

CHAPTER 6: ENVIRONMENTAL PROTECTION & OPEN SPACE

- L. All records pertaining to the provisions of this section shall be maintained in the office of the Building Official and shall be available for public inspection.

6.5.12 Permit Procedures

- A. A development permit, issued by the Building Official, is required prior to commencement of any development activity. Permit applications shall be in a form prescribed by the Building Official. Such forms may require applicants to provide:
 - 1. Plans, in duplicate, drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; and
 - 2. Existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.
- B. Specifically, the following information shall be required:
 - 1. The elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
 - 2. The elevation in relation to mean sea level to which any nonresidential building will be floodproofed; and
 - 3. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

6.5.13 Variance Procedures, Requirements and Appeals

- A. The Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Section.
- B. The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Official in the enforcement or administration of this Section.
- C. Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the court of common pleas.
- D. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this section.
- E. In passing upon such applications, the Board of Zoning Appeals shall consider the following:
 - 1. All technical evaluations;
 - 2. All relevant factors;
 - 3. All standards specified in other sections of the Section;
 - 4. The danger that materials may be swept onto other lands to the injury of others;
 - 5. The danger to life and property due to flooding or erosion damage;
 - 6. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 7. The importance of the services provided by the proposed facility to the community;
 - 8. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

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9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The compatibility of the proposed use with existing and anticipated development;
11. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
12. The safety of access to the property in times of flood for ordinary and emergency vehicles;
13. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
14. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems and streets and bridges.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level; providing subsections 1 through 14 of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- F. Upon consideration of the factors listed subsection (e) of this section, and the purposes of this Section, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
- G. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result therefrom.
- H. Conditions for variances:
 1. Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 2. Variances shall be issued only upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that the failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lower floor elevation than the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 4. The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

CHAPTER 10: ADMINISTRATION

10.3.3 Powers and Duties

The Board of Zoning Appeals shall function in strict accordance with and pursuant to this Ordinance and shall have the following powers:

- A. **Appeals.** To hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.
1. Appeals to the Board may be taken by any person aggrieved or by any officer, department, Board, or bureau of the City or County.
 2. The appeal must be taken within 30 days of the date the appealing party has received actual notice of the action from which the appeal is taken by filing with the officer from whom the appeal is taken and with the Board of appeals notice of appeal specifying the grounds of it.
 3. The officer from whom the appeal is taken immediately shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
 4. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- B. **Variances.** To hear and decide requests for variance from the requirements of this Ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. Variances shall be approved in accordance with the procedures set forth in Section 11.3.
1. The Board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance. Other requirements are prescribed by this zoning ordinance.
 2. The City by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit such a variance, it may require the affirmative vote of two-thirds of the Board members present and voting. Notwithstanding any other provision of this section, the City may overrule the decision of the Board concerning a use variance.
 3. In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.
 4. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

- b. These conditions do not generally apply to other property in the vicinity;
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

C. **Special Exceptions.** To permit uses by special exception subject to the terms and conditions for the uses set forth in the Permitted Uses Table in Section 2.4 as Special Exceptions. Special Exceptions shall be approved in accordance with the procedures set forth in Section 11.3.

10.3.5 Contempt and Penalty

In case of contempt by a party, witness, or other person before the Board of Zoning Appeals, the Board may certify this fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

10.3.6 Appeal from the Board of Zoning Appeals

- A. A person who may have a substantial interest in any decision of the Board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the Board to the circuit court in and for the County by filing with the Clerk of the Court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the decision of the Board is mailed.
- B. Upon the filing of the appeal, the clerk of the circuit court shall give immediate notice of it to the secretary of the Board and within 30 days from the time of the notice the Board shall file with the clerk a certified copy of the proceedings held before the Board of appeals, including a transcript of the evidence heard before it, if any, and the decision of the Board including its findings of fact and conclusions.
- C. The filing of an appeal in the circuit court from a decision of the Board shall not ipso facto act as a supersedeas, but the judge of the circuit court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.
- D. At the next term of the circuit court or in chambers, upon 10 days' notice to the parties, the presiding judge of the circuit court of the county shall proceed to hear and pass upon the appeal on the certified record of the Board proceedings. The findings of fact by the Board of Zoning Appeals shall be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the Board of Zoning Appeals for rehearing. In determining the questions presented by the appeal, the court shall determine only whether the decision of the Board is correct as a matter of law.

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Section 11.3 Variances/Special Exceptions

11.3.1 General Provisions

- A. Variances are reviewed by the Board of Zoning Appeals for a determination of hardship. Special exceptions are reviewed by the Board of Zoning Appeals for a determination of conformance. Approval by the Board of Zoning Appeals must be granted before a Certificate of Zoning Compliance may be issued by the Administrator.
- B. The Administrator or Board of Zoning Appeals has the right to delay review of any application that is not considered complete.
- C. The Administrator may waive the requirements for Sketch Plan and Site Plan if no changes or improvements are being proposed or are required for approval.

