What are special use permits?

Special use permits are for land uses that are allowed in a particular zoning district, but only if certain specified findings or conditions per the Wake Forest Zoning Ordinance are met. The decision making process for special use permits is “quasi-judicial” in nature and is subject to demanding procedural rules, including the requirement of a formal evidentiary public hearing.

Where does the special use permit process begin?

A landowner or developer submits a special use permit application to the Wake Forest Planning Department. Once a meeting date is assigned (usually the first Tuesday of the month), public hearing notices are published in the local newspaper two weeks prior to the meeting, the property is posted with a public hearing notice sign and informational letters about the proposal are mailed to property owners within 100 feet of the subject property.

Who conducts the hearing for a special use permit?

Requests for special use permits are heard at a joint public hearing of the Wake Forest Board of Commissioners and the Wake Forest Planning Board. The hearing is conducted by the town attorney.

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A Citizen’s Guide to the

Special Use Permit Process

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Who can speak at the public hearing for a special use permit?

Typically, only those parties whose legal rights are directly affected are entitled to participate. The person who initiates the application for a special use permit is considered a “party” to the proceedings whose legal rights are directly affected. A person who is directly affected by the decision (such as a neighbor whose property value may be affected) may also participate in the hearing and can be considered a “party” as well. Those offering testimony are placed under oath. This should remind those speaking of the seriousness of the matter and the necessity of presenting factual information, not opinions or speculation. The oath is administered by the town attorney.

What can be said or presented in favor or against a special use permit?

When addressing the boards during a special use permit hearing, speakers must present sufficient evidence related to the findings as outlined in the Wake Forest Zoning Ordinance. All evidence submitted to the boards must be “substantial, competent, and material” to support the conditions required to approve a special use permit. If someone makes a statement used as evidence to establish a fact, the person making the statement must be present at the hearing to testify. As such, letters, emails, or similar information may not be submitted into the record as evidence unless the authors are present at the meeting. Petitions against or in favor of an application are not considered evidence and are not permitted to be submitted into the record.

How long can I speak at the public hearing?

In Wake Forest, the time limit is typically five minutes per speaker. There is no limit on the number of speakers, but the boards may request that all speakers present new information rather than repeat information given by others.

What’s the difference between sufficient evidence and opinion evidence?

Only sufficient evidence can be submitted at special use permit hearings. Sufficient evidence is information that is verifiable and from a source that can be considered an expert. For example, evidence presented to support the finding that neighboring property values will not be “substantially injured” must come from a qualified real estate agent or appraiser about the impacts of a similar project elsewhere in town or presentation of facts that would allow a reasonable person to conclude property values would be reduced.

Opinion evidence (unless offered by a properly qualified expert witness) is generally not allowed and cannot be the basis for critical findings. For example, an opinion not backed by fact, or from a qualified source, that a proposal will substantially injure property values does not rise to the level of sufficient evidence and cannot be considered when making decisions.

What can I expect to happen during the public hearing?

Once the public hearing is opened, town staff will review their report of the proposed request. Next, the applicant will address the boards and present evidence in support of the request. At this time, the boards are permitted to question the applicant to clarify the information presented. Once the applicant is finished, citizens are able to present evidence either in support of, or against, the application. Citizens may question, or cross-examine, the applicant and, vice-versa.

Can I contact a board member and discuss the special use permit?

No. Members of the planning board and board of commissioners are not allowed to discuss the case or gather evidence outside of the public hearing. Only facts presented to the full boards at the hearing may be considered. Board members are not permitted to discuss the case with applicants, neighbors, or staff outside of the hearing.

What are the specified findings required to meet to issue a special use permit?

The following findings of facts must be made in order to issue a special use permit:

- The proposed use or development is located, designed and proposed to be operated as not to be detrimental to the public health, safety, and general welfare.
- The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
- The proposed use will not substantially injure the value of the adjoining or abutting property.
- The proposed use will not cause undue traffic congestion or create a traffic hazard.
- The proposed use will not create undue noise, dust, and gasses.
- The proposed use if developed according to the plan submitted and approved, will be in harmony with the area in which it is located.
- The proposed use or development conforms with the general plans for the physical development of the town.
- The proposed use or development meets all other rules and regulations within the zoning ordinance and all existing town policies.

When will the boards vote on the application?

Once the public hearing is closed, the planning board will vote to recommend approval or denial of the application. The planning board has up to 65 days to take action. Once the planning board takes action, the recommendation and application is then forwarded to the board of commissioners for consideration at their next scheduled meeting (usually the third Tuesday of the month). Anyone can attend this meeting, but no further evidence may be presented to the board of commissioners at this meeting.

For further questions, contact the Wake Forest Planning Department at 919-435-9510 or visit www.wakeforestnc.gov.