Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

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

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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.