

ARTICLE 4 CONDITIONAL USES

Section 4.01 General Requirements - In all of the zoning districts created in Article 3, permitted uses are divided into primary uses, which may be undertaken forthwith and require only the issuance of a building and/or occupancy permit, and conditional uses which require Planning Board approval before they may be commenced (see Sections 3.04-3.08). Conditional use approval may not be unreasonably withheld by the Planning Board and requirements or findings in excess of those set forth in this ordinance may not be imposed, except in those extraordinary circumstances covered by Section 4.03. The Planning Board, subject only to the provisions in Section 2.07 dealing with uses similar in character to permitted uses may not, however, allow a conditional use not expressly authorized by this ordinance – neither may the Selectmen or the Zoning Board of Appeals. Conditional uses which are not authorized and not similar in character to those which are permitted may be undertaken only if this ordinance is amended as provided by law (see Section 13.04).

This application for conditional use approval must, at a minimum, contain all of the information required for the issuance of a building permit, a statement, and whatever supporting information may be necessary, to indicate that all of the conditions for approval imposed by this ordinance have been met, and such other information as the Planning Board may require to assist it in its decision making process. A conditional use shall be approved or disapproved by the Planning Board within thirty-one (31) days of receipt of a completed application. All decisions shall be promptly communicated to the applicant and the Code Enforcement Officer. An approval shall expire six (6) months from the date of its issue unless a building permit has been issued and substantial work (actual construction) has commenced. (see Section 2.03).

If the Planning Board feels it is necessary to either gather additional information, resolve conflicting information, or to inform the public, it may hold a hearing, pursuant to the provisions of Sections 13.07, before deciding an application to commence a conditional use. The Applicant is required to notify abutters of the property of the conditional use application no less than 10 days prior to the scheduled Planning Board meeting. This notice shall inform the abutters of the application for conditional use, the date and time of the meeting and that the abutters shall submit their concerns in writing to the planning board prior to the meeting date. The applicant shall provide the planning board proof of notice to abutters. This evidence can be by certified proof of mailing as provided by a post office listing the names of the abutters, the mailing addresses utilized for the notice, a copy of the notice sent and the date upon which the notice was mailed. (Amended 4/26/03)

Planning Board approval or disapproval of an application to commence a conditional use must include a statement of reasons for the approval or disapproval. Decisions of the Planning Board, with respect to the approval or disapproval of a conditional use application, may be appealed to the Zoning Board of Appeals of the Town of Waterboro within thirty (30) days of the decision by the applicant or by an aggrieved party. (AMENDED 3-8-86, 4-26-03)

The commencement of a conditional use without Planning Board approval is a violation of this ordinance as is the subsequent violation of or failure to meet any general, specific, or special requirements upon which approval of the conditional use was predicated (see Section 12.02).

Section 4.02 Specific Requirements –

In addition to findings that the general specific requirements for conditional use approval set out in the section permitting a particular conditional use in a particular district (see Sections 3.04 to 3.09) have been met, and that, where applicable, specifically articles 5, 6, 7 and 8, have also been met, the Planning Board must additionally find before a conditional use is approved that the proposed use in the specific location contemplated will be in harmony with the Town's Comprehensive Plan and existing subdivision regulations; provides safe and adequate access to the road system of the town; provides safe and adequate means for water supply, waste water disposal, and solid waste disposal; is capable of being reasonably served by schools, public utilities, public safety agencies, and other public agencies and service; provides an adequate and permanent natural buffer or artificial screen between itself and adjacent properties which are being used in alternative ways permitted by this ordinance; will not result in damage to waterbodies, marsh or other natural areas, scenic or historic areas; will be built on soil types which are suitable to the nature of the undertaking; has taken all reasonable steps to fit itself harmoniously into the existing environment which includes the natural environment and existing (if any) development; will not result in the unnecessary removal of natural vegetation, the permanent scarring of the land, or soil erosion; will not result in unreasonable noise levels, harmful air emissions, or offensive odors; is in possession of or in the process of obtaining (and ultimately does obtain) all required state permits and approvals. (Amended 3/11/00)

Section 4.03 Special Requirements (Conditions) - If, in the contest of reviewing a particular conditional use application it becomes apparent to the Planning Board that the public's health, safety, or general welfare will be threatened, even though all of the required findings are made and all general and specific conditions for approval imposed by this ordinance and supporting regulations are met, the board is authorized to frame and impose additional special requirements (conditions) for approval. In such cases, the board in its decision must fully set forth the unforeseen circumstances, the need for and the underlying rationale of the attached special requirements (conditions). Use of the extraordinary power conferred by this section shall be kept to a minimum.

Section 4.04 Special Requirements for Extraction Operation Approval - An applicant for an extraction operation conditional use permit must obtain and submit a restoration/reclamation plan, erosion/sediment control plan, and Hydrogeological Study for review and approval by the Planning Board before conditional use approval of a new extraction operation can be granted. Extraction operations in existence and actual operation on March 11, 1989 cannot be expanded to encompass more than five (5) acres in area unless Planning Board approval of a suitable restoration/reclamation plan, erosion/sediment control plan and Hydrogeological Study is first obtained.

In preparing the plans for the extraction operation approval, the applicant shall use United States Geological Survey (USGS) datum in establishing existing topography and final topography. Description of the USGS datum, bench marks height as specified by the USGS shall be displayed on the plans.

The conditional use application along with four (4) copies of the set of plans, which include (1) restoration/reclamation plan, (2) erosion/sediment control plan, and one (3) Hydrogeological Study shall be submitted to the Planning Office at least 14 working days prior to the applicant's initial appointment.

Owners of abutting property shall be notified by the applicant via certified mail of the date, time and purpose of the appointment a minimum of seven (7) days prior to the appointment for the applicant's extraction operation conditional use permit. Return receipts documenting that notice shall be furnished to the Planning Board.

Applicants who are not required to obtain approval from the State of Maine Department of Environmental Protection under the site location development law must obtain approval of their restoration/reclamation plan, and erosion/sediment control plan, and Hydrogeological study from the York County Soil Conservation Commission and document that approval to the Planning Board. The Planning Board shall not grant approval of an extraction operation unless the applicant documents prior approval by either the Department of Environmental Protection or the York County Soil Conservation Commission.

In addition, the Planning Board reserves the right to:

- 1) Hold a Public Hearing, pursuant to the provisions of Section 13.07, to either gather additional information, resolve conflicting information or to inform the public before deciding an application to commence an extraction operation.
- 2) Hire outside professionals to evaluate a proposal or design's compliance with this Ordinance, with the expense of the review borne by the applicant. The estimated cost of the consultant's fees shall be paid by the applicant to the Planning Board at the time the conditional use application for extraction operation is viewed. The remaining balance due, if any, shall be paid prior to the issuance of a conditional use permit for an extraction operation.(AMENDED 3-10-90)

Section 4.05 Mobile Classroom Regulations

Mobile classrooms will not be allowed in the municipality which does not provide the following within the classroom:

- A restroom facility;
- Drinking water;
- A temperature controlled environment

All classrooms must be equipped with:

- An emergency fire warning system;
- Fire extinguishers;
- Communication system

That operates in conjunction with the main building.

Mobile classrooms become a conditional use permit within any zone where a school is permitted. (AMENDED 3-11-00)