

# Town of Scarborough, Maine

## Miscellaneous Appeal

from restrictions on non-conforming uses

### INFORMATION REQUIRED FOR ALL APPEALS

This checklist is intended to be a guide for use by the applicant, in preparation of the Miscellaneous Appeal to permit nonconforming uses of land, buildings, or structures to be enlarged, extended, expanded, resumed, or converted as provided in Section III.F of this Ordinance. Before any appeal can be processed, the following material must be submitted to the Code Enforcement Office:

1. A fee of \$250.00 payable to the Town of Scarborough.
2. An electronic submission of all application material in pdf format and ten (10) paper copies of all application material. Required electronic copy can be emailed to: [submittals@scarboroughmaine.org](mailto:submittals@scarboroughmaine.org) or on a thumb drive. This should include (but not limited to);
  - Completed application form
  - Evidence showing control, right, title or interest in subject property.
  - Current Property Survey
  - Legible BUILDING PLANS (if applicable) that include:
    1. Existing building floor plans with building dimensions.
    2. Proposed buildings or additions with floor plans, building dimensions, external elevation showing views, front, rear, right and left sides; identify area where special exception activity will be conducted.
    3. Any improvements to the property associated with the Miscellaneous Appeal use.
    4. Address ALL applicable criteria individually and in writing, as noted on the attached sheets.
    5. For appeals from restrictions on non-conforming uses, see attached appeals procedure from Section V.C.5.

The Zoning Board of Appeals meets the second Wednesday of each month at 7:00 P. M. All materials pertaining to the appeal must be submitted to the Code Enforcement Office no later than the 20<sup>th</sup> of the preceding month. If the 20<sup>th</sup> falls on a Friday, Saturday, or Sunday all materials are due on Monday by 9:00am.

**PLEASE NOTE:** Be prepared to answer all questions pertaining to the specific type of appeal requested.

### **SECTION III. F- APPEALS FROM RESTRICTIONS ON NONCONFORMING USES**

1. Not with-standing the provisions of Subsection D. and E. of this Section, a nonconforming use of land, buildings or structures may be enlarged, extended, expanded, resumed or converted to another nonconforming use on the lot which it occupied at the effective date of adoption or amendment of the Ordinance, upon approval by the Board of Appeals pursuant to the procedures of Section V. C. of this Ordinance. The Board of Appeals may not approve any such enlargement, extension, expansion or resumption or conversion to another nonconforming use unless it finds that:

- (a) the impact and effects of the enlargement, extension, expansion, resumption or conversion to another nonconforming use on existing uses in the neighborhood will not be substantially different from or greater than the impact and effects of the nonconforming use before the proposed enlargement, extension, expansion, resumption or conversion to another nonconforming use; and
- (b) the enlarged, extended, expanded, resumed or conversion to another nonconforming use will comply with the standards for Special Exceptions contained in Section IV. I. of the Scarborough Zoning Ordinance (see below)

### **SECTION V.C.5. - APPEALS PROCEDURE**

Before making a decision on any Miscellaneous Appeal from restrictions on nonconforming uses, the Zoning Board shall refer said appeal to the Planning Board for an advisory opinion. The Zoning Board shall not act contrary to the Planning Board recommendation unless it makes specific findings of fact to justify its decision. The Planning Board shall consider the criteria of Section III. F. in formulating its recommendation.

## Application for a Miscellaneous Appeal

Appellant Name_____
Mailing Address:_____
Phone:_____ E-mail Address:_____
Subject Property: _____
Nature of Right, title or interest in subject property:_____
Assessors Map & Lot Number:_____ Zoning District:_____
Is the property located in a Shoreland Zone? Yes___ No___
Is the property located in a Flood Zone? Yes___ No___

Name of Representative:_____
(if other than property owner)
Representative Mailing Address:_____
Representative Phone Number:_____
Representative E-Mail Address:_____

A. Describe the type of miscellaneous appeal that is being requested:

In addition, and unless waived by the Zoning Administrator, a standard boundary survey of the property must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic peculiarities of the lot in question.

B. Justification of the Variance: In order for a variance to be granted, the appellant must demonstrate to the Board of Appeals how the proposed activity meets the standards and conditions required in order to be granted relief from the strict application of the terms of the Scarborough Zoning Ordinance. Please refer to and list the applicable standards and conditions (if any) for the particular type of miscellaneous appeal requested, followed by a narrative explaining how your situation meets each of the criteria. Please respond to each of the following applicable standards explaining how your situation meets each of the criteria. Please type or neatly print your narrative on the following page (form fillable

### **Standards for Special Exceptions**

Before it issues a special exception permit, the Board of Appeals shall find, as a matter of fact, that the proposed use meets the following criteria: (Please explain how your situation meets each of the criteria listed below)

**a.** The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation:

**b.** The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity:

**c.** The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree in municipal fire or police protection than existing uses in the neighborhood:

**d.** The proposed use will not result in sedimentation or erosion, or have an adverse effect on water supplies:

**e.** The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, proximity to other structures and density of development:

**f.** If located in a Shoreland zone as depicted on the Town of Scarborough Official Shoreland Zoning Map, the proposed use will comply with all of the requirements of the Town of Scarborough Shoreland Zoning Ordinance:

**g.** The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use:

**h.** The applicant has the technical and financial ability to meet the standards of this Section and to comply with any conditions imposed by the Board of Appeals pursuant to subsection 5 of this Section:

**i.** The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation:

I certify that the information contained in this application and its supplement is true and correct to the best of my knowledge.

Date\_\_\_\_\_

Signature\_\_\_\_\_