



## **PROCEDURES FOR FILING A SPECIAL EXCEPTION**

Certain development proposals and uses of land require the approval of a “special exception” from the Nashua Zoning Board of Adjustment (ZBA). Uses and activities of land requiring a special exception are neither permitted by right or prohibited, but rather are permitted conditionally; that is, permitted only if the ZBA find that certain conditions of law can be fulfilled.

For many, appearing before the ZBA represents a new experience. The purpose of this handout is to provide information necessary for proceeding with this process. It is recommended that you carefully read the following instructions and contact the Planning Department (603-589-3090) should you have any questions or desire additional information.

### **1. HOW TO COMPLETE THE ZBA APPLICATION**

- a. Obtain a ZBA application form. Forms are available at the City of Nashua Planning Department, City Hall, 229 Main Street, Second Floor, Nashua, New Hampshire. It is also available at [www.nashuanh.gov](http://www.nashuanh.gov). Complete the application, including all necessary signatures. Lessees and/or optionees must secure the owner’s written authorization as provided on the application form.
- b. All applications must be submitted with a plot plan denoting the location of property lines, all existing and proposed buildings/structures in relation to the property lines, paved or parking surfaces, and appropriate measurements. Plot plans do not need to be completed by a professional engineer or surveyor; however, such plans must be drawn to scale and accurately reflect existing and proposed conditions. It is recommended that plot plans be drawn on an 8½” x 11” sheet of grid paper. (See example of plot plan attached.)
- c. Applications must be submitted with appropriate application fees payable to the City of Nashua, in order to defray costs associated with legal notification, advertising, and administrative expenses. The application fees vary depending on the type and number of requests being sought. Refer to #4 below for determining appropriate application fees.
- d. Submit a completed application, plot plan, and applicable application fee to the Planning Department.
- e. Upon receipt of a complete application, your request will be scheduled for a public hearing. Refer to the attached schedule of hearing dates and corresponding deadline dates for submitted applications.
- f. The Planning Department will notify applicants by certified mail approximately ten (10) days prior to the hearing confirming the time and location of the meeting. As a general rule, hearings are held at 6:30 p.m. in the third floor auditorium in City Hall. It is important, however, to refer to your notification letter in the event of a change in time or location.

### **2. THE PUBLIC HEARING**

- a. Attendance at the ZBA public hearing is mandatory by either yourself or your representative. When your case is called, approach the podium, give your name and address for the record, and proceed to explain the nature of your request. When considering an application, the ZBA can weigh only the following conditions of law relative to a special exception. Therefore, it is important that you explain how each condition applies to your case. NOTE: Additional conditions of law must be met for special exception requests involving “Major Home Occupations”, Accessory Dwelling Units, and Development Impacting Wetlands and/or Wetland Buffer Areas.” A list of these additional conditions of law may be obtained by contacting the Planning Department.
  1. **USE LISTED IN TABLE OF USES.** The requested use or activity is listed in the City of Nashua Zoning Ordinance, Table 15-1 Use Matrix as a special exception in the zoning district for which the application is being made.
  2. **TRAFFIC.** The requested use/activity will not create undue traffic congestion, or unduly impair pedestrian safety.
  3. **PUBLIC UTILITIES.** The requested use/activity will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use/activity or any developed

use in the immediate area or in any other areas of the City will be unduly subjected to hazards affecting health, safety, or the general welfare.

4. **SPECIAL REGULATIONS.** Any Special Exception regulations for the use/activity set forth in other sections of the Zoning Ordinance are fulfilled.
  5. **CHARACTER OF NEIGHBORHOOD.** The requested use/activity will not impair the integrity or be out of character with the district or immediate neighborhood, not be detrimental to the health, morals, or welfare of the residents of the City.
- b. Members of the public may speak either in support or opposition to a special exception appeal once the petitioner has addressed the conditions of law. Both parties may offer rebuttal to previous testimony prior to concluding the case. The deliberation and decision of each case occurs after the case has been presented.

### 3. **ADDITIONAL PROCEDURES – REQUEST FOR REHEARING**

- a. If you are aggrieved by a ZBA decision, you may file a Request for Rehearing within thirty (30) calendar days following the decision. It is recommended that the Request for Rehearing be hand delivered to the Office of Zoning. A Request for Rehearing, presented in letter format and addressed to the ZBA, should outline the basis for the rehearing request. The ZBA is empowered to grant a rehearing if it is found a procedural error has occurred or if the Request for Rehearing contains new evidence not presented during the initial hearing.
- b. If a rehearing is granted, you must submit a new application to the ZBA to schedule a new hearing. A Request for Rehearing that is denied may be appealed to the New Hampshire Superior Court within thirty days from the date of decision.

### 4. **FEES (See Article XLIII, C. (1) and (2) for more information)**

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| <b>a. Basic fee for all petitions except as otherwise noted</b>                              | <b>\$330.00</b> |
| b. Basic fee for special exception petitions involving the following:                        |                 |
| 1. Filling of floodplains  | \$440.00        |
| 2. Filling of wetlands   | \$440.00        |
| 3. Planned business developments   | \$440.00        |
| 4. Planned industrial developments   | \$440.00        |
| 5. Processing/removal of raw material  | \$440.00        |
| c. Basic fee for use variance  | \$900.00        |
| d. Applications with more than one request   | \$200.00        |
| e. The abutter notification fee shall be \$3.00 per abutter, plus any necessary postal fees. |                 |

Notification fees do not apply to existing residential structures on lots containing three residential units or less. The time and date of the hearing shall not be set, nor shall notices be sent out, unless and until all the supporting documents, including all permits, plans, approvals and other documents required for the application have been filed with the administrative officer. Additionally, any postponement caused by the applicant, unless the direct result of Zoning Board action shall necessitate the payment of a processing fee of \$100.00.

- f. The applicant shall pay \$15.00 for each required on-site notification sign. A recovery fee of \$100.00 shall be paid by the applicant for each sign remaining on-site in excess of seven days of the public hearing.