

CHAPTER 17.22.02
CONDITIONAL USES
CITY OF MILBANK
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Milbank, SD 57252
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How do I obtain a Conditional Use Permit?

- Obtain conditional use permit application from City Office.
- Review App/Handout/Compliance plan for Access, Parking, Utilities, Screening, Lighting
- Submit Application** **Submit Compliance Plan**
- Pay Fee \$150 Plus Certified Mailing Fee _____ = Total _____
- Date set for public hearing of the Board of Adjustment(BOA) _____

What happens next?

- Administrative Official will review your application packet and will forward it to BOA.
- Notice will be published in the official newspaper ten days before the public hearing.
- Notice of application will be sent by mail to adjacent landowners.
- The Public Hearing is held.
- The BOA will hear your request and any comments pro or con from the public.
- The BOA will either approve or deny your request. The BOA will make written findings supporting its decision.
- The BOA may attach additional requirements to your conditional use permit.

Conditional Uses are allowed for certain uses in some districts per The Zoning Ordinance for the City of Milbank, Article II District Regulations. Uses not listed in Article II District Regulations as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit. Any Conditional Use approved by the Planning Commission must conform to the minimum requirements of the zoning district in which the use is located and to minimum Conditional Use standards. Additionally, the Planning Commission can add other requirements that are appropriate. In all cases, the impact of the proposed use on adjacent properties will be a major consideration.

The following procedure for requesting a Conditional use Permit shall be followed:

1. The Board of Adjustment shall adhere to the following procedure in considering a Conditional Use Permit. A Conditional Use Permit is intended by the Zoning Ordinance to be granted by the Board of Adjustment provided:
 - a. A written application for a Conditional Use Permit is submitted, indicating the section of this Ordinance under which the Conditional Use Permit is sought and stating the grounds on which it is requested.
 - b. Property owners adjacent to the proposed site shall be notified of the Conditional Use Permit request by mail, at the cost of the applicant. (this city will prepare and mail for your application)
 - c. Notice of hearing shall be published once, not less than ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected. (Grant Co. Review)
 - d. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - e. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the Conditional Use Permit, and that the granting of the Conditional Use Permit will not adversely affect the public interest.

f. The granting of any Conditional Use Permit, by the Board of Adjustment shall be based upon written findings certifying compliance with the specific rules governing individual Conditional Use Permits and that satisfactory provision and arrangements have been made concerning the following, where applicable:

i) Access:

- a) The roads providing access to the property shall be determined to be adequate to meet the transportation demands of the proposed Conditional Use. The Board of Adjustment may require the applicant to enter into a written contract with the applicable road authority regarding the upgrading and continued maintenance of any roads used for Conditional Use requested prior to issuance of a Conditional Use Permit.
- b) Reasonable provisions have been made for safe vehicular and pedestrian entrance and exit of the property for daily and emergency traffic.

ii) Parking and internal traffic:

- a) The parking areas and driveways will be covered in materials appropriate for the internal traffic generated by the use.
- b) The number of parking spaces is appropriate for the proposed use of the property.

iii) Utilities and refuse:

- a) The manner by which electricity, water, sewer, natural gas and other utilities will be provided has been described.
- b) Consideration has been given to the location of refuse and service areas and manner for disposing of trash, junk, or other debris.

iv) Screening, buffering, and open space:

- a) The type, dimensions, and character of any fences, walls, hedges, or other materials used for screening; and/or open space is appropriate for the proposed use in reference the specific property.

v) Lighting:

- a) Lights associated with the use will not create a nuisance nor distract traffic.
- b) Brightness, intensity, glare of lights will be similar to lighting which would be customarily used for permitted uses in the applicable zoning district.

vi) General compatibility with adjacent properties and other properties in the district.

- a) Any use listed as a Conditional Use is generally compatible in the district it is listed in.
- b) General compatibility is used when prescribing conditions for approval of a permit.

