

# MONAGHAN TOWNSHIP

## APPLICATION FOR CONDITIONAL USE (SECTION 704)

Conditional Use No. \_\_\_\_\_

Map/Parcel No. \_\_\_\_\_

### GENERAL INFORMATION:

Name of Applicant(s) \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_ Application Date: \_\_\_\_\_

Name of Landowner of Record: \_\_\_\_\_

Subject Property Address: \_\_\_\_\_

Subject Property Zone \_\_\_\_\_

Request Use (Section No. \_\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name, Address, and Telephone of Representative or Consultant: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### ADDITIONAL REQUIREMENTS (Include 5 copies of the following):

- \_\_\_\_\_ 1. Written report providing all of the information required by Sections 701.2 and 701.3 of the Zoning Ordinance;
- \_\_\_\_\_ 2. Supporting information as required by Section 704.1;
- \_\_\_\_\_ 3. Supporting information demonstrating compliance with Sections 704.2; and
- \_\_\_\_\_ 4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of the Zoning Ordinance, including the following:
  - \_\_\_\_\_ A. Each of the Specific Criteria attached to the requested Conditional Use as listed in Article 4 of the Zoning Ordinance;
  - \_\_\_\_\_ B. The Zone requirements in which the subject property is located (e.g. setbacks, lot area, lot width, lot coverage, height, landscaping, etc.);
  - \_\_\_\_\_ C. The General Provisions requirements listed in Article 3 of the Zoning Ordinance (e.g. vehicular access, off-street parking and loading, signs, screening and landscaping, etc.);
  - \_\_\_\_\_ D. Each of the General Criteria listed in Section 704.2 of the Zoning Ordinance.

**FEES:**

1. The hearing fee for a Conditional Use Hearing is \$300.00 pursuant to Resolution 2011-07 adopted by the Board of Supervisors.
2. The applicant shall pay for one-half (1/2) of the stenographer's appearance fee as specified in Section 704.5.8 of the Zoning Ordinance.

**SIGNATURE:**

I hereby certify that the information submitted in accordance with this application is correct, and I further agree to pay for the costs as outlined above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
**(For Office Use Only)**

**ADMINISTRATION**

Date Application Accepted \_\_\_\_\_ Total Costs \_\_\_\_\_

Date Advertised (two successive weeks no more than 30 and no less than 7 days before the public hearing) \_\_\_\_\_

Date of Property Posting (at least one week before hearing) \_\_\_\_\_

Planning Commission Submission Date (no less than 30 days before public hearing) \_\_\_\_\_

Planning Commission Hearing Date and Recommendation \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Board Hearing \_\_\_\_\_

Date of Decision \_\_\_\_\_

Decision \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Conditions of Approval \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_  
Secretary

## Section 704 Conditional Uses

704.1. Filing of Conditional Use - For any use permitted by conditional use, a conditional use must be obtained from the Board of Supervisors. In addition to the information required on the zoning permit application, the conditional use application must show:

1. Names and addresses of adjoining property owners including properties directly across a public right-of-way;
2. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and,
3. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance;

704.2. General Criteria - Each applicant must demonstrate compliance with the following:

1. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
2. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
3. The proposed use will not effect a change in the character of the subject property's neighborhood;
4. Adequate public facilities are available to serve the proposed use (e.g. schools, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access, etc.);
5. For development within the Floodplain Zone, that the application complies with those requirements listed in Section 206 of this Ordinance;
6. The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of this Ordinance; and,
7. The proposed use will not impair the integrity of the Township's Comprehensive Plan;

704.3. Conditions - The Board of Supervisors in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Article;

704.4. Site Plan Approval - Any site plan presented in support of the conditional use pursuant to Section 704.1. shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another conditional use approval;

704.5. Hearing Procedures:

1. Before voting on the approval of a conditional use, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. The Board of Supervisors shall submit each such application to the Township Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Township Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application;
2. Public notice as defined herein, and written notice shall be given to the applicant, the Zoning Officer, such other persons as the Board of Supervisors shall designate by Ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board of Supervisors. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing;
3. The Board of Supervisors may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses, expenses for engineering, architectural, or other technical consultants, or expert witness costs;
4. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board of Supervisors, and any other person, including civic or community organizations permitted to appear by the Board of Supervisors. The Board of Supervisors shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board of Supervisors for that purpose;
5. The Chairman or Acting Chairman of the Board of Supervisors shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties;
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues;
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded;
8. The Board of Supervisors may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board of Supervisors. The cost of the original transcript shall be paid by the Board of Supervisors if the transcript is ordered by the Board of Supervisors; or shall be paid by the person appealing the decision of the Board of Supervisors if such appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof; and,
9. The Board of Supervisors shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so

noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present; and,

704.6.

