

ORDINANCE NO.: 2004-058

*Amending 1998 Code of Ordinances of the City of Columbia,
South Carolina, Chapter 17, Planning, Land Development and Zoning,
Article III, Zoning, Division 3, Board of Zoning Appeals,
Sec. 17-112, Powers and duties*

BE IT ORDAINED by the Mayor and Council this 21st day of July, 2004, that the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 17, Planning, Land Development and Zoning, Article III, Zoning, Division 3, Signs, Sec. 17-112, Powers and duties, is amended to read as follows:

Sec. 17-112. Powers and duties.

The board of zoning appeals shall have the following powers and duties:

- (1) *Administrative review.* The board of zoning appeals shall hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement of this article, provided that those appeals must be taken within 30 days after the order, requirement, decision or determination which is alleged to be in error is made.
- (2) *Special exceptions.*
- a. *Duties.* Duties of the board are as follows:
1. Hear and decide only the applications for special exceptions as the board of zoning appeals is specifically authorized to pass upon by terms of this article;
 2. Decide the questions as are involved in determining whether special exceptions should be granted;
 3. Prescribe appropriate conditions and safeguards in conformity with this article; and
 4. Deny special exceptions when not in harmony with the intent and purpose of this article.
- b. *Procedures in consideration of special exception applications.*
1. A written application for a special exception shall be submitted indicating the section of this article under which the special exception is sought and stating the grounds on which it is requested.
 2. Notice of public hearing shall be posted on the property for which special exception is sought and shall be published at least 15 days prior to the public hearing in a newspaper of general circulation in the city.
 3. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

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4. The board of zoning appeals shall make a finding that it is empowered under the section of this article described in the application to grant the special exception and that the special exception will not adversely affect the public interest.
 5. The board of zoning appeals shall not vary the conditions and/or provisions of sections 17-259 through 274 that establish specific standards that must be met prior to the establishment of several principal uses that require a special exception.
 6. The board of zoning appeals may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both.
- c. *Criteria for special exceptions.* In addition to definitive standards in this article, the board of zoning appeals shall consider the following:
1. Traffic impact;
 2. Vehicle and pedestrian safety;
 3. Potential impact of noise, lights, fumes, or obstruction of air flow on adjoining property;
 4. Adverse impact of the proposed use on the aesthetic character of the environs, to include the possible need for screening from view; and
 5. Orientation and spacing of improvements or buildings.
- d. *Effect of failure to meet conditions.*
1. Violation of conditions and safeguards prescribed in conformity with this article, when made a part of the terms under which a special exception is granted, shall be deemed a violation of this article, punishable under the penalties established in this article.
 2. Failure to begin or complete, or begin and complete, an action for which a special exception is required, within the time limit specified, when such time limit is made a part of the terms under which the special exception is granted, shall void the special exception.
- (3) *Variances.*
- a. *Duties.* Duties of the board are as follows:
1. It shall be the duty of the board to authorize upon appeal in specific cases a variance from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship, so that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of appeals that the conditions listed under subsection (3)b of this section have been met.
 2. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts, shall be considered grounds for the issuance of a variance.

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3. In granting any variance, the board may prescribe conditions and safeguards in conformity with this article.
- b. *Procedures in consideration of request for variance.*
 1. A written application for a variance shall be submitted demonstrating that:
 - (i) There are extraordinary and exceptional conditions pertaining to the piece of property;
 - (ii) These conditions do not generally apply to other property in the vicinity;
 - (iii) Because of these conditions, the application of this division to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
 - (iv) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
 2. The board may not grant a variance the effects of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably should a variance be granted, may not be considered grounds for a variance.
 3. Notice of public hearing shall be given as described in subsection (2)b.2 of this section.
 4. The hearing shall be held. Any party may appear in person, or by agent or by attorney.
 5. The board of zoning appeals shall make findings that the requirements of subsection (3)b.1 of this section have been met by the applicant for a variance.
 6. The board of zoning appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
 7. The board of zoning appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 8. The board of zoning appeals may prescribe a time limit within which the action for the which the variance is requested shall be begun or completed, or both.
- c. *Effect of failure to meet conditions.*
 1. Violation of conditions and safeguards prescribed in conformity with this article, when made a part of the terms under which the variance is

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granted, shall be deemed a violation of this article, punishable under penalties established in this article.

2. Failure to begin or complete, or begin and complete, an action for which a variance is granted, within the time limit specified, when such time limit is made a part of the terms under which the variance is granted, shall void the variance.

- (4) Joint applications for special exception and variance(s). Whenever in conjunction with an application for special exception, an applicant files an application for variance, the board of zoning appeals may combine the applications and consider them simultaneously, provided that the procedures established for special exceptions and variances within this Section 17-112 shall not be varied.

This Ordinance shall become effective July 21, 2004

Requested by:

Marc Mylott, Zoning Administrator

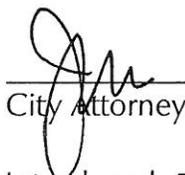

MAYOR

Approved by:


City Manager

Approved as to form:

ATTEST:


City Attorney


City Clerk

Introduced: 7/14/2004

Final Reading: 7/21/2004