



Conditional Use Application  
Town of Falmouth Board of Zoning Appeals  
**19-77 Alterations (Extensions/Enlargements)**

Name of Applicant: \_\_\_\_\_ Phone # \_\_\_\_\_

Address of Property \_\_\_\_\_

Map/Lot \_\_\_\_\_ Tax Sheet \_\_\_\_\_ Zone \_\_\_\_\_

Mailing Address (if different) \_\_\_\_\_

Property Owner (if not applicant) \_\_\_\_\_

Email Address: \_\_\_\_\_

**Public hearings on applications are held on the 4<sup>th</sup> Tuesday of the month at 6:30p.m. This application and all documentation must be filed with the Code Enforcement Office 28 days prior to any hearing date. A three hundred- and seventy-five-dollar (\$375) fee is due at submission. Staff will not accept new or supplemental information after the deadline.**

The undersigned requests that the Board of Appeals consider the following conditional use request:  
(Describe the general nature of the request.)

\_\_\_\_\_  
\_\_\_\_\_

### To the Applicant:

- The *Conditional Use Criteria* form must be filled out explaining how the request will comply with each of the criteria listed.
- Photos, blueprints, surveys and other documents are often very helpful in explaining the request.
- Failure to provide adequate documentation of the request may delay the hearing until adequate information is provided.

In addition to the Conditional Use criteria set forth in Section 19-119 and 19-123, the applicant is directed to the **additional criteria outlined in Section 19-77, Extension or Enlargement of Nonconforming Structures or Uses**, a copy of which is attached. After fully reviewing each of these sections, the applicant should prepare a detailed written response demonstrating that the pertinent criteria of all applicable sections have been satisfied. Should the applicant fail to address the sections of the ordinance, which are pertinent, the application may be deemed incomplete.

**I certify that the information contained in this application and its supplement is true and correct.**

Date \_\_\_\_\_ Signed \_\_\_\_\_

**\*Please contact the Code office prior to submission of this application\* (207) 781.5253**

The following checklist is provided to assist applicants in submitting a complete and informative application package for consideration by the Board of Zoning Appeals (the "Board"). Applications deemed incomplete by the Code Enforcement Officer (the "CEO") will not be placed on the agenda. If the applicant believes that a required item is not applicable to a specific proposal, a written statement addressing the reason shall be provided. All applicants are strongly encouraged to schedule a meeting with staff prior to applying to the Board.

- Unless approved by the CEO or Board, no information may be added to an application after the submission deadline has passed.
- Unless approved by majority vote of the Board, no information is to be submitted to staff or Board members the evening of a hearing.
- If information is submitted late and deemed to be material to an application or appeal, and concerned abutters have been deprived of an opportunity to review the information due to late submission, the new information may not be accepted and the application may be tabled until the next scheduled meeting.

**Application packages shall include a complete set of the following:**

- ☐ 1. A completed request for hearing and application form.
- ☐ 2. Proof that the applicant has sufficient right, title or interest in the subject property to submit the application to the Board. This may include a copy of the deed, purchase and sales agreement, or lease agreement. If the applicant is someone other than the property owner, owner must submit written permission for applicant to submit on their behalf.
- ☐ 3. Payment of the appropriate application fee.
- ☐ 4. A scaled plot plan or boundary survey to include the following:
  - ☐ 4.1 title, date, revision dates, prepared by;
  - ☐ 4.2 property address, tax ID, property owner;
  - ☐ 4.3 scale;
  - ☐ 4.5 property boundaries;
  - ☐ 4.6 structure footprints (existing and proposed);
  - ☐ 4.7 setbacks to boundary lines;
  - ☐ 4.8 improvements such as parking and driveways (existing and proposed).
- ☐ 5. Scaled building elevations with dimensions. For properties in the Water View Overlay District, if an improvement or modification would obscure, either in whole or in part, any views of the water from adjacent or nearby properties or public rights of way the elevation drawings shall be submitted in the form of overlay drawings where existing building elevations are overlaid by the proposed building elevations.
- ☐ 6. Plan of general interior layout.
- ☐ 7. Structure and lot coverage calculations for existing and proposed structures and uses.
- ☐ 8. Photographs of subject and/or nearby properties to illustrate conditions as necessary.

