ day of _____, 20__ as duly submitted under the
Rules and Regulations of the Tyngsborough Planning Board regarding Special Permits.

TYNGSBOROUGH PLANNING BOARD

By _____



FORM 4

Town of Tyngsborough

PLANNING BOARD

25 Bryants Lane,

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NOTICE OF DECISION SPECIAL PERMIT

Notice is hereby given that a Special Permit has (has not) been granted for

to _____ by the
Town of Tyngsborough Planning Board. The reasons for approval/disapproval, or
approval with conditions, are outlined below.

REASONS FOR APPROVAL/DISAPPROVAL OR CONDITIONS OF APPROVAL

In accordance with section 1.16.14 of the Zoning By-Law the Planning Board finds that this proposed use:

- 1) Is (Is NOT) in harmony with the purpose and intent of this By-Law.
- 2) Will not (Will) be detrimental or injurious to the neighborhood in which it is to take place.
- 3) Is (Is NOT) appropriate for the site in question.
- 4) Complies (Does NOT comply) with all applicable requirements of this By-Law.

FORM 4

The application is attached and the decision of the Planning Board is on file with a detailed record of the proceedings of the Board on this Special Permit application.

Planning Board

TO BE FILED WITH THE TOWN CLERK

Then personally appeared _____ one of the above named members of the Planning Board of the Town of Tyngsborough, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Planning Board before me to be recorded with the Town Clerk.

_____ Notary Public

_____ Commission Expires

TOWN CLERK

I hereby certify no appeal has been received within twenty (20) days of the filing of this notice in my office, or that if an appeal has been filed, that it has been dismissed or denied.

_____ Town Clerk

_____, 20__

APPLICANT RECORD DECISION

Having received certification from the Town Clerk, it shall be the responsibility of the applicant to have recorded both the Notice of Decision with conditions, as required, along with an approved site plan for the special permit at the North Middlesex Registry of Deeds and indexed under the name of the owner of record. Fee for recording shall be the owner/applicant's responsibility.

FORM 4

NOTICE TO BUILDING INSPECTOR

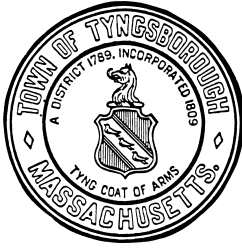
No building permits or certificates of occupancy shall be issued until the attestation below is made.

Received and entered with the North Middlesex Registry of Deeds, Book ____ Page ____

Registry of Deeds Signature

Date of Recording

FORM 5



Town of Tyngsborough

PLANNING BOARD

25 Bryants Lane,
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Office: (978) 649-2300 x-115
Fax: (978) 649-2301

CONSULTANT RELEASE FORM

Date: _____

Project Name: _____

Project Location: _____

Applicant: _____

I, _____ (please print), agree to pay the cost and expense of any expert consultant deemed necessary by the Tyngsborough Planning Board to review the attached application. I understand that I may seek an administrative appeal from the selection of the outside consultant to the Board of Selectmen. The grounds for such appeals shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications.

I further agree to attach a bank check or money order made out to Tyngsborough Planning Board for \$2000.00, or such amount as determined appropriate by the Planning Board, to this form for the purpose of payment for the consultant review. If when completed, the consultant review costs are less than \$2000.00, I understand that I will be reimbursed for the balance of the \$2000.00. If the consultant review costs exceed \$2000.00, I understand that I will be billed for the balance of the review costs.

Amount: _____

Applicant's Signature: _____

Applicant's Company Name: _____

Applicant's Address: _____

Applicant's Telephone Number: _____

Property Owner's Name: _____



For Planning Board Use Only

Town of Tyngsborough

PLANNING BOARD

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SPECIAL PERMIT TRACKING FORM

1. Application #: _____ By-Law Section: _____
2. Date Filed: _____ Type: _____
3. Applicant: _____
Address: _____
4. Owner: _____
5. Location of Property: _____
Map _____ Lot _____ Book _____ Page _____
6. Submission Checklist: Certified list of parties in interest _____ Filing Fee _____
Plot Plan & Description _____ Supporting Information _____
7. Application referred on _____ to the following:
_____ Planning Board Engineer _____ Conservation Commission _____ Police Chief
_____ Board of Selectmen _____ Building Inspector _____ Fire Chief
_____ Board of Health _____ Town Planner _____ Other (specify)
8. Date of Public Hearing (2. + 65 days max., 2. + 35 days min.): _____
9. Date of withdrawal by applicant without prejudice (10. - 2 days): _____
10. Date of newspaper notices (8. - 14 days): _____
11. Date of notification for parties in interest (8. - 7 days): _____
12. Date of public hearing closing: _____
13. Date of decision approval/approval with conditions/disapproval (12. + 90 days): _____
14. Town Clerks receipt of decision (13. +14 days max.): _____
15. Date decision mailed to applicant, owner, Building Inspector, and Town Clerk: _____
Notice of Decisions as requested: _____
16. Appeal deadline (14. + 20 days): _____
17. Registry recording date: _____ Book _____ Page _____
18. Commencement limitation (14. + 2 years): _____
19. Renewal date: _____