



# Town of Zebulon

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## Planning Department

1003 N. Arendell Avenue, Zebulon, NC 27597  
Phone: (919) 823-1810 Fax: (919) 269-6200  
www.townofzebulon.org

## SPECIAL USE PERMIT

### GENERAL INFORMATION

A Special Use Permit is intended to provide flexibility by allowing certain types of uses in areas where additional considerations may need to be addressed to reduce the adverse effects on adjacent or surrounding properties. A Special Use Permit may be authorized for a specific site for an additional land use when such use is determined to not have an adverse effect on surrounding properties and when such use is consistent with the purpose of the zoning district.

### INSTRUCTIONS

1. **Application Procedure** – The applicant requesting a Special Use Permit must submit a written application to the Zebulon Planning Department using the forms included in this packet and furnish plans and data concerning the operation, location, function, and characteristics of any use of the land or building being proposed. The non-refundable application fee is **\$800.00 or \$1,800.00 with TIA Review**.
2. **Site Plan** – Twenty four (24) copies of a site plan drawing shall accompany every application for a Special Use Permit. Such site plan shall include all the contents established for site plans as included in this packet.
3. **Public Hearing Procedure** – Upon submittal of a complete application, the Planning Department will schedule the application for a joint public hearing before the Planning Board and the Board of Commissioners. State law requires Special Use Permit hearings to be conducted utilizing quasi-judicial procedures. Please review the section of this packet entitled “QUASI-JUDICIAL HEARINGS,” beginning on page 6, for an explanation of quasi-judicial hearings and the applicant’s responsibility in such hearings. **APPLICANTS ARE STRONGLY ENCOURAGED TO CONTACT PLANNING STAFF AS SOON AS POSSIBLE TO ADDRESS ANY QUESTIONS ABOUT THE PUBLIC HEARING.** Notices of the public hearing will be mailed to all property owners having property located within 150 feet of the property being considered for a Special Use Permit. At the public hearing, the applicant, proponents, and opponents will be given the opportunity to offer evidence in favor of or against the proposal. After completion of the public hearing, the Planning Board will deliberate and forward its recommendation to the Board of Commissioners for final consideration. Deadline dates and Joint Public Hearing dates can be found on the Town of Zebulon’s website or by scanning the QR Code located at the end of this application packet.
4. **Approval and Conditional Approval** – In accordance with §152.039 of the Zebulon Code of Ordinances, each Special Use Permit application and related evidence will be evaluated by the Planning Board and the Board of Commissioners and may be approved or denied based on the evidence presented regarding certain required findings of fact (See the section of this packet entitled “REQUIRED FINDINGS OF FACT”). In the event of a conditional approval, any conditions imposed will be incorporated into the approving ordinance for permanent record.
5. **Building Permit Compliance** – No building permit for any structure will be issued, nor shall a Certificate of Occupancy be issued on any existing structure, until such development plans are consistent with the approved site plan and the conditions established for the Special Use Permit.
6. **Special Use Permit Amendments** – In accordance with §152.047 of the Zebulon Code of Ordinances, changes to a Special Use Permit or its approved site plan shall be processed in the same manner as the original approved request and will require a new application. Insignificant deviations from the permit or within a site plan may be authorized by the Planning Director. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.



# APPLICATION FOR Special Use Permit

PART 1. APPLICANT/AGENT INFORMATION		
Name of Applicant/Agent:		
Street Address of Applicant/Agent:		
City:	State:	Zip Code:
Email of Applicant/Agent:	Telephone Number of Applicant/Agent:	Fax Number of Applicant/Agent:
Are you the owner of the property? <input type="checkbox"/> Yes <input type="checkbox"/> No	Are you the owner's agent? <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Note: If you are not the owner of the property, you must attach an "Owner's Consent Form" giving you permission to submit this application.</b>

PART 2. DESCRIPTION OF REQUEST/PROPERTY		
Street Address of the Property:	Current Zoning Classification:	Acreage:
Parcel Identification Number (NC PIN):	Deed Book:	Deed Page(s):
Existing Use of the Property:	Proposed Use of the Property:	
Describe the nature of the proposed activity and any particular characteristics related to the use of the property:		

PART 3. PROPERTY OWNER INFORMATION		
Name of Property Owner:		
Street Address of Property Owner:		
City:	State:	Zip Code:
Email of Property Owner:	Telephone Number of Property Owner:	Fax Number of Property Owner:
<b><i>I hereby certify that I am, or that I represent, the legal owner of the property described above and do hereby submit this request for a Special Use Permit to the Planning Board and Board of Commissioners for consideration.</i></b>		
<b><i>Signature of Owner:</i></b>	<b><i>Print Name:</i></b>	<b><i>Date:</i></b>