Refer to the specific section(s) of the Code that your application/appeal is filed under for other specified material information that may be required. Please note that this checklist covers the minimum information required by the Board to review an application, depending on the nature of the proposed project the Board may request additional information not listed here. A signed copy of this document must be included with the application submittal package.

Applicant(s)/Authorized Representative (Print Name(s) & Signature)

Date:

\_\_\_\_\_

\_\_\_\_\_

Property Owner (Print Name(s) & Signature)

Date:

\_\_\_\_\_

\_\_\_\_\_

Received by: Date/Time: \_\_\_\_\_

ADDRESS \_\_\_\_\_ MAP/LOT \_\_\_\_\_ NAME \_\_\_\_\_

**CONDITIONAL USE CRITERIA – as required under 19-119**

Please fully explain in the space provided or on a separate sheet how your request will meet the Ordinance criteria below.

a. will meet the definition and specific requirements set forth in this Ordinance for such particular use:

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b. will be compatible with the general character of the neighborhood with regard to design, scale, and bulk of proposed structures;

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c. will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light or glare.

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d. will not have a significant adverse effect on adjacent or nearby property values;

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e. will not have a significant adverse impact on water views from adjacent and nearby properties and public right of ways; [Adopted 7/24/06]

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f. will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion;

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g. will not result in significant fire danger;

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h. will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion;

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i. will be served adequately by, but will not overburden, existing public services and facilities, including fire protection services, sanitary sewers, roads, water and storm drainage systems.

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j. upon a showing that a proposed use is a conditional use in the district where it is to be located, a conditional use permit shall be granted unless the Board determines that the proposed use will not meet one of the standards set forth in paragraphs a. through i. of this subsection, or paragraphs a. through g. of subsection 19-123, due to unique or distinctive characteristics or effects associated with the proposed use or its location which differ substantially from the characteristics or effects which would normally occur from such a use in that district. [Adopted, 4/27/87.]

## **19-123 Conditions**

In hearing appeals under this Div.II-19-1-8, the Board shall determine whether the appellant's proposal will satisfy the following criteria, and in granting any appeal it may impose such conditions as it deems necessary to assure compliance with the applicable requirements set forth in subsection 19-119 and 19-120 and with the following criteria:

- a. The proposal must include any special screening, fencing, or other buffer necessary to set off the subject property from abutting uses or to assure the continued enjoyment of abutting uses;
- b. The proposal must adequately provide for drainage through and for preservation of existing topography within its location, particularly in minimizing any cut, fill, or paving intended;
- c. The proposal must not create or increase any fire hazard or any hazards to safe, convenient pedestrian or vehicular flow;
- d. The proposal must prevent or avoid the creation of any nuisance affecting adjacent properties;
- e. The proposal must include provision for adequate, lawful sewage disposal and healthful domestic water supplies;
- f. The proposal should not have a significantly adverse effect on adjacent or nearby property values.
- g. The appellant must be found to have adequate financial and technical capacity to satisfy the foregoing criteria and to develop and thereafter maintain the proposed project or use in accordance with all applicable requirements.

**Definitions - Div. II 19-1-2 - Nonconforming Structure, Use or Lot:** A structure, use, or lot, lawfully existing prior to the effective date of this Ordinance in 1965 or lawfully existing between that date and the effective date of the revision of this Ordinance in 1983, or the effective date of any amendment to this Ordinance, which is not a permitted structure, use or lot in the district where located pursuant to the provisions of this Ordinance, as amended.

