
Section 15-54. Special use permits.

- (a) An application for a special use permit shall be submitted to the board of adjustment by filing a copy of the application with the zoning administrator in the Department of Development Services.
- (b) The board of adjustment shall conduct a public hearing on this application. The hearing shall be conducted according to the provisions of article VI and this section.
- (c) The burden of presenting a complete application to the board of adjustment shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.
- (d) Subject to subsection (e), the board of adjustment shall issue the special use permit upon finding that:
 - (1) The requested permit is within its jurisdiction according to the table of permissible uses;
 - (2) The application is complete;
 - (3) If completed as proposed in the application, the development will comply with all of the requirements of this ordinance;
 - (4) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted;
 - (5) The use will not substantially reduce the value of adjoining or abutting property, or that the use is a public necessity; and
 - (6) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the city.
- (e) The burden of presenting evidence under each part of subsection (d) rests upon the applicant. The board shall consider each part of subsection (d) separately, and for each part shall:
 - (1) Determine whether the applicant has submitted competent, material, and substantial evidence showing that the requirements of that part have been met;
 - (2) Determine whether competent, material, and substantial evidence has been submitted at the hearing showing that the requirements of that part have not been met;
 - (3) Make a finding as to whether or not the requirements of the part have been met. In making this finding, the board shall find that the requirements have been met if the applicant produces evidence in support of his position and there is no competent, material, and substantial evidence showing that the requirements have not been met. If the board finds that the requirements have not been met, the board shall state specifically upon which facts it has relied in making that decision.

(Ord. No. 16-054, § 2, 10-11-16)

Section 15-55. Recommendations on special use permits.

- (a) When presented to the board of adjustment at the hearing, the application for a special use permit shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with section 15-49 (Application to be complete) and the other requirements of this ordinance, as well as any staff recommendations for additional requirements to be imposed by the board of adjustment.

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- (b) If the staff proposes a finding or conclusion that the application fails to comply with section 15-49 or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

Section 15-58. Additional requirements on special use permits.

- (a) Subject to subsection (b), in granting a special use permit, the board of adjustment may attach to the permit such reasonable requirements in addition to those specified in this ordinance as will ensure that the development in its proposed location:
- (1) Will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 - (2) Will not substantially reduce the value of adjoining or abutting property;
 - (3) Will be in harmony with the area in which it is located; and
 - (4) Will be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the board of aldermen.
- (b) The board of adjustment may attach additional conditions if the development in question presents circumstances that justify the variation from the specified requirements.
- (c) Without limiting the foregoing, the board of adjustment may attach to a permit a condition limiting the permit to a specified duration.
- (d) All additional conditions or requirements shall be entered on the permit.
- (e) 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.
- (f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in this article.

(Ord. No. 16-047, § 23, 9-13-16)

Ord. No. 16-047, § 23, adopted September 13, 2016 repealed and replaced § 15-58 in its entirety. Former § 15-58 pertained to "Additional requirements on special use and conditional use permits," and was derived from Original Code.