Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

73-00 - SPECIAL PERMIT USES AND MODIFICATIONS

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73-00 - SPECIAL PERMIT USES AND MODIFICATIONS

LAST AMENDED
12/19/2017

73-01 - General Provisions

LAST AMENDED
4/22/2009

In harmony with the general purpose and intent of this Resolution and in accordance with the provisions set forth in this Chapter, the Board of Standards and Appeals may, in an appropriate case:

(a) grant special permits for specified #uses# in specific districts (referred to hereinafter as special permit #uses#);

(b) permit specified modifications of the #use# or #bulk# regulations of this Resolution;

(c) permit the renewal of revoked building permits as provided in Sections 11-31 to 11-33, inclusive, relating to Building Permits Issued before Effective Date of Amendment; or

(d) permit the renewal of a variance, exception, or permit issued by the Board prior to December 15, 1961, in accordance with the provisions of Section 11-41 relating to Exceptions, Variances, or Permits Previously Authorized;

provided that, in each specific case, the requirement for findings as set forth in this Chapter (or in the Sections referred to in paragraph (c) or (d) of this Section) shall constitute a condition precedent to the grant of such special permit, modification, or renewal.

In addition to meeting the requirements, conditions, and safeguards prescribed by the Board as set forth in this Chapter, each such special permit #use# shall conform to and comply with all of the applicable district regulations on #use#, #bulk#, supplementary #use# regulations, regulations applying along district boundaries, #accessory# #signs#, #accessory# off-street parking and off-street loading, and all other applicable provisions of this Resolution, except as otherwise specifically provided in this Chapter or as they may be modified in accordance with paragraph (b) of this Section. In the case of required #accessory# off-street parking, such #use# shall satisfy the requirements specified for such #uses# in Sections 25-31, 36-21 or 44-21 (General Provisions) except that, where no parking requirement is specified therein, such #use# shall satisfy the requirements set forth in this Chapter.

In the #waterfront area#, the powers of the Board to grant special permits are made inapplicable or modified in accordance with the provisions of Section 62-131 (Applicability of Article VII, Chapter 3).

73-02 - Further Requirements

LAST AMENDED
12/15/1961

It shall be a further requirement that the decision or determination of the Board of Standards and Appeals shall set forth each required finding in each specific grant of a special permit #use#, modification or renewal and, in each denial thereof, which of the required findings have not been satisfied. In any such case, each finding shall be supported by substantial evidence or other data considered by the Board in reaching its decision, including the personal knowledge of or inspection by the members of the Board.

73-03 - General Findings Required for All Special Permit Uses and Modifications

LAST AMENDED
6/6/2024

The Board of Standards and Appeals shall have the power, as authorized by Section 73-01, paragraph (a) or (b), and subject to such appropriate conditions and safeguards as the Board shall prescribe, to grant special permit #uses# or modifications of #use#, parking, or #bulk# regulations as specifically provided in this Chapter, provided in each case:

(a) The Board shall make all of the findings required in the applicable sections of this Chapter with respect to each such special permit #use# or modification of #use#, parking or #bulk# regulations and shall find that, under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit #use# or modification of #use#, parking or #bulk# regulations at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit. In each case the Board shall determine that the adverse effect, if any, on the privacy, quiet, light and air in the neighborhood of such special permit #use# or modification of #use#, parking or #bulk# regulations will be minimized by appropriate conditions governing location of the site, design and method of operation.

(b) In all cases the Board shall deny a special permit whenever such proposed special permit #use# or modification of #use#, parking or #bulk# regulations will interfere with any public improvement project (including housing, highways, public #buildings# or facilities, redevelopment or renewal projects, or right-of-way for sewers, transit or other public facilities) which is approved by or pending before the Board of Estimate, Site Selection Board or the City Planning Commission as determined from the calendars of each such agency issued prior to the date of the public hearings before the Board of Standards and Appeals.

(c) When under the applicable findings the Board is required to determine whether the special permit #use# or modification of #use#, parking or #bulk# regulations is appropriately located in relation to the #street# system, the Board shall in its discretion make such determination on the basis of the Master Plan of Arterial Highways and Major Streets on the official City Map. Whenever the Board is required to make a finding on the location of a proposed special permit #use# or modification of #use#, parking or #bulk# regulations in relation to secondary or local #streets# and such classification of #streets# is not shown on the Master Plan, the Board in its discretion shall request the City Planning Commission to establish a report on the appropriate classification of such #street#.

(d) For applications relating to Sections 73-311 (Drive-through facilities), 73-46 (Exceptions to Maximum Size of Accessory Group Parking Facilities) and 73-47 (Roof Parking), the Board in its discretion shall request from the Department of Transportation a report with respect to the anticipated traffic congestion resulting from such special permit #use# or modification of #use#, parking or #bulk# regulations in the proposed location. If such a report is requested, the Board shall in its decision or determination give due consideration to such report and further shall have the power to substantiate the appropriate finding solely on the basis of the report of the Department of Transportation with respect to the issue referred.

(e) The following shall apply regarding terms of years for special permits:

(1) For special permit #uses# issued by the Board of Standards and Appeals prior to June 6, 2024, such permit may continue pursuant to the terms established at the time such permit was granted, as applicable.

For special permit #uses# granted after June 6, 2024, except for #uses# in Use Groups III or IV, the Board may issue permits not to exceed 10 years. For a #use# where a special permit has previously been granted, the term may exceed 10 years at the discretion of

the Board.

(2) For other special permits, if a term of years is specified in the applicable section, the Board shall establish a term of years not to exceed such maximum. For those special permit #involving a modification of #use#, parking or #bulk# regulations for which a maximum term has not been specified, the Board may fix an appropriate term for any such special permit.

(f) Any violation of the terms of a special permit may be grounds for its revocation.

(g) On application for renewal of any such special permit authorized in this Chapter, the Board shall determine whether the circumstances warranting the original grant still obtain. In addition, the Board shall ascertain whether the applicant has complied with the conditions and safeguards theretofore described by the Board during the prior term. In the event that the Board shall find the applicant has been in substantial violation thereof, it shall deny the application for renewal.

(h) The Board may permit the #enlargement# or #extension# of any existing #use#, which, if new, would be permitted by special permit in the specified districts under the provisions of Section 73-01 and other applicable provisions of this Chapter, provided that before granting any such permit for #enlargement# or #extension# within the permitted districts, the Board shall make all of the required findings applicable to the special permit #use#, except that:

(1) in the case of colleges or universities in R1 or R2 Districts, the Board may waive all such required findings set forth in Section 73-132 (Colleges or universities); and

(2) in the case of public utility #uses#, the Board may waive all such required findings set forth in Sections 73-14 (Public Service Facilities and Infrastructure), inclusive.

No such #enlargement# or #extension# shall create a new #non-compliance# or increase the existing degree of #non-compliance# with the applicable #bulk# regulations, except as may be permitted in

accordance with the provisions of Sections 73-62 to 73-68, inclusive, relating to Modification of Bulk Regulations.

73-04 - Conditions and Safeguards

LAST AMENDED
6/6/2024

The Board of Standards and Appeals may prescribe such conditions and safeguards to the grant of special permit (uses) as it may deem necessary in the specific case, in order to minimize the adverse effects of such special permit upon other property and the community at large. Such conditions and safeguards may include, but shall not be limited to, environmental considerations, traffic and parking mitigations, landscaping and buffering measures, hours of operation limitations, safety measures, or programs for continuing maintenance. Such conditions and safeguards shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this Resolution, and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.