**Sec. 19-77 Alterations.**

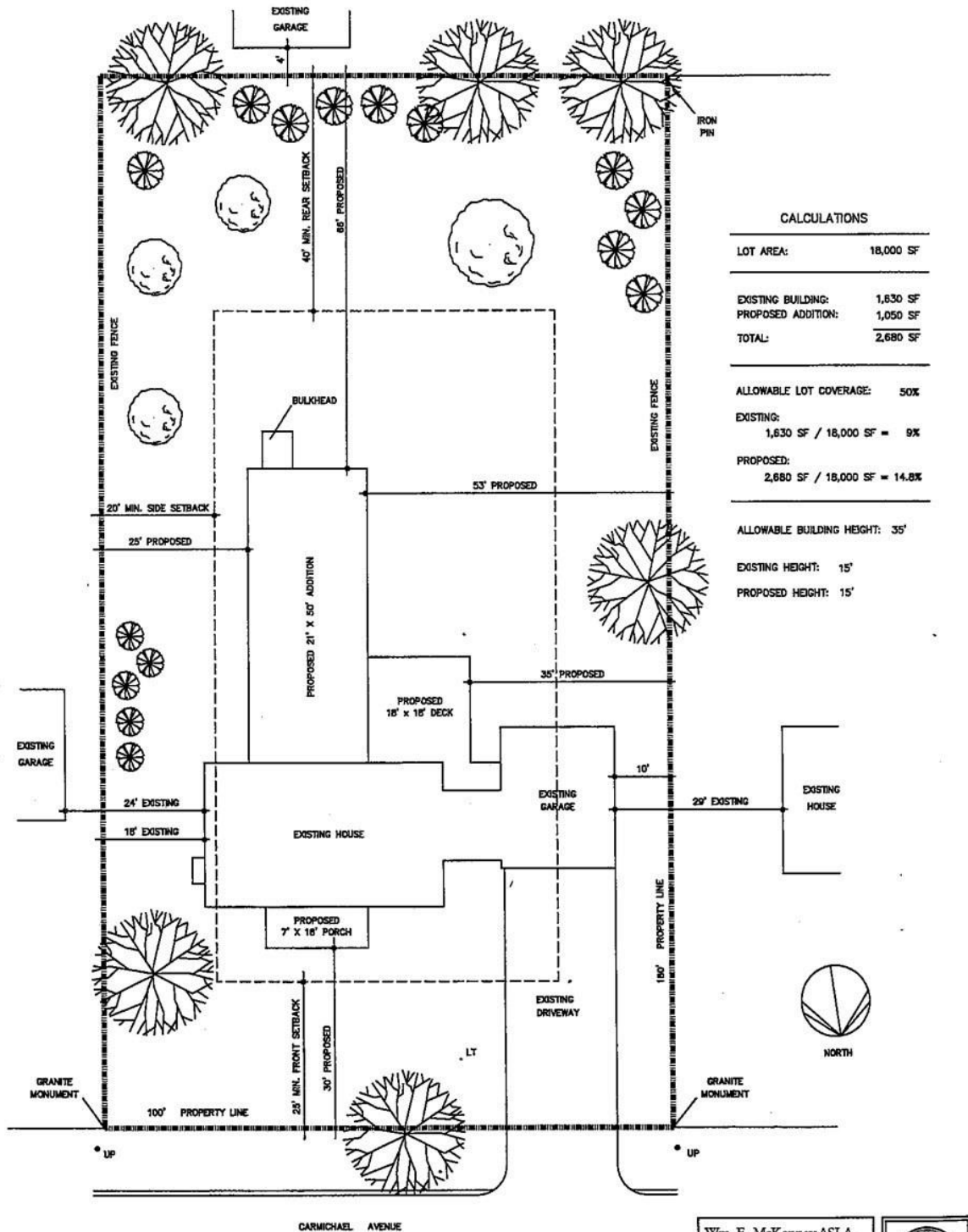
Except as provided in this subsection, a nonconforming structure or use shall not be extended or enlarged in any manner except as may be permitted as a variance. The following requirements shall apply to expansion or enlargement of structures which are nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements. Any lot located in RA that is not located in the WVOD and is at least 5,000 square feet in area shall be considered conforming with regard to lot size for the purposes of this section. [Amended 1/24/00; 7/11/2016]

