

Town of Newbury Zoning Board of Appeals

PROCEDURE AND REQUIREMENTS FOR FILING AN APPLICATION FOR A SPECIAL PERMIT/FINDING FOR NON-CONFORMITIES

Directions and Documentation

The application with all required information and documentation shall be submitted no less than thirty (30) days prior to the anticipated public hearing date.

Failure to submit the required information within the time period prescribed may result in a dismissal by the Zoning Board of Appeals (ZBA) as an incomplete application.

The information herein is an abstract of the specific requirements listed in the ZBA's Rules and Regulations.

Step 1: Permit Denial: The petitioner applies for a Building or Use Permit and receives a letter of denial from the Building Inspector/Zoning Enforcement Officer.

Step 2: Special Permit/Finding for Non-Conformities Application Form: Pages 1A and 2A are to be completed by the petitioner to petition the ZBA for a Special Permit/Finding for Non-Conformities. **PLUM ISLAND RESIDENTS – Lot Coverage and FAR compliance check lists must be completed as part of this application.** Application will be returned as incomplete without this documentation.

All information as required in steps 1 through and including 13 shall be completed and submitted with the application.

Step 3: Plan Preparation: Petitioner submits all of the required plan information as cited in step 12 on page 2 of this application.

Step 4: Submittal of Applications: Petitioner submits five (5) copies of the application. Each application shall include pages 1A and 2A and all the required written documentation and plans. Plum Island residents must also include completed lot coverage and FAR compliance check lists. The applications will consist of one original and four copies. The four applications are to be stamped by the Town Clerk certifying the time and date of filing.

Step 5: Application filing fees: A filing fee of \$125 will be submitted with the application.

Step 6: List of Parties in Interest: Petitioner will obtain from the Assessor's Office a certified list of parties in interest (abutters within 300 feet).

Step 7: Scheduling of Hearing and Preparation of the Legal Notice: The ZBA Office schedules the hearing date and prepares the legal notice for mailing to the parties in interest and for publication in the newspaper. The petitioner is responsible for mailing costs (certified mail) and publication charges for the legal notice in the Daily News.

Step 8: Delivery of Legal Notice to Newspaper: Petitioner delivers the legal notice to the Daily News, Liberty Street, Newburyport (978-462-6666). The cost of the legal notice is the responsibility of the petitioner.

Step 9: Public hearing before the Zoning Board of Appeals: The petitioner should appear in his/her behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of the petitioner, the ZBA shall decide on the matter by using the information it has otherwise received. Tear sheets from the News, certified abutters list and proof of notice to abutters including to the Newbury Planning Board must be submitted before the hearing is opened.

Step 10: Decision: After the hearing, and decision of the ZBA, a written decision will be filed with the Town Clerk. An appeal of the ZBA's decision must be made pursuant to MGL's Ch.40A Sec.17, within twenty (20) days after the decision is filed.

Step 11: Recording the Decision: The petitioner is responsible for recording the certified decision at the Essex County Registry of Deeds in Salem, MA and a copy of the recording must be filed with the ZBA office.

Step 12: Required Written Documentation: A legibly written or typed detail sheet identifying the facts that have been relied upon to support the issuance of a special permit/finding shall be submitted with the completed application addressing each of the points below.

1. Identify the particular use existing or proposed for the land or structure
2. Identify the particular respect in which the existing structure or use does not conform to the requirements of the present zoning
3. Identify whether the proposed use, extension, alteration or addition would intensify the existing non-conformities or result in additional ones
4. Identify the facts relied upon to support the petition that the proposed use, extension, alteration or addition shall not be more detrimental than the existing

Step 13: Plan(s) Requirements: The application shall be accompanied by the following plan requirements:

1. Plans showing the existing structure's dimensional controls, if any; and
2. Plans showing the proposed dimensional setbacks for the structure, building and or addition in relation to the existing structure; and
3. Building elevation plans showing the median height and the ridge height of the existing structure and the proposed structure for which the approval is sought
4. Plans indicating existing and proposed construction including legible dimensions for each room/area to facilitate compliance with FAR and lot coverage checklists and /or room counts

Features to be indicated on the Plan(s):

1. North point
2. Zoning district and dimensional controls
3. Address of location
4. Names of streets
5. Wetlands (if applicable)
6. Dimensional setbacks for the proposed structure or building
7. Locations of buildings on adjacent properties and setbacks from property lines
8. Deed restriction, easements (if applicable)