2. In granting any Conditional Use Permit the Board of Adjustment may prescribe conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards may result in revocation of the permit. Violation of such conditions, when made a part of the terms under which the Conditional Use Permit is granted, shall further be deemed a violation of this regulation and punishable under the terms of the City of Milbank Zoning Ordinance.

3. The concurring vote of a majority of the present and voting members of the Board of Adjustment is required to pass any application for a Conditional Use Permit.

- a. If no work has commenced, unless otherwise specified by the Board of Adjustment, a Conditional Use Permit shall expire two (2) years from the date upon which the Conditional Use Permit becomes effective or two (2) years following completion of any final appeal of the decision of the Board of Adjustment to issue the permit.

**CITY OF MILBANK
CONDITIONAL USE/VARIANCE APPLICATION**

PERMIT NUMBER _____

APPLICANT (PRINT): _____ PHONE: _____

ADDRESS: _____

OWNER (PRINT) _____ PHONE: _____

IF DIFFERENT THAN APPLICANT

ADDRESS: _____

I/WE, THE UNDERSIGNED, DO HEREBY PETITION THE BOARD OF ADJUSTMENT OF THE CITY OF MILBANK SOUTH DAKOTA, TO ISSUE A CONDITIONAL USE PERMIT OR VARIANCE FOR THE PROPERTY DESCRIBED AS:

(CIRCLE APPROPRIATE)

LEGAL DESCRIPTION (Please print or type)

GENERAL AREA OR STREET ADDRESS: _____

EXISTING LAND USE: _____ EXISTING ZONING: _____

SIZE OF PARCEL: LOT DIMENSIONS: WIDTH _____ DEPTH _____

SURROUNDING LAND USE

NORTH:	_____
SOUTH:	_____
EAST:	_____
WEST:	_____

PLEASE DESCRIBE WHAT YOU PROPOSE TO DO AND WHY YOU ARE SEEKING A CONDITIONAL USE PERMIT (attach a separate sheet of paper if necessary)

IF YOUR ARE SEEKING A VARIANCE PLEASE PROVIDE A BRIEF STATEMENT OF THE VARIANCE DESIRED AND PLEASE STATE THE HARDSHIP REQUIRING RELIEF. (Proof of hardship is on the applicant - Hardship examples are odd size or shape of the lot, unusual topography, etc. attach a separate sheet of paper if necessary)

SIGNATURE OF APPLICANT _____

SIGNATURE OF OWNER (IF DIFFERENT THAN APPLICANT) _____

NOTE: A SKETCH OF PROPOSED PROPERTY SHALL ACCOMPANY THIS APPLICATION, SHOWING THE FOLLOWING

- | | |
|------------------------------------------|-------------------------------------------------------|
| 1. NORTH DIRECTION | 5. LOCATION OF PROPOSED STRUCTURE ON LOT |
| 2. DIMENSIONS OF PROPOSED STRUCTURE | 6. DIMENSIONS OF FRONT, REAR, SIDE SET BACKS |
| 3. ADJACENT STREET NAMES | 7. LOCATION OF ADJACENT EXISTING BUILDINGS ON THE LOT |
| 4. OTHER INFORMATION AS MAY BE REQUESTED | |

THE BOARD OF ADJUSTMENT MAY REQUIRE THAT SUCH PLANS BE PREPARED BY A REGISTERED ENGINEER OR LAND SURVEYOR.

