

SECTION FIFTEEN

BOARD OF APPEALS

15-00

15-01 POWERS AND DUTIES

The Board of Appeals shall have the following powers and duties including the appropriate conditions and safeguards in connection with any of its powers and duties all of which shall be exercised in harmony with the purpose and intent of these Regulations and in accordance with the public interest and the development of the neighborhood.

15-02 RULES

To adopt such rules and regulations as may be deemed necessary to carry out the provisions of this section.

15-03 APPEALS

To hear and decide appeals where it is alleged that there is an error in any order or decision made by the Zoning Enforcement Officer.

15-04 VARIANCES

To vary the strict application of any of the requirements of these Regulations in the case of an exceptionally irregular, narrow, shallow, or steep lot or other exceptional physical conditions as a result of which strict application would result in exceptional difficulty or unusual hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of any provisions of these Regulations shall be granted by the Board of Appeals unless it finds:

15-04.1 That there are special circumstances or conditions fully described in the findings of the Board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act subsequent to the adoption of these regulations, whether in violation of the provisions hereof or not; and

15-04.2 That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of these Regulations would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the Board is the minimum variance that will accomplish this purpose; and

15-04.3 That the granting of the variance will be in harmony with the purposes and intent of these Regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

15-05 SPECIAL EXCEPTIONS

To hear and decide requests for Special Exceptions where required by the specific terms of these Regulations. Each specific Special Exception for which a permit is sought shall be considered as an individual case and shall, in addition to other standards prescribed in these Regulations, conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such use:

15-05.1 The nature, location, size, intensity and site layout of the use shall be such that it will be in harmony with the appropriate and orderly development of the area in which it is situated and that its operations will not be detrimental by reasons of dust, noise, odor, fumes, explosion, glare or otherwise.

15-05.2 The nature and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its site layout, and its relations to streets giving access to it shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the predominant character of the neighborhood, or conflict with the normal traffic of the neighborhood, taking into consideration, among other things, convenient routes of pedestrian traffic, particularly street intersections, vehicular turning movements in relation to routes and volumes of traffic flow, sight distances, and adequacy of parking facilities.

15-05.3 The location and height of buildings, the location, nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

15-06 PUBLIC HEARING

The Board of Appeals shall hold a public hearing on all applications and appeals. The procedure for public hearing and action shall be as specified by State Statutes.

15-07 APPLICATIONS

All appeals and applications made to the Board of Appeals shall be in writing on forms prescribed by the Board, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the regulation involved, and shall exactly set forth as the case may be, the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.

15-08 FEE

All applications and appeals shall be accompanied by the fee as posted in the Planning and Zoning Department to cover the cost of advertising and processing. The Board of Appeals is authorized to waive fees for non-profit agencies.¹

15-09 BONDS

The Board of Appeals, authorizing any use, may require as a precondition to its approval, the filing of a bond in a form satisfactory to the Town Attorney and in an amount established by the Board as sufficient to guarantee completion of those items specified by the Board in conformity with the provisions of these Regulations or any amendments thereto in force at the time of filing. The bond shall be in the form of a² certified check payable to the Town or a line of credit subject to the approval of the Town Attorney. Such bond shall not be released by the Board until it is satisfied that all of the requirements of these Regulations and all stipulations established as part of the approval have been fully complied with.³

15-10 RECORDS

The Zoning Enforcement Officer shall receive all applications, keep all records of the Board, and shall furnish copies of records, upon request, to any person having a proprietary or tenancy interest in the building or lot affected.

15-11 POSTING OF SIGNS

The applicants shall post a notification sign, to be furnished by the Zoning Enforcement Officer, at least ten (10) days prior to the hearing. Failure to post such sign shall be grounds for denial of the application. All such signs shall be clearly legible from the street.

¹ revised, effective 5/8/07

² revised, ZA #522 effective 3/20/10

³ revised, effective 5/8/07