Legend & Graphic Aids:

1. Proposed features in dashed lines
2. Features to be removed and or existing in solid lines
3. Graphic scale
4. Date of Plan
5. Title of Plan
6. Names, addresses and phone numbers of the Applicant, owner of record and designer or surveyor

Town of Newbury Zoning Board of Appeals **Page 1A**
Application Form for a Special Permit/Finding for Non-Conformities

Town Clerk
Date & Time
Stamp Here

Petitioner: Name, address, and telephone number

Owners of Land: Name, address, and telephone number, and number of years under this ownership:

Years owned land: _____

Location of Property:

Street: _____

Zoning District _____

Assessors: _____ Map number: _____

Lot number: _____

Registry of Deeds: _____ Book number _____

Page number: _____

Section under which the petition for the special permit/finding for non-conformities is made:

Refer to permit denial and Zoning Bylaws

The description as provided below shall be used for the purpose of the legal notice and decision. A more detailed description is required pursuant to the Zoning Board Rules and Regulations as cited on page 2A of this application.

The description of the request for the special permit/finding for non-conformities:

All information contained within this application will become a formal part of the Zoning Board of Appeals proceeding and decision.

Any advice, opinion or information given by any board member or any other official or employee of the Town of Newbury shall not be binding on the Board.

Application Form for a Special Permit/Finding for Non-Conformities**Existing Lot:**

Lot s/f	Percent Lot Coverage	FAR	Height	Frontage Feet	Minimum Lot Setbacks			
					Front	SideA	SideB	Rear
_____	_____	_____	_____	_____	_____	_____	_____	_____

Proposed lot(s):

Lot s/f	Percent Lot Coverage	FAR	Height	Frontage Feet	Minimum Lot Setbacks			
					Front	Side A	Side B	Rear
_____	_____	_____	_____	_____	_____	_____	_____	_____

Zoning Ordinance Requirements for Lot:

Lot s/f	Percent Lot Coverage	FAR	Height	Frontage Feet	Minimum Lot Setbacks			
					Front	SideA	Side B	Rear
_____	_____	_____	_____	_____	_____	_____	_____	_____

Existing Building(s):

Ground Floor sq./ft.	Number of Floors	Total s/f	Use of Building
_____	_____	_____	_____
_____	_____	_____	_____

Every application for a Special Permit/Finding for Non-Conformities shall be made on this form which is the official form of the ZBA. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the Town Clerk does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses of the filing and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

Petitioner and Landowner signature(s):

Signature _____
 Print name _____

Signature _____
 Print name _____

Floor Area Ratio & Lot Coverage **Compliance Checklist**

What is the Checklist?

- Attached is a copy of a checklist to be used to expedite the approval of plans for Plum Island Overlay District (PIOD) residential building permits. **This checklist must be completed for any residential project including those which result in a substantial change of the structure and/or an increase in either and/or both Floor Area Ratio and or Lot Coverage.** The completed checklist must be accompanied by a Plot Plan with the existing and proposed construction indicated on the plan. Both Town staff and the public can verify Floor Area Ratio (FAR) and Lot Coverage compliance faster and easier if this checklist is completed. Accurately completing this form also ensures faster service when you submit a project for Building Department and/or Zoning Board of Appeals (ZBA) review.

Who completes the checklist?

- The applicant for a residential building permit completes the checklist.

Where and when is the checklist submitted?

- The applicant submits the Checklist and plot plan to the Building Department and Zoning Board of Appeals (if applicable) for any project including those which result in a substantial change of the structure and/or an increase in Floor Area Ratio and/or Lot Coverage.

Please call the Building Department at (978) 465-0862 Ext. 309
with any questions.

The following is an interpretive guide based on the collective opinions of the Building Commissioner and ZBA to assist in expediting the permitting of projects within the Plum Island Overlay District (PIOD) while keeping with the intent of the bylaw. This guide in and of itself does not take the place of nor give relief from the Town of Newbury's Zoning By-law.

LOT COVERAGE

Lot Coverage is the size of the footprint(s) of a building(s) and/or structure(s) on a lot divided by the size of the parcel, expressed as a decimal number. The lot coverage is used in calculating the intensity of use of a parcel for development project. For example, a footprint of 1000 sf. on a 5000 sf. lot results in lot coverage of .20 or 20% (1000sf / 5000sf = .20).