11.3.2 Application Procedures & Approval Process

- A. Applications for Variances/Special Exceptions will be accepted only from persons having the legal authority to take action in accordance with the permit. By way of illustration, in general this means that applications should be made by the owners of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees). The Administrator may require an applicant to submit evidence of his/her authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.
- B. All applications for Variances/Special Exceptions must be complete before the Administrator is required to consider the application. An application is complete when it contains all the information necessary to determine whether or not the use or development, if completed as proposed, will comply with all of the requirements of this Ordinance.
- C. A completed application form for a Variance/Special Exception shall be submitted by filing a copy of the application with the Administrator. A fee, set by the City Council, shall be charged for the processing of such application.
- D. Variances/Special Exceptions shall be reviewed and approved by the Board of Zoning Appeals as follows:

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- B. Notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property, at least 10 days prior to the public hearing.

Step 5. Board of Zoning Appeals Public Hearing & Consideration

- A. Before making a decision on an application, the Board of Zoning Appeals shall hold a quasi-judicial public hearing in accordance with the Board's Rules of Procedure.
- B. The Board of Zoning Appeals shall approve, approve with conditions, or deny the request following the public hearing. In granting a Variance, the Board of Zoning Appeals shall make written findings as set forth in Section 10.3.3. In granting a Special Exception, the Board of Zoning Appeals shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and state of all adjacent structures and uses, the districts within which they are located, and official plans for future development, the Board of Zoning Appeals shall also make written findings that the following provisions are fulfilled:
 - 1. If completed as proposed, the development will comply with all of the requirements of this Ordinance;
 - 2. The use will not materially endanger the public health or safety; and
 - 3. The use will not substantially injure the value of adjoining or abutting property; and
 - 4. The use will be in harmony with the area in which it is to be located; and
 - 5. The use will be in general conformity with the Comprehensive Plan or other officially adopted plan.
- C. Additionally, the Board of Zoning Appeals shall consider the following topics when evaluating a Special Exception. Any additional issues or more specific issues to be considered are identified within each zoning district's description.
 - 1. Hours of operation
 - 2. Setbacks
 - 3. Buffers, including vegetation, walls, distance, or a combination
 - 4. Parking
 - 5. Number of participants
 - 6. Traffic generation
 - 7. Location of this use to other uses
 - 8. Location of this use to similar uses
 - 9. Landscaping
 - 10. Noise generation
 - 11. Light trespass
 - 12. Owner-occupant v. off-site landlord
 - 13. Total size of operation
 - 14. Lot area
 - 15. Architecture
 - 16. Accessory uses, intended and allowed
 - 17. Structure height
 - 18. Term of use
 - 19. Neighborhood compatibility

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20. Other site and adjacent activity factors.

- D. The applicant has the burden of producing competent, material, and substantial evidence to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions, the burden-of-proof for overcoming such evidence shall rest with the applicant.
- E. The Administrator shall notify the applicant or his/her authorized agent in writing of the decision of the Board of Zoning Appeals within five (5) working days of the decision.

Step 6. Administrator Issues Certificate of Zoning Compliance

Following approval of a Variance/Special Exception, the Administrator shall issue the Certificate of Zoning Compliance. All additional conditions or requirements shall be entered on the Certificate of Zoning Compliance. All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Ordinance.

CHAPTER 12: DEVELOPMENT PLAN REQUIREMENTS

- C. Tract boundary and total acreage
- D. Proposed lot layout and size of lots
- E. Proposed street layout and approximate right-of-way widths
- F. Location of nearest existing and proposed water and sewer lines
- G. Sketch of any proposed drainage facilities
- H. Statements regarding how property will be served with water and sewer
- I. Zoning of subject and adjacent property
- J. Location in proximity to any Special Flood Hazard Areas
- K. Existing Features Plan (if applicable)

Section 12.4 Site Plans

The requirements for this Section apply to all site plans including those for Certificates of Zoning Compliance (excluding single-family and two-family residences), Variances/Special Exceptions (if applicable), and Certificates of Appropriateness (if applicable).

12.4.1 Site Plan Submittal Requirements

- A. Two (2) full-size copies for review and revisions
- B. Digital copy in PDF format (if Administrator deems necessary)

12.4.2 Plan Labeling

All site plans shall include the following:

- A. Title
- B. Original submittal date
- C. Revision dates
- D. Vicinity map
- E. North arrow
- F. Scale {no smaller than one inch equals 100 feet (1"=100')}
- G. Lot lines with bearings and distances
- H. Zoning district and applicable overlay districts
- I. Adjacent property owner names, parcel numbers, and zoning
- J. Total acreage
- K. Acreage in right-of-way
- L. Density per acre (for residential uses)
- M. Building setbacks in table format and building envelopes show on lots
- N. Locations of existing structures

12.4.3 Plans and Details

- A. Site Plan
- B. Existing Features Plan as set forth in Section 12.2 (if applicable)
- C. Grading & Sediment Control Plan (if applicable)
- D. Approved OCRM Permit from SCDHEC (if applicable)
- E. Landscaping Plan
- F. Utility Plan
- G. Lighting Plan
- H. Building Elevations in accordance with Section 12.5