**Time Limitation:**

1. If a conditional use is granted, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the conditional use is finally granted, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the Board of Supervisors may at any time, upon application in writing, extend either of these deadlines;
2. Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit should he fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his application, and all approvals and permits granted to him shall be deemed automatically rescinded by the Board of Supervisors;
3. Should the appellant commence construction or alteration within said two (2) year period, but should he fail to complete such construction or alteration within said three (3) year period, the Board of Supervisors may, upon ten (10) days notice in writing, rescind or revoke the granted conditional use, if the Board of Supervisors finds that no good cause appears for the failure to complete within such three (3) year period, and if the Board of Supervisors further finds that conditions have altered or changed in the interval since the granting of the conditional use that revocation or rescission of the action is justified; and,
4. As an alternative to the preceding, an applicant can request, as part of the original application before the Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in Sections 704.6.1.-3. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Board must establish and bind a definite time-frame for (1) issuance of a zoning permit, and (2) completion of construction of the project.

**Section 705 Severability**

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

**Section 706 Repealer**

Any Resolution, Ordinance or part of any Resolution or Ordinance inconsistent herewith and any amendments thereof are hereby expressly repealed.

**Section 707 Effective Date**

This Amended Zoning Ordinance shall become effective five (5) days after its enactment by the Board of Supervisors of Monaghan Township, County of York, Commonwealth of Pennsylvania. Amended 6/11/2001, Ordinance No 2001-67

**RULES OF PROCEDURE FOR THE  
MONAGHAN TOWNSHIP BOARD OF SUPERVISORS  
CONDITIONAL USE HEARING**

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The following rules of procedure shall apply for a Conditional Use Hearing before the Monaghan Township Board of Supervisors.

**Appearance**

The Parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board and any other person including civic or community organizations permitted to appear by the Board.

If anyone wishes to be considered a Party to a hearing application, a Conditional Use Hearing Appearance Form must be completed and given to the Chairman of the Board of Supervisors prior to commencement of the Hearing. Any individual or entity not submitting a Conditional Use Hearing Appearance Form will not be considered a Party.

If you are represented by an Attorney, the Attorney shall submit an Entry of Appearance Form.

Section 908(5) of the Municipalities Planning Code (MPC) states that "The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examination adverse witnesses on all relevant issues."

Witnesses offer supporting testimony only. If you are appearing as a Witness, you need not complete the Conditional Use Hearing Appearance Form. However, **witnesses do not have the right of cross-examination nor the right to present witnesses of their own.**

**Oath**

All Parties and Witnesses shall be sworn and testimony shall be provided under oath. The Chairman of the Board of Supervisors shall administer the oath to all Parties and Witnesses providing testimony before the Board as follows:

"Do you swear or affirm that the testimony you are about to give in this proceeding is the truth, the whole truth and nothing but the truth?"

## Testimony

Testimony concerning the application will be received by the Board in the following order:

1. Township Zoning Officer/Staff
2. Applicant or his representative
3. Any Party to the Hearing

All testimony before the Board of Supervisors will be stenographically recorded, and all persons are asked to remain silent until recognized by the Chairman for the purpose of giving testimony or cross-examining witnesses.

The Applicant and each Witness, or Party shall stand and clearly state his or her name and address before giving testimony relevant to the application in order that the individual may be properly listed in the case under consideration.

Statements shall be given in the form of direct testimony.

Cross-examination of all Witnesses is permitted as a matter of right by any Party to the Hearing. Cross-examination will be permitted by any Party after the individual testifying has completed his or her direct testimony. Cross-examination shall be limited to posing questions to the Witnesses and shall not include a statement.

## Exhibits

Any exhibits presented in support or in opposition to the application shall be marked for identification and shall be retained by the Board of Supervisors. Only those exhibits moved into evidence shall be considered by the Board of Supervisors.

## Decision

The Board of Supervisors shall render a written decision within 45 days after the last hearing on the matter unless the applicant has agreed in writing or on the record to an extension of time. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. A copy of the final decision shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their names and addresses with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision and a statement of the place at which the full decision may be examined.