

Conditional Use Permits

November 14, 2014

New Section to be added to the Madbury Zoning Ordinance either as a new Article or as a new section under the General Provisions Article.

ARTICLE XXX. CONDITIONAL USE PERMITS

A. Authority

The Town of Madbury hereby adopts this Article pursuant to the authority granted under RSA 674:16 and more specifically RSA 674:16 II and 674:21 relative to innovative land use controls.

B. Purpose and Application

1. The purpose and intent of a conditional use permit is to allow certain uses that are required to be reviewed by the Planning Board and are not normally permitted under conventional zoning provisions. A conditional use shall be approved if the application is found to be in compliance with the approval criteria in Section E.
2. Any use that was lawfully established prior to the adoption, extension or application of this Zoning Ordinance and is now permitted by this Ordinance subject to a conditional use permit may continue in the same manner and to the same extent as conducted prior to said adoption or extension of this chapter. A conditional use permit shall be secured from the Planning Board before the use or structure or building in which said use is conducted may be altered, added to, enlarged, expanded or moved from one location to another on the lot on which said use is located.

C. Procedures

1. Application for Conditional Use Permit
 - a. Application for a conditional use permit may be made by the owner of the affected property, or his designated agent, on a form available from the Planning Board.
 - b. The completed application and nonrefundable fee shall be submitted to the Planning Board.
2. Procedure for Consideration.
 - a. The Planning Board shall consider the application at its next regular meeting following the public notice process.
 - b. The application and review procedure for a conditional use permit may be made concurrently and in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development.

3. Approval of Application and Granting of Conditional Use Permit.

Upon approval, the Planning Board shall issue a conditional use permit including the conditions of approval which shall be itemized in brief on the face of the permit. The conditional use permit Notice of Decision and any Findings of Fact shall be recorded at the Strafford County Registry of Deeds.

4. Termination and Transferability.

Once granted, a conditional use permit with its terms and conditions shall:

- a. Run with the lot, building, structure or use and shall not be affected by changes in ownership.
- b. Terminate twelve (12) months from the date of authorization if the authorized use has not begun:
 - 1) Unless otherwise spelled out in the conditions of approval; or
 - 2) Unless the applicant can demonstrate good reason(s) at a public hearing before the Planning Board why the permit should be extended.

D. Denial of application

In the event that an application is denied by the Planning Board, no resubmittal of an application for a conditional use permit for the same or similar use may be made for one (1) year from the date of said denial, unless sufficient new evidence or conditions are offered to the Planning Board to demonstrate that the circumstances have altered and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

E. Approval Criteria

A conditional use permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following criteria:

1. The site is suitable for the proposed use. Considerations include:
 - a. Adequate vehicular and pedestrian access for the intended use.
 - b. The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The absence of environmental constraints (e.g., floodplains, steep slopes).
 - d. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

2. External impacts:

The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted

in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, design, nature and intensity of the use, shall not have an adverse effect on the surrounding environment.

3. Character of the site development:

The proposed layout and design of the site shall be compatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood.

4. Preservation of natural, cultural, historic, and scenic resources:

The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties.

5. Other approval criteria specific to those sections of this Zoning Ordinance in which conditional use permits may be allowed.

F. Conditions of Approval

Conditional use permit approvals shall be subject to any conditions determined by the Planning Board to be necessary to further the objectives of this ordinance and the Master Plan, or which would otherwise allow the general conditions of this article to be satisfied.