

Town of Milton

Special Exception Application Instructions

Instructions to applicant for a special exception from the Milton New Hampshire Zoning Board of Adjustment. The Board strongly recommends that, before making any appeal, you become familiar with Milton's Zoning Ordinance and with NH Statutes Title LXIV, RSA Chapters 672 to 677, covering planning and zoning.

Special Exception: Certain sections of the Milton's Zoning Ordinance provide that a particular use of property in a particle zone will be permitted by special exception, if specific conditions are met. The necessary conditions for each special exception are given in the Zoning Ordinance. Your appeal for a special exception will be granted if you can show that the conditions stated in the Zoning Ordinance are met.

If you are applying for a special exception, you will probably also need a site plan or subdivision approval, or both, from the Milton Planning Board. Even in those cases where no Planning Board approval is needed, presenting a site plan to the Planning Board will assist in the relating proposal to the overall zoning. This should be done before you apply for a special exception.

Special exceptions shall be made in harmony with the general purpose and intent of the Zoning Ordinance. The Zoning Board of Adjustment shall affirmatively find that the following criteria exist in order to approve applications for a Special Exception:

1. That the specific site is an appropriate location for the proposed use or structure.
2. That the use will not be injurious, noxious, offensive or detrimental to the neighborhood.
3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.
4. That adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use and structure so that the use will not be contrary to the public health, safety or welfare.
5. That the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan.

Pursuant to RSA 676:7 the State law of New Hampshire, the Town of Milton is required to notify the applicant and every abutter of the public hearing by certified mail, return receipt requested. The cost of required publication or posting of notice and the cost of mailing said notices shall be paid by the applicant.

According to RSA 672:3, "abutter" is defined as "any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board". For purposes of receiving testimony only, and not for purposes of

notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of any abutting property being in condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356:B, XXIII. Please note: All roads, highways, railroads, rivers, ponds and streams are neutral.

Prepare a list of all abutting property owners (use attached sheet), verify the list at Milton's Town Office, and return it with three (3) sets of 1" x 2-5/8" mailing labels and your application. List the names and mailing addresses of the applicant and/or property owner and authorized agent (surveyor), not more than five (5) days prior to submission, per RSA 676:4, 1(b). The accuracy of the list is the applicant's responsibility.

The Zoning Board of Adjustment will schedule a public hearing within 30 days of receipt of your properly completed application. Public Notice of the hearing will be posted and printed in Foster's Daily Democrat and notice will be mailed to you, all abutters, and other parties whom the Board may deem to have an interest, at least five (5) days prior to the date of the hearing. You and all other parties will be invited to appear in person or by agent/counsel to state reasons why the appeal should or should not be granted.

After the public hearing, the Board will reach a decision. You will be sent a Notice of Decision. If you believe the Board's decision is wrong, you have the right to appeal. The Selectmen or any party affected, have similar rights to appeal the decision in your case. To appeal, you must first ask the Board for a rehearing. The motion for rehearing must be in the form of a letter to the Board. The motion must be made within 30 days of the Board's decision, and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The Board may grant such a rehearing if, in its opinion, good reason is stated in the motion. The Board will not reopen a case based on the same set of facts, unless its' convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested a rehearing before you can appeal to the courts. When a rehearing is held, the same procedure is followed as for the first hearing, including public notice (Foster's) and notice to all abutters. (Applicable fees will be charged to the applicant motioning for the rehearing).

Fees are charged to cover the cost of preparing and mailing the legally required notices:

Application Fee	\$150.00
Abutter Notice.....	\$8.00 each
Site Identification Sign	\$5.00
Public Notice Fee.....	\$150.00

Please make checks or money orders payable to the Town of Milton. Mail or deliver the completed application with all the necessary attachments to:

Land Use Department
PO Box 310
Milton, NH 03851

Site Walk Authorization

The owner(s), by filing an application, hereby give permission for any member of the Milton Zoning Board of Adjustment and such agents or employees of the Town or other persons as the Zoning Board of Adjustment may authorize, to enter upon the property which is the subject of the application at all reasonable times for the purpose of such examinations and inspection as may be appropriate.

Owner(s) Signature: _____

Authorized Agent Signature: _____