

# TOWN OF CHESHIRE



## Special Permit Rules & Regulations

Adopted September 22, 2014

## ARTICLE I – GENERAL

Section 1. **Authority.** The Planning Board shall act as the special permit granting authority where designated as such in accordance with Section 3.8 and 3.9 of the Cheshire Zoning Bylaw.

Section 2. **Special Permit Application Requirements.** A complete application for a special permit shall consist of the items listed below:

- (a) Application for a special permit from the Planning Board signed by the owner of the property or an authorized agent.
- (b) A properly completed and certified list of abutters.
- (c) Five (5) copies of the site plan and other information as specified in Article II of these regulations.
- (d) Filing fee, as specified: Agricultural, Residential and Business: \$400

Section 3. **Procedure for Review.** The applicant and the Board shall follow the procedures set forth in M.G.L Chapter 40A Section 9. The specific steps are summarized below:

- (a) All special permit applications must be filed by the applicant with the Town Clerk; and further that the applicant shall file five (5) copies of the complete application showing the date and time of filing certified by the Town Clerk with the Planning Board.
- (b) Within ten (10) days of receipt of a properly executed application, the Board may at its discretion, send copies of the application to other town boards or officials for comment.
- (c) Within sixty-five (65) days of the receipt of a properly executed and complete application, the Board shall hold a public hearing, for which notice shall have been given as provided in M.G.L Chapter 40A Section 11.
- (d) Within ninety (90) days following the close of the public hearing, the Board shall take final action on the application unless the time frame is extended by mutual agreement between the applicant and the Board and written notice of any extension is given to the Town Clerk prior to the expiration of the ninety (90) day limit.

Section 4. **Conduct of the Public Hearing.**

- (a) All hearings shall be open to the public. No person shall be excluded unless he is considered by the chairman to be a serious hindrance to the conduct of the hearing.
- (b) An applicant may appear in his/her own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the Board may decide on the matter using the information it has otherwise received.
- (c) It is recommended that every application for a special permit be supported by a brief setting forth in detail all facts relied upon by the parties.
- (d) The order of business for the public hearing shall be as follows:
  - (1) Applicant's presentation and questions from the Board.
  - (2) Questions and/or comments from the public.
  - (3) Applicant's opportunity to address issues raised during the public question/comment period.
  - (4) The Board shall set a closing date for the receipt of any additional written arguments and if no such date is established the hearing record shall close upon termination of the public hearing or if necessary the hearing shall be continued to a date, time and place certain.

*\*\*Members of the Board who are hearing the case may direct appropriate questions during the hearing.*

Section 5. **Required Vote.** Special permits can only be granted by an affirmative vote of four (4) out of five (5) members of the Board. Only those members of the Board who were in attendance at the public hearing may vote on the special permit in question.

Section 6. **Required Findings.** No special permit application shall be granted unless and until the Board makes a written finding as to each of the following, which it finds applicable to the application before it:

- (a) Is in compliance with all provisions and requirements of the Cheshire Zoning Bylaw and in harmony with its general intent and purpose;
- (b) Is essential or desirable to the public convenience or welfare at the proposed location;

- (c) Will not be detrimental to adjacent uses or to the established or future character of the neighborhood;
- (d) Will not create undue traffic congestion or unduly impair pedestrian safety; and
- (e) Will not overload any public water, drainage or sewer system or any other municipal facility to such extent that the proposed use or any existing use in the immediate area of the Town will be unduly subjected to hazards affecting the public health, safety or general welfare.

Section 7. **Record of Decision.** Following final action, the Board shall prepare a detailed record of its proceedings which will indicate the vote of each Board member upon each question and the reasons for its decision and of its official actions.

Section 8. **Filing of the Decision.** The decision of the Board, including the proceeding set forth above, shall be filed with the Town Clerk within fourteen (14) days after the date of the decision and mailed to the applicant and the parties of interest.

Section 9. **Lapse of Special Permits.** Special permits that are granted shall lapse within one (1) year as provided by Section 6.3.3 of the Cheshire Zoning Bylaw.

Section 10. **Appeals.** Any appeal from the decision of the Board must be made pursuant to M.G.L Chapter 40A Section 17, and must be filed within twenty (20) days of filing of the decision with the Town Clerk.

Section 11. **Special Permit: When effective.** A special permit, or any extension or modification, shall take effect when a copy of the decision has been recorded in the Registry of Deeds. This decision must be certified by the Town Clerk that either twenty (20) days has elapsed after the decision has been filed with the Town Clerk and no appeal has been filed or any appeals that have been filed have been dismissed or denied. It is the responsibility of the applicant to record the decision.