FOR OFFICE USE ONLY	
Application Received By:	Application Date:
File Name:	Case #:
Filing Fees Paid:	Date Fees Received:
Date of Public Hearing:	Date of Decision: <input type="checkbox"/> Approved <input type="checkbox"/> Denied



## REQUIRED FINDINGS OF FACT

All recommendations and decisions made by the Planning Board and Board of Commissioners regarding Special Use Permit applications shall be supported by findings of fact. **The applicant will bear the burden of presenting substantial, competent, and material evidence** sufficient to enable the Board of Commissioners to make the findings of fact required in §152.038(B) of the Zebulon Code of Ordinances, as set forth below. Failure to adequately address the findings below may result in denial of the application. Please attach additional pages if necessary.

1. What evidence will you present to clearly show that the proposed special use will not materially endanger the public health, safety or welfare?

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2. What evidence will you present to clearly show that the proposed special use will not substantially injure the value of adjoining or abutting property?

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3. What evidence will you present to clearly show that the proposed special use will be in harmony with the area in which it is to be located?

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4. What evidence will you present to clearly show that the proposed special use will be in general conformity with the ordinances, policies, land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners?

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5. What evidence will you present to clearly show that the proposed special use will not cause undue traffic congestion or create a traffic hazard?

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6. What evidence will you present to clearly show that the proposed special use is appropriately located with respect to transportation facilities, water and sewer supply, fire and police protection, and similar facilities?

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7. What evidence will you present to clearly show that the proposed special use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas?

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8. What evidence will you present to clearly show that the proposed special use will not impede the orderly development and improvement of the surrounding properties?

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9. What evidence will you present to clearly show that the proposed special use is reasonably necessary for the public health or general welfare? Does the proposed special use enhance the successful operation of the surrounding area in its basic community function or by provide an essential service to the community?

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### APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Commissioners of the Town of Zebulon to approve the subject Special Use Permit. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Zebulon, North Carolina, and will not be returned.

\_\_\_\_\_  
*Signature of Applicant*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Date*



## SITE PLAN REQUIREMENTS

Every applicant requesting a Special Use Permit shall submit **24 copies** and **1 pdf on cd** of a site plan drawing with the application for a Special Use Permit. The site plan shall contain sufficient information to adequately determine the type of development being proposed. The site plan drawing shall include, at a minimum, the following features unless otherwise specified by the Planning Department:

<u>ITEM</u>	<u>CHECK IF SUBMITTED</u>
1. Plot plan showing all existing and planned structures, building setback lines, perimeter boundaries, and easements.	_____
2. Elevation drawings of all buildings indicating the proposed exterior finish materials.	_____
3. Landscaping plan, lighting, fencing, screening, and walls, indicating all heights and locations.	_____
4. Location of all ingress and egress.	_____
5. Off-street parking and loading facilities, with calculations showing how the quantities were obtained.	_____
6. All pedestrian walks and open areas for use by residents, tenants, or the public.	_____
7. Proposed land uses indicating areas in square feet.	_____
8. The location and types of all signs, including lighting and heights, with elevation drawings.	_____
9. Existing and/or proposed street names.	_____
10. Proposed potable or reuse water, wastewater connections, and storm sewer line; proposed grading and drainage patterns; proposed water and sewer allocations.	_____
11. Such additional items and conditions, including design standards as the Planning Board and Board of Commissioners deems necessary.	_____
12. Trip generation data.	_____

**NOTE:** In accordance with §152.042 of the Zebulon Code of Ordinances, the Board of Commissioners may affix conditions to the Special Use Permit. Examples of conditions that might be imposed would be conditions affecting the following:

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| a. Setbacks for buildings or structures                   | j. Mitigation of noise, fumes, odors, vibrations, or airborne particles |
| b. Public street access                                   | k. Exterior lighting  |
| c. Drainage   | l. Exterior construction materials                                      |
| d. Vehicular traffic, circulation, parking lots or spaces | m. Screening or buffer zones  |
| e. Hours of operation                                     | n. Outside storage and display of merchandise                           |
| f. Activities and uses permitted                          | o. Refuse and waste storage   |
| g. Landscaping  | p. Lot sizes and dimensions   |
| h. Pedestrian circulation                                 | q. Accessory buildings  |
| i. Signs  | r. Other conditions or restrictions as shown on the site plan           |



## OWNER'S CONSENT FORM

Name of Project: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

### OWNER'S AUTHORIZATION

I hereby give CONSENT to \_\_\_\_\_ (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in is the subject of this application. I acknowledge and agree that, pursuant to §152.046 of the Zebulon Code of Ordinances, so long as the land or structures (or any portion thereof) covered under an approved Special Use Permit continues to be used for the purposes for which the Permit was granted, then no person (including successors or assigns of the person who obtained the Permit) may make use of the land or structures for the purposes authorized in the Permit except in accordance with all the terms and requirements of the Permit. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Zebulon to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

\_\_\_\_\_  
*Signature of Owner*                      *Print Name*                      *Date*

### CERTIFICATION OF PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Zebulon, North Carolina, and will not be returned.

