

violation had been substantially completed or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

- (b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation or bad faith on the part of any owner, owner's agent or representative but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent or by an error in ordinance interpretation or applicability by a municipal official in the process of issuing a permit over which that official had authority;
  - (c) That the physical or dimensional violation does not constitute a public or private nuisance nor diminish the value of other property in the area nor interfere with or adversely affect any present or permissible future uses of any such property; and
  - (d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained that it would be inequitable to require the violation to be corrected.
- (3) In lieu of the findings required by the Board under Subsection D(2)(a) and (b), the owner may demonstrate to the satisfaction of the Board that the violation existed for 10 years or more and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

## ARTICLE XII Conditional Use Permits

### **§ 235-71. Planning Board to administer. [Amended 10-14-1997 by Ord. No. 10.97.10]**

Wherever a conditional use is authorized by this chapter, the authority to administer or grant conditional use permits shall be vested in the Planning Board and authorized pursuant to RSA 674:21, Innovative Land Use Controls.

### **§ 235-72. Application and review procedure.**

An application for a conditional use shall be initiated by filing with the Planning Board for an application for a conditional use permit. The following procedures shall apply to the processing of such application:

- A. Where other required development approvals for a conditional use include subdivision or site plan approval by the Planning Board, the application, review procedure, and length of approval for a conditional use permit shall be made concurrently and in accordance with the procedures specified in the subdivision regulations or site plan regulations as applicable to the particular development.

- B. Where no subdivision or site plan approval would otherwise be required for the conditional use, the application and procedural requirements of the Site Plan Regulations and the Planning Board Rules of Procedure shall be applied to the application and processing of conditional use permits with respect to content of applications, requirements for public notice, hearings and timing of decisions by the Planning Board. The length of approval of such a conditional use permit shall be two years from the date of final approval.

**§ 235-73. Burden of persuasion.**

The applicant bears the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the development, if completed as proposed, will comply with this article and will satisfy the specific requirements for the use contained in this chapter.

**§ 235-74. Standards of review of conditional use permit application.**

In reviewing an application for a conditional use permit, the Planning Board shall consider the following information in its deliberations, as applicable to the case:

- A. Specific authorization for the conditional use in the Table of Permitted Uses.<sup>40</sup>
- B. The compliance of the development plan with the specific standards for such use contained in this chapter.
- C. The results of any special investigative or scientific studies prepared in association with the proposed development.
- D. Special reports or analyses of the project or its impacts prepared by City staff.
- E. The findings, goals and objectives of the Laconia Master Plan.
- F. The relationship of the development to the timing, location and cost of public improvements scheduled in the Laconia Capital Improvements Program.
- G. Testimony and evidence introduced at the public hearing on the application.

**§ 235-75. Hearing and decision on conditional use permit. [Amended 12-8-1997 by Ord. No. 12.97.12]**

Following a public hearing on the proposed use, the Planning Board shall issue a conditional use permit if it finds, based on the information and testimony submitted with respect to the application, that:

---

<sup>40</sup> Editor's Note: Said table is included at the end of this chapter.

- A. The use is specifically authorized within the Table of Uses<sup>41</sup> as a conditional use.
- B. If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this article and with the specific conditions or standards established in this chapter for the particular use; or, in the case of conditional use permits granted for City of Laconia uses and facilities, the proposal meets the specific conditions or standards to the extent reasonably and practically feasible.
- C. The use will not materially endanger the public health or safety.
- D. The use will not substantially injure the value of adjoining or abutting property.
- E. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located.
- F. The use will not have a substantial adverse impact on highway or pedestrian safety.
- G. The use will not have a substantial adverse impact on the natural resources of the City.
- H. The use will be adequately serviced by necessary public utilities and community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use and will not necessitate excessive public expenditures to provide sufficient additional capacity or services.

**§ 235-76. Additional stipulations of approval.**

In granting a conditional use permit, the Planning Board may attach reasonable conditions to its approval, including but not limited to the phasing of a development, where such conditions are shown to be necessary to further the objectives of this chapter or the Master Plan, or which would otherwise allow the general conditions of this section to be satisfied. All conditions of approval shall be stated in writing in the permit. Conditions shall be annotated on a site plan or subdivision plat where a conditional use permit is issued concurrently with site plan or subdivision approval. In all other cases a notice of approval shall be issued. Final approval documents shall be recorded at the Belknap County Registry of Deeds.

**§ 235-77. Appeal from denial of conditional use permit.**

A Planning Board decision on the issuance of a conditional use permit cannot be appealed to the Zoning Board of Adjustment. Any persons aggrieved by a Planning Board decision on a conditional use permit may appeal that decision to the superior court as provided in the manner provided by RSA 677:15, Court Review.

---

41. Editor's Note: The Table of Permitted Uses is included at the end of this chapter.