

Zoning FAQ's

The Zoning By-Law

The Lexington Zoning By-Law controls “the uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding; the size, height, bulk, location and use of structures, including buildings and signs; noxious uses; areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces; the density of population and intensity of uses; the relationship between land development and traffic congestion; accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and the development of the natural, scenic and aesthetic qualities of the Town of Lexington. The Zoning By-law can be downloaded through the Zoning By-law link on the Zoning webpage. For additional information contact the Office of Community Development, Building Division—Zoning or consult the Zoning by-law where noted.

Minimum Yard Setbacks

All new construction in the town of Lexington must conform to minimum setback requirements as outlined in the Zoning By-law. These requirements apply to all structures (sheds, additions, new dwellings, etc.), which are constructed or altered.

How close to a lot line may a structure be placed

The Required Minimum Yard Setbacks are as follows:

Front Yard Setback—30 Feet

Rear Yard Setback—15 Feet

Side Yard Setback—15 Feet (Note: a property that has less than 100 feet of frontage requires less than the 15 foot setback). See Table of Dimensional Controls at the zoning webpage or consult the Zoning By-law § 135-35A, Table 2: Schedule of Dimensional Controls.

Are there any exceptions?

No, not without a variance granted by the Board of Appeal. All structures must comply with these setback requirements. As noted above, a lot with less than 100 feet of frontage requires less than the 15-foot side yard setback. See § 135-38 for more information.

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Accessory Apartments

I would like to construct an apartment in my house. Can this be done?

An accessory apartment is a second dwelling subordinate in size to the principal dwelling unit on an owner-occupied lot, located in either the principal dwelling or an existing accessory structure. The apartment is constructed so as to maintain the appearance and essential character of a one-family dwelling and any existing accessory structures. Three categories of accessory apartments are permitted: by-right accessory apartments, which are permitted as of right, and special permit accessory apartments and accessory structure apartments, which may be allowed by a special permit. Also, a building permit is required for the creation of an apartment, as well as electrical and plumbing permits. See § 135-19 for more information.

Satellite Receiving Antennae

Are there any special requirements for the installation of a satellite receiving antenna?

A satellite receiving antenna with a receiving dish with a diameter equal to or less than three feet may be installed in any district subject to § 135-39B, Structures other than buildings. A satellite receiving antenna with a receiving dish with a diameter greater than three feet may not be erected in a residential district unless it is accessory to a residential or institutional use and it is located in a rear yard. A satellite receiving antenna with a receiving dish with a diameter greater than three feet may be erected after the issuance of a building permit provided that conditions are met. See § 135-25B for more information.

Tennis and Racquet Courts

Are there any special requirements for the installation of a tennis or racquet court?

The Zoning Board of Appeals may grant a special permit for the construction of a racquet court, accessory to a residential use, subject to the following minimum conditions:

- (a) No racquet court shall be constructed within 15 feet of a lot line or within the required minimum yard setback for a principal building, whichever is

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- (b) greater. The setback of the racquet court shall be measured to the fence enclosing the court.
- (c) Screening at least five feet high shall be provided around the court.
- (d) A fence or wall, at least eight feet high for the racquet court, shall be provided so that the court is completely enclosed. A principal or accessory building may form part of the enclosure.
- (e) No racquet court shall be constructed without the issuance of a building permit.

Applications for a special permit shall contain an order under the provisions of Chapter 130, Wetland Protection, of the General Bylaws, or a determination by the Conservation Commission that Chapter 130 is not applicable or that an order of conditions is not necessary.

Also, any fence used to enclose a tennis court or racquet court must comply with the fence requirements of the Zoning By-law with regards to height and setbacks from property lines. A building permit generally is not required for the construction of a tennis or racquet court. However, a building permit is required for construction of a fence that exceeds six feet in height.

Storage Sheds

Are there any setback requirements?

The same setback requirements in effect for houses apply to sheds.

Swimming Pools

Are there any zoning requirements for the installation of a pool?

No swimming pools shall be constructed within 20 feet of a lot line or within the required minimum yard setback for a principal building, whichever is greater. The setback of the swimming pool shall be measured to the edge of the water in the pool.

- (b) Screening at least five feet high shall be provided around the pool.
- (c) A fence around a swimming pool shall be provided as required by state law.
- (d) No swimming pool or racquet court shall be constructed without the issuance of a building permit.

Applications for a special permit shall contain an order under the provisions of

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Chapter 130, Wetland Protection, of the General Bylaws, or a determination by the Conservation Commission that Chapter 130 is not applicable or that an order of conditions is not necessary.

