

CONDITIONAL USE PERMIT APPLICATION INSTRUCTIONS

The following gives you a step-by-step process for applying for a conditional use permit. The more carefully you follow these steps, and the more complete your application is, the faster and more easily the Planning Board can review and hopefully approve your project. If you have any questions, the Code Enforcement Officer can be a resource for you.

STEP 1: Meet with the Code Enforcement Officer to talk about your project and discuss what you will need to do to apply for your conditional use permit.

STEP 2: If you need a variance before applying for a conditional use permit, you should apply to the Zoning Board of Appeals. You cannot apply for a conditional use permit until you receive the variance if one is required. *Requiring a variance is relatively rare, and most applicants will not need a variance.*

STEP 3: Decide what performance standards apply to your project:

- All conditional uses must meet the eight criteria in Section 7.4 of the Durham Land Use Ordinance. A copy of those standards are attached as ATTACHMENT A. You should go through those standards and make sure that you can meet them all.
- Many uses also have other performance standards that must be met, all of which are outlined in Article 5 of the Durham Land Use Ordinance. A listing of the uses that have additional performance standards are attached as ATTACHMENT B. Again, you should make sure that you can meet all of those requirements.
- If your project involves construction of new or expanded nonresidential buildings or parking lots, your project will require a separate site plan application and review. You can determine whether site plan review is needed by looking at the applicability provisions of Section 8.2 of the Land Use Ordinance. If site plan approval is required, you will need to file a separate application with the Planning Board after conditional use approval has been granted. Please note that the Planning Board may look to the site plan review standards in drafting approval conditions for your conditional use application, even if your project does not require a separate site plan review application (See Section 7.5.B)

STEP 4: Gather the following documents and information:

ALL APPLICATIONS:

- Fully completed Conditional Use Permit Application
- A site plan of the entire property. For simple projects, a hand-drawn sketch might be sufficient. For larger projects, you might need to get a survey or other

professional plan done. The plan should include all relevant features such as:

- Building locations
 - Parking areas
 - Trash disposal/dumpster locations
 - Storage areas
 - Location of any signs
 - Location of septic and well
 - Any lighting that is existing or proposed
 - Natural features such as stands of trees, ponds, streams, etc.
 - Setbacks from your property line to the buildings or other features
- A map showing the location of your property and the properties surrounding you. You should identify what is on the neighboring properties, such as houses, businesses, farms, etc. You should also identify where any buildings are on the properties directly next to, behind, and across the street from you. Again, a hand-drawn sketch might be enough for small projects, but larger projects might need more professional submissions.
- A copy of your deed or other document to show right, title, and interest.
- Information to show that you have the financial and technical resources to complete the project. This might include:
- An estimate of the costs of any construction, any items needed to comply with state or local laws, or business start up costs
 - Evidence that you have the financial resources to meet those costs, which might include a bank letter, a line of credit, etc.
 - A resume, CV, or letter showing that you have the expertise to run the conditional use in compliance with state and local laws

MOST APPLICATIONS WILL ALSO REQUIRE ONE OR MORE OF THE FOLLOWING ADDITIONAL MATERIALS:

- Photos, drawings, satellite images, etc. that might be helpful to the Board
- If your proposed use is subject to any of the additional performance standards, be sure to include any additional documentation that shows how you meet those standards. This might include things like:
- The erosion control measures you're going to use
 - Proposed sign details
 - Other details about the site or operations
- If your proposed use requires other state or local permits, include a copy of those permits. These might include:
- DOT permits
 - DEP permits

- DHHS permits
- If any portion of your property is in the Resource Protection Zone, the Resource Protection Shoreland Zoning Overlay District, or the Limited Residential Shoreland Zoning Overlay District, you might need to get a wetland or shoreland resource delineation done. The Code Enforcement Officer can help you decide whether to get that before going to the Planning Board.
- If any portion of your property is in the Southwest Bend Historical Overlay District, you might need to have a review done by the Historic District Commission. The Code Enforcement Officer can help you decide whether to get that before going to the Planning Board.
- If your project includes a new or expanded septic system, include the plan and testing for that system.
- If your proposed use will generate traffic, you might need to get a traffic impact study. Again, the Code Enforcement Officer can help you decide whether to get that before going to the Planning Board.
- If your project includes work that could result in runoff, leaching, or other contamination (such as garages, composting, washing of vehicles or other items, etc.), you will need to show topography, drainage, runoff, and plans to mitigate any runoff or leaching. You will also need to show neighboring wells.
- If your project will generate noise, you might need to get a sound study done. The Code Enforcement Officer can help you decide whether to get that before going to the Planning Board.

STEP 5: Take your application and all of your documentation to the Code Enforcement Officer for review. If the Code Enforcement Officer says that your application is complete, you may go on to Steps 6 and 7. If the Code Enforcement Officer says you need additional information, go collect that information and come back for approval.

If the Planning Board determines your application is incomplete, the Board will make you gather more information and it will significantly delay your project and will cost the Town (and taxpayers) more money. It is in everyone's best interest that you get all of the necessary information before going to the Planning Board. The more work you put in ahead of time, the faster and easier it will be for the Board to approve your project.