- a. Except for lots located in the Water View Overlay District the extension, enlargement, or construction of a single family detached dwelling or residential detached accessory structure which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements, is permitted provided the extension, enlargement, or construction is not located between the lot lines and the required setback lines and does not compound nor create a lot coverage or height violation. [Amended 10/25/04; 7/24/06; 5/30/12; 7/22/13]
- b. The Board of Zoning Appeals may permit: the extension or enlargement of a single family detached dwelling; the extension or enlargement of a residential accessory structure located ten (10) feet or greater from a property line; or the development of a residential accessory structure as a conditional use in accordance with Section 19-119 and 19-123 where a lot size, lot width, lot frontage, lot coverage, height or setback nonconformity exists provided the following criteria are met [Amended 10/25/04; 7/22/13]:
  1. Shall not increase lot coverage above 50%; and,
  2. If the existing structure is nonconforming in relation to setbacks, the new structure shall not extend closer to the lot lines than the existing structure; and shall not create or compound a violation of the height restrictions in Section 19-53. [Amended 7/24/06; 7/22/13], and
  3. No part of the extension or enlargement of the structure may be closer than ten (10) feet from any lot line [Amended 7/22/13].
- c. The Board of Zoning Appeals may permit as a conditional use in accordance with Section 19-119 and 19-123, the extension or enlargement of a multiplex dwelling unit subject to the following requirements [Amended, 10/25/04]:
  1. No part of the extension or enlargement of a multiplex dwelling unit may be closer than twenty (20) feet from all property lines and thirty (30) feet from buildings on any adjoining lot.
  2. If the multiplex dwelling to be enlarged is in the condominium or unit owner form of ownership, the Board of Zoning Appeals may approve the extension or enlargement only of a limited common element or area and only after such extension or enlargement has been approved by the condominium association or association of unit owners in accordance with the provisions of the Maine Condominium Act or Unit Ownership Act, as the case may be, and with applicable bylaws of the association.
  3. The applicant for the extension or enlargement of a multiplex dwelling unit shall provide notice of the application and the Board of Zoning Appeals' hearing thereon to the owners of dwelling units which are attached to the unit proposed to be extended or enlarged. [Amended 1/24/00]
- d. A structure other than a single family detached dwelling or a multiplex dwelling unit which is nonconforming due to lot size, lot width, lot frontage, lot coverage, height or setback requirements, may be expanded or enlarged subject to Site Plan Review under Div. II-19-1-9, provided that the extension or enlargement is not located between the lot lines and the required setback lines, and does not compound nor create a lot coverage or height violation. [Amended 1/24/00] [Amended 8/26/13]

Any single family detached dwelling located in the BP, MUC, or VC Districts, which is nonconforming solely because of its use, may be expanded or enlarged in accordance with the preceding requirements. [Amended, 12/22/86; 5/13/13; 7/22/13]

# Sample plot plan

REQUIRED INFORMATION FOR BOARD OF APPEALS APPLICATIONS



CALCULATIONS	
LOT AREA:	18,000 SF
EXISTING BUILDING:	1,630 SF
PROPOSED ADDITION:	1,050 SF
TOTAL:	2,680 SF
ALLOWABLE LOT COVERAGE:	50%
EXISTING:	$1,630 \text{ SF} / 18,000 \text{ SF} = 9\%$
PROPOSED:	$2,680 \text{ SF} / 18,000 \text{ SF} = 14.8\%$

ALLOWABLE BUILDING HEIGHT:	35'
EXISTING HEIGHT:	15'
PROPOSED HEIGHT:	15'

Plan provided as a courtesy by:

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