Fences

Are there zoning requirements for a fence?

A fence not greater than six feet in height (except that a supporting Post) may be not more than six feet, six inches in height) may be located on, or closer to a lot line than six feet. Fences may be located in a required front, rear or side yard provided the height of the structure is not greater than its horizontal distance from the lot line. In other words, a fence that is no greater than six feet in height may be placed anywhere on the lot. A fence greater than six feet must be setback and must receive a building permit. For example, an eight-foot fence must be setback eight feet from any lot line.

Home Occupations

I would like to run a business out of my home. Is this allowed?

The Lexington Zoning By-law allows only certain types of home occupations in the residential zoning districts. Home occupations generally fall into two categories—major and minor.

A minor home occupation may have no nonresident employee, partner, or contractor working on the premises; no more than two business-related visitors to the premises at a time; and no more than six business-related visitors to the premises over the course of a day.

A major home occupation may have no more than one nonresident employee, partner, or contractor working on the premises; and no more than 10 business-related visitors to the premises over the course of a day and requires a special permit from the Zoning Board of Appeals.

In addition, each type of home occupation must meet certain conditions. See § 135-25.1 for more information.

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Board of Appeals or Zoning Board of Appeals (ZBA)

Several references have been made to the Board of Appeals. Who comprises this Board and what is its charge?

The Board of Appeals consists of 11 members: 5 full members and 6 associate members appointed by the Board of Selectmen. The term length is 5 years for full member and 1 year for associate members. The terms are staggered. The Board consists of Lexington citizens who meet certain criteria. For more information on the criteria, please contact the Board of Selectmen's Office in Town Hall or go to the Board of Appeals webpage and select Committee Charge.

The Board is charged under the Zoning By-Law to hear and decide administrative appeals of the Building Commissioner, applications for special permits, and petitions for variances. See Board of Appeals webpage for applications and additional information.

Variances

What if I want to build closer to my lot line than permitted?

In that case a variance from the Board of Appeals is required. The Board of Appeals may authorize upon appeal, or upon petition with respect to particular land or structures or to an existing building thereon, a variance from the terms of this bylaw where, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and owing to conditions especially affecting such parcel or such building but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw, but not otherwise. For additional information, see § 135-10B or the Board of Appeals webpage.

If approved, when can I apply for a building permit?

Applications for building permits may be accepted only after the expiration of the appeal period, and proof that the variance has been filed with the Registry of Deeds is submitted.

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Special Permit

In certain circumstances, the Board of Appeals may grant a special permit. The Board of Appeals may, in its discretion, grant a special permit for a use, building, structure, sign, off-street parking or loading, modification of dimensional standards, screening or landscaping, or other activity where it would not otherwise be permitted but only in those cases where the Zoning By-law specifically refers to a change from the provisions of the Zoning By-law by the granting of a special permit and only in those cases where the Board of Appeals makes certain findings and determinations as set forth in the Zoning By-law. For additional information, see § 135-11A or the Board of Appeals webpage.

If approved, when can I apply for a building permit?

Applications for building permits may be accepted only after the expiration of the appeal period, and proof that the variance has been filed with the Registry of Deeds is submitted.

Appeals

If my building permit is denied or I am unable to obtain an enforcement action, do I have any recourse?

The Board of Appeals shall hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A, General Laws, by the regional planning agency in whose areas the Town is situated or by any person including an officer or board of the Town or of any abutting city or Town aggrieved by an order or decision of the Building Commissioner or designee or other administrative official in violation of any provision of Chapter 40A, General Laws, or of this bylaw.

Enforcement of the Zoning By-law

Who enforces the Zoning By-law and who interprets its requirements?

The Building Commissioner or Zoning Administrator/Enforcement Officer appointed under the provisions of Chapter 40A of Massachusetts General Laws and the Selectmen - Town Manager Act is designated and authorized as the officer(s) charged with the interpretation and enforcement of the Zoning By-law.

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What are the penalties for violating the Zoning By-law?

Anyone who violates a provision of this bylaw, or of any condition of a variance, a special permit or a special permit with site plan review, shall be punishable by a fine of not more than \$100 for each offense, except that the penalty for the removal of earth materials in violation of this bylaw shall be provided for in the General Bylaws of the Town of Lexington. Each day during which any portion of a violation continues under applicable provisions of the Zoning By-law shall constitute a separate offense.

What if I believe that my neighbor is violating the Zoning By-law?

Simply call the Office of Community Development and we can tell you if a violation exists. If you wish to file a formal complaint for enforcement action, the complaint must be in writing. You will be informed of any action taken on your complaint.