

**UPPER LEACOCK TOWNSHIP BOARD OF SUPERVISORS
APPLICATION FOR CONDITIONAL USE NO. _____**

GENERAL INFORMATION

Name of Applicant(s) _____

Address _____

Telephone No. _____ Application Date _____

Property Location _____

Property Owner of Record (if different than applicant) _____

Property Zoning District _____ Tax Map No./Account No. _____

Requested Use _____

Name, address and telephone number of representative or consultant _____

E-mail address _____

ADDITIONAL REQUIREMENTS - Include 9 complete packets of all information including the following:

- _____ 1. Written report/statement providing all of the information required by Sections 701.2 and 701.3 of the Zoning Ordinance;
- _____ 2. Listing of names and addresses of adjoining property owners, including properties directly across a public right-of-way;
- _____ 3. Ground floor plans and elevations of proposed structures;

_____ 4. A scaled site plan with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of the Zoning Ordinance. Please note that photographs are helpful to the receiver. Show all the following (if applicable):

- * dimensions and number of parking spaces
- * proposed/existing front yard set back from property line with distance shown
- * proposed/existing side yard set back from property line with distance shown
- * proposed/existing rear yard set back from property line with distance shown
- * location and size of building(s)
- * size of area to be used for store use, warehouse use, work space or any other use of
- * applicable facilities that may be helpful in reviewing the conditional use application
- * driveway location, dimensions, and material
- * sign location and dimensions
- * dumpster location and method of screening
- * lighting location(s), type, size, and height
- * lot lines
- * clear sight triangle(s) (see Sections 309 or 310 of the Zoning Ordinance)
- * any other information that would be helpful in the review process; and

_____ 5. 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 property is located (e.g. setbacks, lot area, lot width, lot coverage, height, landscaping and 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.); and
- D. Each of the General Criteria listed in Section 704.2 of the Zoning Ordinance.

_____ 6. Signs: If the applicant anticipates erecting a sign, the sign information must be submitted with the paperwork for this hearing. Signs must be approved by the Township Supervisors at the hearing.

FEES

The hearing fee for a conditional use is \$700. (made payable to Upper Leacock Township) pursuant to Section 702 of the Zoning Ordinance.

* For a copy of our Zoning Ordinance online, please refer to the Upper Leacock Township website at www.ultwp.com

SIGNATURE

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

PLEASE NOTE: If this application is approved, the applicant will have up to six (6) months to secure a building permit which is then valid for two years for completion. Failure to obtain a building permit makes the approval void. If public sewer and/or water is required, then sewer and/or water approvals (and payment of the necessary fees) must be obtained prior to the issuance of the building permit.

The applicant agrees to return any signs provided by the Township to the Upper Leacock Township building on the night of the public hearing.

_____ , _____
Applicant's Signature **Date**

ADMINISTRATION

Date Application Accepted _____ Total Costs _____

Dates Advertised (two successive weeks no more than 30 and no less than 7 days before hearing)

Property Posting (at least one week before hearing) _____

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

Planning Commission Hearing Date & Recommendation _____

_____ **Chairman, Planning Commission** _____ **Date**

Date of Hearing (within 60 days of application) _____

Date of Decision (within 45 days of last hearing) _____

Board of Supervisors Decision

Conditions of Approval _____

Chairman, Supervisors

Vice Chairman, Supervisors

Supervisor

Revised: 1/30/2013

- ii. references to a class of use or uses which require revision;
or
 - iii. references to the entire Ordinance which requires revisions.
- 2) Begin to prepare and consider a curative amendment to the Ordinance to correct the declared invalidity.
- b) Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to validate, or reaffirm the validity of, this Ordinance pursuant to the provisions required by Section 609 of the Act in order to cure the declared invalidity of the Ordinance.
 - c) Upon the date of the declaration and proposal, the Board of Supervisors shall not be required to entertain or consider any curative amendment filed by a landowner. Nor shall the Zoning Hearing Board be required to give a report, upon request, for a challenge to the validity of the Ordinance under Section 604.1., subsequent to the declaration and proposal, based upon the grounds identical to, or substantially similar to, those specified in the resolution required by this section. Upon the enactment of a curative amendment to, or the reaffirmation of the validity of, this Ordinance, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which the Board of Supervisors propose to prepare a curative amendment.
 - d) The Board of Supervisors, having utilized the procedures as set forth in this section, may not again utilize said procedures for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the Ordinance; provided, however, that, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon the Township by virtue of a Pennsylvania Appellate Court decision, the Board of Supervisors may utilize the provisions of this section to prepare a curative amendment to the Ordinance to fulfill this duty or obligation; and,

703.8. Authentication of Official Zoning Map - Whenever there has been a change in the boundary of a Zone, or a reclassification of the Zone adopted in accordance with the above, the change on the Official Zoning Map shall be made, and shall be duly certified by the Township Secretary, and shall thereafter be refiled as part of the permanent records of the Township.

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 building permit application, the conditional use application must show:

- a) Ground floor plans and elevations of proposed structures.
- b) Names and addresses of adjoining property owners, including properties directly across a public right-of-way.
- c) A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this

Ordinance; and,

- d) 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:

- a) The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
- b) The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
- c) The proposed use will not effect a change in the character of the subject property's neighborhood;
- d) 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.);
- e) For development within the Floodplain Zone, that the application complies with those requirements listed in Section 230.5.2. of this Ordinance;
- f) 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,
- g) The proposed use will not substantially 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 building 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; and,

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. As an alternative the Board of Supervisors may appoint any one of its members or an independent attorney to act as a hearing officer. 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 or hearing officer 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 or hearing officer, and any other person, including civic or community organizations permitted to appear by the Board of Supervisors or hearing officer. The Board of Supervisors or hearing officer 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 or hearing officer for that purpose;
5. The Chairman or Acting Chairman of the Board of Supervisors or hearing officer 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 or hearing officer 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 hearing officer; or shall be paid by the person appealing the decision of the Board of Supervisors or hearing officer 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;

9. The Board of Supervisors or hearing officer shall not communicate, directly or indirectly, with any party or his representative 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;
10. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Board of Supervisors. However, the applicant and the municipality, may, prior to the decision of the hearing, waive the decision or findings by the Board of Supervisors and accept the decision or findings of the hearing officer as final. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found;
11. Where the Board of Supervisors or hearing officer fails to render the decision within the period required by this subsection, or fails to commence the required hearing within sixty (60) days from the date of the applicant's request for a hearing, or fails to complete the hearing no later than one hundred (100) days after completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors or hearing officer to meet or render a decision as hereinabove provided, the Board of Supervisors or hearing officer shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the Board of Supervisors or hearing officer shall fail to provide such notice, the applicant may do so; and,
12. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings, shall be delivered to the applicant personally, or mailed to him no later than the day following its date."

(Note: The above 704.5. was amended on May 5, 2002, by Ordinance No. 2002-1.)

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 Section 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 Repealer

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

Section 706 Effective Date

This Zoning Ordinance shall become effective five (5) days after its enactment by the Board of Supervisors of Upper Leacock Township, County of Lancaster, Commonwealth of Pennsylvania.

This Ordinance, ordained and enacted this 20th day of May, 1999.

BOARD OF SUPERVISORS OF UPPER LEACOCK TOWNSHIP

By: Ma [Signature]

Chairman

ATTEST:

Stephen R. Gabriel

Secretary

(SEAL)