\_\_\_\_\_  
*Signature of Owner*                      *Print Name*                      *Date*

**\*Owner of record as shown by the Wake County Revenue Department ([www.wakegov.com](http://www.wakegov.com)). An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this form.**



## QUASI-JUDICIAL HEARINGS

### Explanation of Quasi-Judicial Hearings

Quasi-judicial decisions arise in a variety of local government settings. In Zebulon, members of the Town's Board of Commissioners and Planning Board jointly hold quasi-judicial hearings for special use permits, as required by state law. Zebulon's Board of Adjustment also holds quasi-judicial hearings for variance requests and appeals of staff decisions. During a quasi-judicial hearing, the Boards must hold an evidentiary hearing based solely on written and oral evidence presented by witnesses testifying under oath and subject to cross-examination. The quasi-judicial hearings do not involve setting new policies, but rather the application of previously adopted policies to the parties involved. Unlike legislative decisions (like rezonings), where the Board's actively seek the public's input and opinion concerning the advisability of the matter before the Boards, state law and constitutional considerations require that a quasi-judicial decision must be based solely on the evidence presented and cannot be based on the Board's or witnesses' unsubstantiated opinions. Put differently, a quasi-judicial decision is one that requires the Board members to find facts and apply the standards set forth in the Town's ordinance to a specific situation.

### Evidence Required

There must be "substantial, competent, and material evidence" in the record to support each factual determination; the findings cannot be based on conjecture or assumptions. North Carolina General Statutes (NCGS) §160A-393 prohibits a person from giving opinions about scientific, technical or other specialized subjects unless the person, by knowledge, skill, experience, training or education, is in fact an expert on the subject. NCGS §160A-393 specially prohibits opinions that "the use of property in a particular way would affect the value of other properties" or opinions that "the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety" unless the witness is an expert on the subject.

### Burden

The applicant will bear the burden of presenting evidence sufficient to enable the Board of Commissioners to make the findings of fact required the Zebulon Code of Ordinances. Those in opposition to the issuance of the special use permit bear the burden of presenting evidence that a required standard will not be met. The findings of fact required by the Zebulon Code of Ordinances are as follows:

1. The proposed special use will not materially endanger the public health, safety or welfare.
2. The proposed special use will not substantially injure the value of adjoining or abutting property.
3. The proposed special use will be in harmony with the area in which it is to be located.
4. The proposed special use will be in general conformity with the ordinances, policies, land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.

### Ex-Parte Communication

In all quasi-judicial hearings, all rulings must be based only upon the evidence in the record. Any direct or indirect communication (verbal, written, electronic or graphic) between a Board member and a proponent, opponent, or other interested party received outside of the record is considered "ex-parte communication". Board members should not receive evidence or argument on a pending quasi-judicial matter outside of the official public hearing on the matter. Note that this is different from a legislative matter before the Board, in which case Board members are free to discuss legislative matters with citizens at any time. It is inappropriate for the Board member to discuss or read correspondence concerning the quasi-judicial matter outside of the public hearing. Please do not approach or attempt to communicate with a Board member about the pending special use permit outside the public hearing; doing so may provide legal grounds for a court to overturn the Board's decision.

### Oaths

Those offering testimony are put under oath. If a witness has religious objections to taking an oath, he or she may affirm rather than swear an oath.



# APPLICATION FOR Special Use Permit

## Questions about Quasi-Judicial Proceedings

If you have any questions about the applicable procedures, contact one of the Town of Zebulon Planning Department representatives listed below:

Name	Title	Phone Number	Email
Mark Hetrick	Planning Director	(919)823-1808	<a href="mailto:mhetrick@townofzebulon.org">mhetrick@townofzebulon.org</a>
Julie Spriggs	Senior Planner	(919)823-1809	<a href="mailto:jspriggs@townofzebulon.org">jspriggs@townofzebulon.org</a>
Mackenzie Day	Planner I	(919)823-1811	<a href="mailto:mday@townofzebulon.org">mday@townofzebulon.org</a>
Davida Moore	Permitting & Code Enforcement Officer	(919)823-1810	<a href="mailto:dmoore@townofzebulon.org">dmoore@townofzebulon.org</a>