STEP 6: Once complete, make ten copies of your entire application and turn them in to the Code Enforcement Officer along with the \$50 application fee. Applications must be turned in at least 14 days before the Planning Board meeting that you want to be heard at.

STEP 7: Notify abutters about the Planning Board meeting. Abutters must be notified at least

ten days, and not more than 30 days before the meeting. Your notification must briefly describe the conditional use, and include the date that you applied (or will apply) and the date of the Planning Board meeting. You can complete this notification by:

- Hand delivering a copy of the notice and getting the abutter to sign a copy of your notice (that you keep); OR
- Sending a copy of the notice to each abutter by certified mail, return receipt requested.

You must bring a copy of the signed notices or return receipt cards with you to the Planning Board meeting or turn them in to the Code Enforcement Officer ahead of time.

This is a good time to talk to your neighbors about your project and answer any questions or address any concerns that they might have. You might be able to make minor modifications to your project to help satisfy neighbor concerns, which will make it easier to get your project approved.

STEP 8: Attend the Planning Board meeting. Prepare for the meeting, and consider bringing any relevant professionals that have helped you, including your surveyor, engineer, sound engineer, water resource scientist, etc. The Planning Board will have you present your project and might ask you questions. The Board will also take public comment, which it will also consider in making its decision.

Hopefully, the Planning Board has all of the information it needs, and your Conditional Use Permit can be granted. However, sometimes, the Planning Board will need additional information or will need to conduct a site walk of your property. The Board will tell you what it needs from you. It is strongly recommended that you not come back to the Board for another hearing until you have all of the additional material that the Board requests.

STEP 9: If your Conditional Use Permit is granted – congratulations! You should follow up with the Code Enforcement Officer for any next steps or further building permits. Sometimes, the Planning Board will impose conditions on your permit, and the Code Enforcement Officer will follow up to make sure that those conditions are met.

Sometimes, if an abutter or other interested party disagrees with the Planning Board’s decision, they might appeal your Conditional Use Permit to the Zoning Board of Appeals. That appeal must be taken within 30 days, so you might want to wait to make sure that no one appeals your Permit before taking any substantial actions. If your Conditional Use Permit is appealed, you will get notice of that appeal and have a chance to participate in the appeal before the Zoning Board of Appeals.

If your Conditional Use Permit is denied, or if it is granted with conditions that you don’t agree with, you may appeal the Planning Board’s decision to the Zoning Board of Appeals. That appeal must also be taken within 30 days.

APPENDIX A
CONDITIONAL USE STANDARDS

1. **Public Health Impacts:** The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation;
2. **Traffic Safety Impacts:** The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity;
3. **Public Safety Impacts:** The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree of municipal services than existing uses in the neighborhood;
4. **Environmental Impacts:** The proposed use will not result in sedimentation or erosion, or have an adverse effect on water supplies;
5. **Scale & Intensity of Use:** The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, and proximity to other structures;
6. **Noise & Hours of Operation:** The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation;
6. **Right, Title, or Interest:** The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use; and, 8. **Financial & Technical Ability:** The applicant has the financial and technical ability to meet the standards of this Section and to comply with any conditions imposed by the Planning Board pursuant to subsection 7.5.

APPENDIX B
ADDITIONAL PERFORMANCE STANDARDS

- Section 5.1 ACCESSORY APARTMENTS
- Section 5.2 ACCESS MANAGEMENT (new driveways and entrances onto town roads)
- Section 5.3 AGRICULTURE
- Section 5.4 AIR EMISSIONS
- Section 5.5 ANIMAL HUSBANDRY
- Section 5.6 AUTOMOBILE GRAVEYARD & JUNKYARD
- Section 5.7 BACK LOTS
- Section 5.8 CAMPGROUNDS
- Section 5.9 CEMETERIES
- Section 5.10 CONSTRUCTION & PLUMBING STANDARDS
- Section 5.11 EROSION CONTROL (where you will be removing vegetation or soil or regrading the site)
- Section 5.12 EXPLOSIVE MATERIALS
- Section 5.13 GROUNDWATER EXTRACTION
- Section 5.14 HISTORIC RESOURCES (if you have granite posts or markers older than 100 years old, any archeological sites, or a structure on the National Register of Historic Places)
- Section 5.15 HOME-BASED BUSINESS
- Section 5.16 LANDSCAPING (if you will be altering any of the natural vegetation, or adding parking areas)
- Section 5.17 LIGHTING
- Section 5.18 MANUFACTURED HOUSING & MOBILE HOMES
- Section 5.19 NOISE LIMITS
- Section 5.20 ODOR EMISSIONS
- Section 5.21 RECREATIONAL FACILITIES
- Section 5.22 RESTAURANTS, FOOD SERVICE, TAKE OUT STANDS
- Section 5.23 ROADS
- Section 5.24 SIGNAGE
- Section 5.25 STORAGE OF MATERIALS
- Section 5.26 STORAGE OF HAZARDOUS MATERIALS
- Section 5.27 TEMPORARY ACTIVITY
- Section 5.28 TEMPORARY STRUCTURES
- Section 5.29 VIBRATIONS
- Section 5.30 WATER QUALITY IMPACTS