

ARTICLE XV SPECIAL USE PERMITS

§98-69. General Provisions.

The Planning Board shall have the power, after public notice and hearing, to grant special use permits for the uses specified within this chapter.

Any use designated in a given district as requiring a special use permit shall be deemed to be a permitted use in such district, subject to satisfaction of the conditions and standards set forth in this Article in addition to all other requirements of this chapter.

§98-70. Application Procedures.

- A. Application for the special use permit shall be made in writing to the Planning Board.
- B. Any land use requiring a special use permit shall also require site plan review as provided herein. The special use permit application shall be accompanied by a site plan application.
- C. In addition to the specific requirements of this chapter, the plan shall show any other information that the Planning Board may require as it deems necessary to act on the special use permit application.

§98-71. Review by Other Agencies.

The Planning Board may forward copies, for review and report to such other agencies and officials as it deems appropriate.

§98-72. Public Hearing.

The Planning Board shall fix a time within sixty-two (62) days from the day a complete application for special use permit is made for a public hearing.⁴⁴ Public notice shall be given by publication in the newspaper of such hearing at least five (5) days prior to the date of public hearing.

§98-73. Decision.

⁴⁴ Note the requirements of SEQR with respect to a completed application. See 6 N.Y.C.R.R. 617.3(f).

- A. Time for decision. Within sixty-two (62) days of said hearing, the Planning Board shall approve, approve with modifications or disapprove the special use permit. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board.
- B. Filing of decision and notice. The decision of the Planning Board on the appeal shall be filed in the office of the Village Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. No building permit shall be issued for a special permit use until the conditions of the Planning Board have been met.
- C. The Planning Board is empowered (but not required) to grant a special use permit and preliminary and final site plan approval with respect thereto simultaneously.

§98-74. Special Permit Considerations.

- A. The Planning Board shall approve an application for a special use permit, subject to such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit, if it finds that the following conditions have been met:
 - 1. The proposed use is compatible with the goals and objectives of the Comprehensive Plan, including without limitation reinforcing the B-1 district as the retail center of the Village and preserving the character and context of the district in which such use is proposed; provided, however, that this provision shall not be applied to deny a retail use in the B-2 district which meets the standards herein.
 - 2. That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
 - 3. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use and the location of the site with respect to streets giving access to the site are such that the use will be in harmony with the appropriate and orderly development of the district in which the use is proposed to be situated.
 - 4. The location, nature and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
 - 5. Operations in connection with the use will not be offensive, dangerous, destructive of property values and basic environmental characteristics or detrimental to the public interest of the village and not be more

objectionable to nearby properties by reason of noise, fumes, vibration, flashing of or glare from lights and similar nuisance conditions than would be the operation of any permitted use not requiring a special use permit.

6. Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
 7. The use conforms in all respects to all the regulations of this Chapter and particularly to the specific supplementary regulations that may apply to such use.
- B. The Planning Board shall require such additional conditions and safeguards to the special use permit as may be necessary to assure continual conformance to all applicable standards and requirements.
 - C. The Building Inspector shall not issue the permit for which the application has been made until receipt of written permit approval from the Planning Board.
 - D. Expiration of special use permits. A special use permit shall be void if construction contemplated is not started within one (1) year and completed within two (2) years of the date of the final site plan approval, except that such special permit approval may be renewed by the Planning Board at its discretion. Notwithstanding the foregoing to the contrary, with respect to a site on which an applicant seeks, with the approval of the planning board, to construct a project subject to a special permit in phases, revocation of a special permit for a given phase (for which specific site plan approval was granted) shall not invalidate any previously granted special permit on the site; provided that construction pursuant to such previous special permit was completed in accord with the time Frames set forth in this section.
 - E. Waiver. The terms and conditions of a special use permit may be modified by application to the Planning Board in the same manner as an application for a new special use permit. In the event that the modification sought is deemed insubstantial by the Planning Board, it may waive one (1) or more of the requirements of this section.
 - F. Existing violations. No permit shall be issued for a special use for a property upon which there is an existing violation of this chapter.
 - G. Referral. The Planning Board shall comply with the provisions of Article 12-B, §§ 239-l and 239-m of the General Municipal Law; as amended, and refer to the Dutchess County Department of Planning such special permit applications which are within its jurisdiction.

- H. In all instances, a special use permit may be revoked by the Planning Board, after public hearing, if it is found and determined that there has been a substantial failure to comply with any of the terms, conditions, limitations and requirements imposed by said permit.

§98-75. Individual standards and requirements for certain Special Permit uses.

§98-76. Retail in the B-2 district.

- A. The purpose of this special use permit is to allow Motor Vehicle Service Stations, Theaters, Restaurants, Bars, Nightclubs, sales and rentals of retail goods, public assembly places, museums and personal services stores and banks (all the foregoing uses being collectively referred to herein as "Retail Uses") in the B-2 district subject to the performance standards herein.
- B. The conditions set forth in section C. or section D. of this Article 98-76 must be met, in addition to other conditions set forth in this chapter, for issuance of a special use permit for a Retail Use.
- C. Special Permit Conditions Applicable to all Retail Uses:
 - 1. The buildings and other improvements on the site, the landscaping and the setbacks from Route 22 shall be designed and located in accord with the Urban Regulations.
- D. Specific Permit Conditions Applicable to Large Lots:
 - 1. The site must have 3 acres or more which may be a consolidation of two or more tax parcels provided that title to the lots included in the application are merged.
 - 2. The site must have direct vehicular and pedestrian access to East Main Street which is designed to encourage vehicular, bicycle and pedestrian traffic to enter the site from and exit the site onto East Main Street.
 - 3. Retail Use on the site shall not occupy in excess of 15,000 square feet
 - 4. The site plan shall adhere to the proposed plan and recommendations pertaining thereto in the Comprehensive Plan, subject to modifications required to address environmental constraints on the site. This provision shall not be construed to require that the buildings and parking shown in the Comprehensive Plan for such site be located in the footprints shown therein: provided that the site plan adheres to the design and planning concepts embodied in the Comprehensive Plan, including, without limitation, those relating to size, scale, location and positioning of buildings and other improvements.