1. Lot coverage is basically the total square footage of all structures covering a lot from a birds eye view.
2. The following areas are to be **included** for the purpose of computing **Lot Coverage**:
 - All buildings including single, two or multi family dwellings.
 - All buildings of a nonconforming use.
 - Accessory structures including sheds, garages, pools, carports, decks, roof over hangs exceeding 20", platform walkways and similar structures.
3. The following areas are to be **excluded** for the purpose of computing **Lot Coverage**:
 - Existing grade level walkways and driveways.
 - Retaining walls and fences.

Note: Although the Zoning By-law only uses the total of "all building footprints" to determine the 20% allowed lot coverage restrictions, the Wetlands By-law includes the above mentioned accessory structures in the 20% coverage. The ZBA will strongly encourage the applicant to submit an application that is in compliance with the lot coverage requirements of the Wetlands By-Law to eliminate issuing a decision potentially in conflict with the Conservation Commission.

LOT COVERAGE CHECKLIST: Please fill in all blanks below (mark NA where not applicable)

LOT COVERAGE CALCULATION

Lot Size = _____ sq. ft.

Total Lot Coverage = _____ sq. ft

Lot Coverage % = (Total Lot Coverage / Lot Size) x 100 = _____%

Structure	Sq. Footage Existing Footprint	Sq. Footage Proposed Footprint
Primary Dwelling		
Secondary Dwelling		
Decks		
Garage / Carport		
Shed		
Other Structures		
Roof Overhangs > 20"		
Totals		

FLOOR AREA RATIO

Floor Area Ratio (FAR) is the size of a building divided by the size of its parcel, expressed as a decimal number. For example, a 5000 square foot building on a 5000 square foot lot has a floor area ratio of 1.00 or 100% while the same building on a 10000 square foot lot would have a floor area ratio of .50 or 50%. The FAR is used in calculating the building intensity of a development project.

1. Gross floor area is basically the area within the surrounding exterior walls of a building.
2. The following areas are to be **included in gross floor area** for the purpose of computing FAR:
 - Exterior and interior walls (that is, the thickness of the wall is included)
 - Laundry rooms, mechanical rooms, closets, storage rooms, built in cabinets and media niches.
 - Mezzanines and lofts.
 - Floor areas used by interior stairways, elevators and similar features. The floor area of each stairway shall be counted once (not twice by counting floor levels).
 - Usable spaces (generally defined as having a 5' minimum height) such as rooms and closets shall also be counted.
 - Attic spaces not meeting the state building code definition of habitable and clearly having the sole purpose of storage or utilities.
 - Porches, patios and breezeways with a "solid" cover.
 - Accessory buildings that are deemed habitable space, including but not limited to guest houses and second units.
 - Basements that qualify under state building code as a story.
3. The following areas are to be **excluded in gross floor area** for the purpose of computing FAR:
 - Basements that do not qualify under state building code as a story.
 - Attached or detached garages and carports.
 - Porches, balconies, patios, breezeways and decks which do not have "solid" cover.
 - Air spaces within buildings such as vaulted ceilings. More specifically, the floor area shall be counted at the actual floor area only and not in the air spaces above.

FAR CHECKLIST: Please fill in all blanks below (mark NA where not applicable)

Property Address: _____

Owners Name: _____

FAR CALCULATION

Lot Size = _____ sq. ft. Total Floor Area = _____ sq. ft

Floor Area Ratio = (Total Floor Area / Lot Size) x 100 = _____%

Total square footage shall include all wall thicknesses.

Room Name	Existing Square Footage	Proposed Square Footage
Bedroom #1		
Bedroom #2		
Bedroom #3		
Bathroom #1		
Bathroom #2		
Kitchen		
Family Room		
Dining Room		
Living Room		
Hallways / Foyers		
Den / Study / Office		
Laundry Room		
Mechanical Room		
Storage Closets		
Covered Decks / Porches / Sunrooms		
Stairways (See Definition Above)		
Garage / Carport		
Second Unit or Guest House		
Other (please list)		
Other (please list)		
Totals for Existing and Proposed:	Existing sf.:	Proposed sf.:
Total Gross Floor Area Including Wall Thicknesses		
Total 1st Floor:	Total 2nd Floor	
Total Other:	Total All Floor Area:	