***PLEASE USE THE ATTACHED SKETCH INSTRUCTION SHEET FOR AN EXAMPLE*

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____

FEE PAID (NON-REFUNDABLE): _____ YES _____ NO

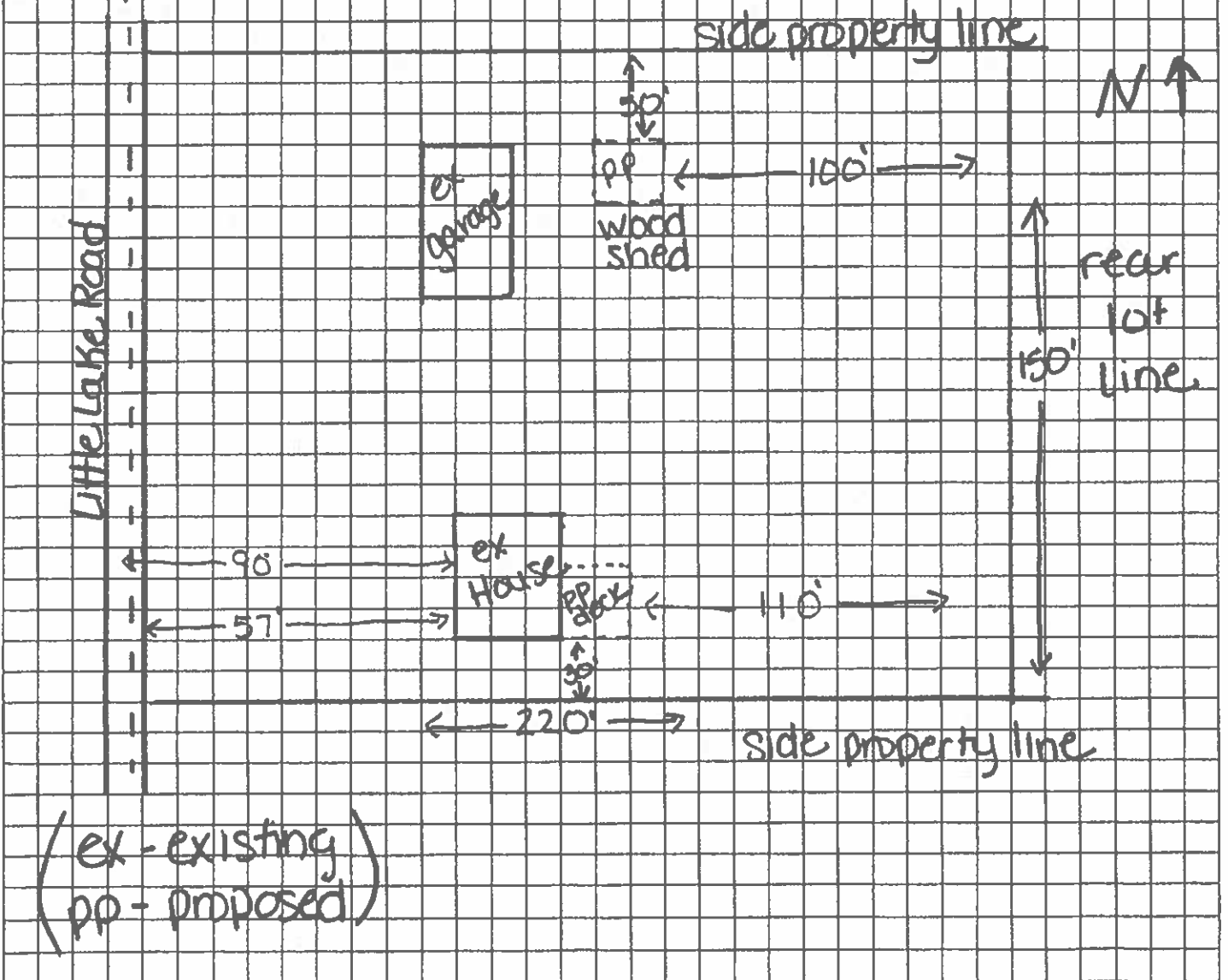
DATE OF HEARING: _____

ACTION BY BOARD OF ADJUSTMENT: _____

NOTE: A SKETCH OF PROPOSED PROPERTY SHALL ACCOMPANY THE APPLICATION, SHOWING THE FOLLOWING

1. NORTH DIRECTION
2. DIMENSIONS OF PROPOSED STRUCTURE
3. ADJACENT STREET NAMES
4. LOCATION OF PROPOSED STRUCTURE ON LOT
5. DIMENSIONS OF FRONT AND SIDE SETBACKS
6. LOCATION OF ADJACENT EXISTING BUILDINGS
7. LOCATION OF UTILITY EASEMENT AREAS
8. OTHER INFORMATION AS MAY BE REQUESTED

Example:



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