

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 330
HOUSE BILL 421

AN ACT TO AMEND THE CHARTER OF THE TOWN OF GARNER
CONCERNING ZONING REGULATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article VI of the Garner Town Charter, as set forth in Section 1 of Chapter 333 of the Session Laws of 1977 is amended by adding three new sections to read:

"Section 6.3. Conditional Use Zoning.

A. In addition to the authority contained in Article 19 of Chapter 160A of the General Statutes, the Town may provide within its land use ordinance for the creation and amendment of conditional use zoning districts in accordance with the provisions of this section and other applicable law. Within a conditional use district, uses shall be permissible only upon the issuance by the Board of Aldermen of a conditional use permit. This differentiates these conditional use districts from general use districts, in which a variety of uses are permissible, some requiring only a site permit from the zoning administrator, some a special use permit issued by the board of adjustment, and some a conditional use permit issued by the board of aldermen.

B. In establishing any conditional use district, the board of aldermen may, in lieu of setting forth all of the regulations applicable to such district, incorporate by reference all of the regulations applicable to any other general use zoning district created by the town's land use ordinance, subject to such exceptions and additions as the board, in the exercise of its legislative discretion, deems appropriate. The ordinance creating the conditional use district may not set forth exceptions that are less stringent than those of the referenced general use district, but may provide (by way of illustration without limitation) that only one or a few of the uses permitted within the referenced general use district shall be permissible within the conditional use district, or that increased setback distances shall apply within the conditional use district.

C. A conditional use zoning district may be applied to particular property only upon the submission by the property owner or a person acting on his behalf of a petition seeking an amendment to the official zoning map to have the zoning classification of his property changed to such conditional use zoning district.

"Section 6.4. Overlay Districts.

A. In addition to the authority conferred in Article 19 of Chapter 160A of the General Statutes, the Town may provide within its land use ordinance for the creation and amendments of overlay zoning districts in accordance with the provisions of this section and the applicable law. These overlay districts may be applied to certain

designated areas within which development should be made subject to certain restrictions over and above those applicable to the underlying General Use Districts.

B. Overlay Districts may be established in designated areas where critical concern is recognized for protection of natural systems (such as the groundwater, surfacewater, drainageways, flood hazard areas, areas of poor soils, etc.), and for promotion of quality in man-made systems (such as preserving or improving scenic views along major thoroughfares, etc.), or for achieving other public objectives (such as infill development or other forms of revitalization) in specially designated areas.

C. Within these Overlay Districts, any development that occurs must be in compliance not only with the regulations applicable to the underlying General Use Districts but also with the additional requirements of the overlay districts. In instances of conflict, the Overlay District regulations shall take precedence.

"Section 6.5. Aesthetics Standards for Special Planning Districts.

A. The Board of Aldermen may, under authority of Section 6.4 of this charter or other provisions of law, establish an overlay district applicable to designated special planning districts within the town's planning jurisdiction. Within these districts, the town may adopt regulations providing for special setback lines, buffer areas, screening, and landscaping and other matters affecting aesthetics in these districts. The Board may provide that not only shall these regulations apply to new developments but that developments in existence on the effective date of such regulations shall comply with them within a reasonable period of not less than three years as established in the ordinance.

B. Nothing in this section shall be interpreted to diminish in any way any authority otherwise available to the Town, including without limitation the authority to require the termination of nonconforming uses or situations after a reasonable amortization period."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1985.