## **ARTICLE II – SITE PLANS & OTHER INFORMATION**

Section 12. **Site Plan Preparation.** The site plan required for special permits shall be prepared by either a professional engineer, land surveyor or landscape architect who is registered in Massachusetts.

Section 13. **Scale; Elevations; Locus Map.** The site plan shall be at a scale of one (1) inch equals forty (40) feet or such other scale as the Board may allow to adequately show detail. Profiles of each individual street or service road shall be provided at a vertical scale of one (1) inch equals four (4) feet. Elevations shall refer to the bench mark or datum utilized. Sheet size shall be twenty-four by thirty-six (24 x

36) inches including a one-inch border. All plans shall be accompanied by a locus map at one (1) inch equals two thousand (2,000) feet.

Section 14. **Contents of Site Plan.** All site plans shall contain:

- (a) A title block showing the name of the site, the date, scale, name(s) of the owner(s) and the signature and seal of the registered engineer, architect or landscape architect that is licensed in the State of Massachusetts.
- (b) The boundary lines of the area included in the site plan, names of the direct abutters and abutting zoning districts, if any.
- (c) North arrow and benchmarks used.
- (d) Existing and proposed grades, with topographic contours at intervals not exceeding two (2) feet.
- (e) Existing and proposed size, location, height and floor area of all structures; floor area ratio and lot coverage ratios; finished floor elevations; parking requirements and any other pertinent information necessary for the Board to make findings that all aspects of the project comply with the Cheshire Zoning Bylaw.
- (f) Natural features such as wood lots, streams, lakes, ponds, shoreline, wetlands and other geologic features.
- (g) Delineation of the one-hundred-year flood boundary on the site, if any.
- (h) Existing manmade features such as roads, driveways, rights-of-way within three hundred (300) feet and structures and indicate which features are to be retained, if any.
- (i) Proposed streets, driveways, parking spaces, sidewalks, loading zones, curb cuts and service areas. Include the direction of travel for one-way streets or drives, radii of all curves, street, drive and sidewalk widths and the total number of parking spaces provided.
- (j) Waste disposal, including sewer connector lines, if any; any systems to control emissions of dust, smoke, noise, odor, vibration or other nuisances found in Section 3.7 of the Cheshire Zoning Bylaw; dumpster location(s) and all other private or public utilities.
- (k) Drainage calculations based on a twenty-five-year storm, one-hour intensity, must be provided if any stormwater runoff enters a public drainage system or public way.

- (l) Provisions for screening, surfacing (including ground cover), lighting, fences, walls, landscaping and signs.
- (m) Any other information that the Board may reasonably require to review the application and determine compliance with the Cheshire Zoning Bylaw.

Section 15. **Traffic Impact Analysis.** A traffic impact analysis may be required by the Board depending on the size and the complexity of the proposed project. The extent and scope of the study will be determined by the Board based upon the anticipated impacts of the project. At a minimum a traffic impact analysis shall include an analysis of the existing traffic conditions, future traffic conditions and mitigation measures.

### ARTICLE III - WAIVERS

Section 16. **Waivers.** The Board may waive any of the submittal requirements by a majority vote of those present when in the opinion of the Board, such waiver is in the public interest and is consistent with the intent and purpose of the Cheshire Zoning Bylaws and these regulations. All requests for waivers shall be submitted to the Board in writing and include the specific provision to be waived and the reasons therefore.

The Cheshire Planning Board may grant a permit for the removal of loam, earth, sand, gravel, clay or stone under the following conditions:

1. The applicant shall submit a plan showing existing contour grades in the area from which the material is to be removed, together with finished contour grades at the conclusion of the operation, also showing haul roads to existing roads.
2. The plan shall provide for proper drainage of the area of the operation during and after completion.
3. No removal shall take place within twenty (2) feet of a property line except where the grade from a property line rise towards the grade at the property line may be removed.
4. No bank shall exceed a slope of one (1) foot of vertical rise in two (2) feet of horizontal distance.
5. No operation shall lower the ground water table causing damage to existing wells.
6. At the conclusion of the operation, or any substantial portion, (to be determined by the Planning Board) the entire disturbed area will be covered with a minimum of four (4)" of loam and seeded.

Issuance of a Special Permit for the removal of loam, earth, sand, gravel, clay or stone...*continued*

7. Before a permit is granted the applicant shall post a bond with the treasurer of the Town of Cheshire in an amount approved by the Planning Board as sufficient to guarantee conformity with the provisions of the permit issued hereunder.
8. In issuing such a permit the Planning Board may stipulate the hours of operation or impose other restrictions as it deems necessary.
9. The permit shall be granted for six (6) months and reviewed every six (6) months.