

7.23 SPECIAL EXCEPTIONS

- (1) **General.** A special exception is a use or structure that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare. Such uses or structures may be permissible in a zoning district as a special exception only if specific provision for such use or structure is made in the district. A special exception shall not be issued for any other use or structure.
- (2) **Procedure.** All applications for a special exception shall be submitted to the Administrator. A site plan is required for all applications for a special exception and it shall be submitted coincident with the application. The application may also be accompanied by any other material or information necessary to demonstrate that the grant of a special exception will be in harmony with the general intent and purpose of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public interest. The Administrator shall refer all applications and accompanying materials to the Planning Commission.
- (3) **Public Hearing.** Upon the filing of an application for a special exception, the Planning Commission shall fix a reasonable time (not more than 45 days from the filing date) for a public hearing. A Class 2 notice pursuant to chapter 985 Stats., shall be published specifying the date, time and place of hearing and the matters to come before the Planning Commission. Notice shall be mailed to all property owners within a minimum of 300 feet.
- (4) **Conditions and Safeguards.**
 - (a) **Standards for granting Special Exceptions.** Special exceptions may be recommended by the Planning Commission, and approved by the Town Board, when all of the following conditions prevail:

- (1) The establishment, maintenance, or operation of the special exception will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare of the community.
- (2) The special exception will not be injurious to the uses of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located.
- (3) The proposed use will not create a look of clutter, garishness, glare or creates an obnoxious noise level, or would generate any other incompatibility with surrounding neighborhood.
- (4) The impact of the use is furthering the purposes of this chapter or the purposes of the zoning district in which the use is proposed or the adopted comprehensive plan of the Town.
- (5) The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property.
- (6) Adequate facilities, access roads, drainage and/or necessary services will be provided.
- (7) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (8) If the special exception involves a public use or a use providing public utility service, that such use or service shall meet a demonstrable public need and provide a public benefit.
- (9) Lot area, lot width and setbacks meet or exceed minimum requirements and are adequate for the

proposed use. When there is an existing nonconforming structure, this provision may be waived by the Town Board.

- (10) Generally, a buffer shall exist as determined by the Planning Commission between the structure or land use to be occupied by the special exception and any adjoining property line.

(b) Conditions, guarantees and validity period.

- (1) Prior to the granting of any special exception, the Planning Commission may recommend and the Town Board may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards specified in paragraph 5(a). In all cases in which special exceptions are subject to conditions, the Planning Commission may recommend and the Town Board may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).
- (2) A special exception shall expire if the use is discontinued for a period of eight (8) months. If a building permit is required, and has not been obtained within twelve (12) months of the issuance of the special exception permit, the applicant must request in writing and the Planning Commission may approve an extension if it finds there is no significant change to warrant a new special use permit application.
- (3) A special exception shall become effective upon approval by the Town Board. A record of the special exception shall be kept in the Town Clerk's files.
- (4) Failure to comply with all provisions or conditions placed on a special use permit shall be deemed a violation of the zoning code and enforceable under 7.28 of this ordinance.

(5) A minor change to a special exception shall be requested by the applicant in writing to be reviewed and voted on by the Planning Commission. If it is determined the modification is a major change, the applicant shall be required to file a new special use permit application.

(5) **Records and Decisions.** The Planning Commission shall keep a record of its proceedings under this section, all of which shall be filed immediately as public records. All decisions under this section shall be taken by resolution in which a majority of the Town Board members must concur. Every final decision under this section shall be in writing accompanied by findings of fact based on the record.

(6) **Appeals from the Town Board Decisions.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department or board of the municipality affected by a decision of the Town Board pursuant to Section 7.29 (4).