



Conditional Use Application
Town of Falmouth Board of Zoning Appeals
19-86 Nonconforming Structures in a Shoreland Zone

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 4th 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 19-86, Expansions of Nonconforming Structures in the Shoreland Zone**, 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:

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

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.

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

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]

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

g. will not result in significant fire danger;

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

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.

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 19120 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.

Sec. 19-86 Expansion of Nonconforming Structures in the Shoreland Zone

In addition to the prior sections dealing with nonconforming structures, the following provisions shall apply to the expansion of nonconforming structures located in the Shoreland Zone subject to conditional use approval by the Board of Appeals [Adopted, 5/27/92]:

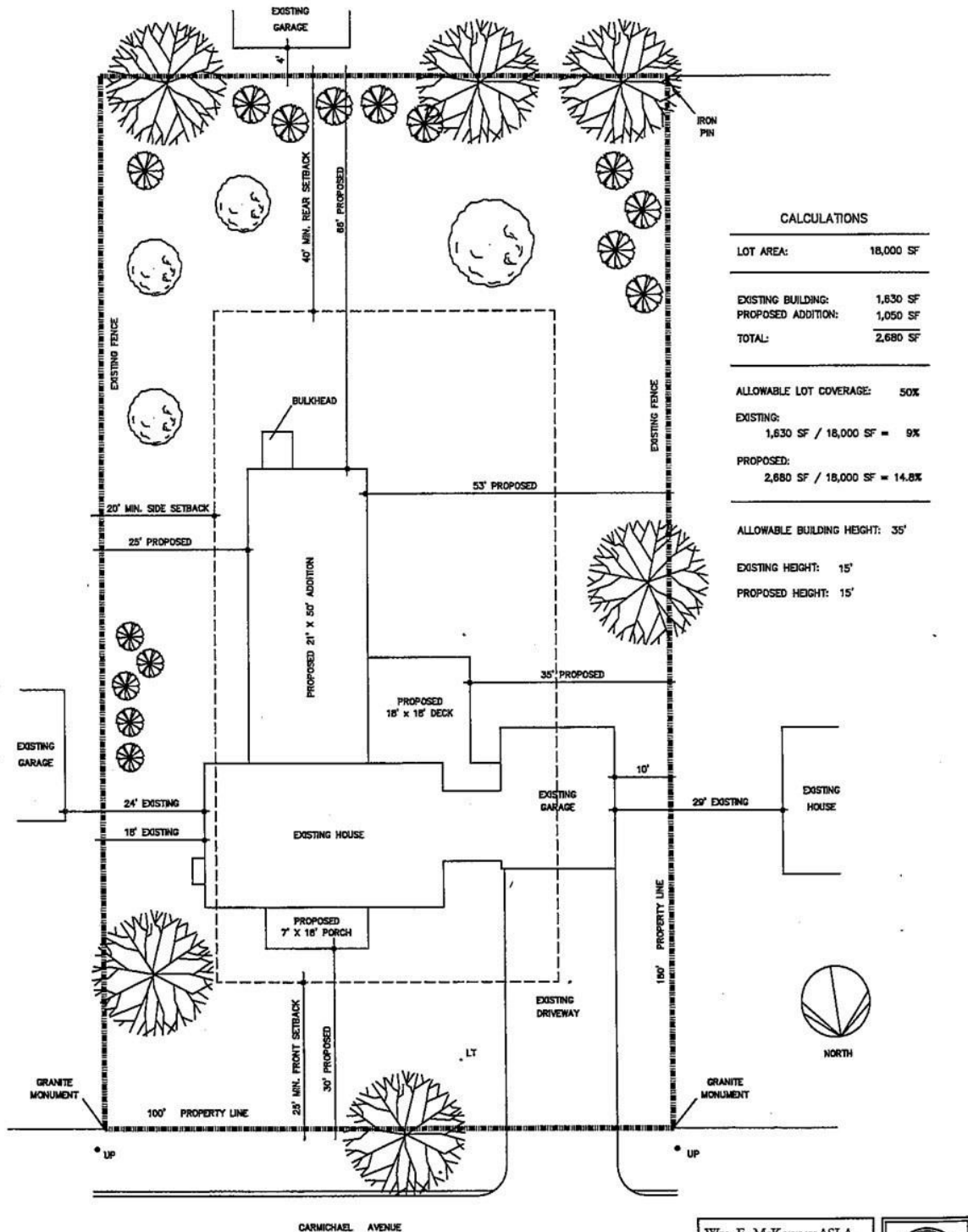
- a. If any portion of a structure or an attached accessory structure is less than the required setback from the normal high-water line of a water body or tributary stream or upland edge of a designated wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during its lifetime. If a replacement structure conforms with the requirements of Section 19-80, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date. [Amended 5/28/96; Amended 5/26/09]

Construction or enlargement of a foundation beneath an existing structure need not be considered in the area or volume of expansion provided that the space within that foundation meets the definition of a cellar.

- b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Board of Zoning Appeals or its designee, basing its decision on the criteria specified in Section 19-80.a.2. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 19-86.a, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure. [Adopted 5/26/09]
- c. Notwithstanding the height restriction of Section 19-77 b.(3), in the Residential "B" portions of the Shoreland Zone around Highland Lake, a foundation may be constructed under an existing structure [Amended, 5/27/93].
- d. No structure which is less than the required setback from the normal high-water line of a water body or the upland edge of a designated wetland shall be expanded toward the water body or wetland.

Sample plot plan

REQUIRED INFORMATION FOR BOARD of APPEALS APPLICATIONS



Plan provided as a courtesy by:

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Falmouth, Maine 04105-1404
(207) 671-1058

