

Sec. 22-102.1. - Nonconforming structure as special exception.

- (a) The board of adjustment is authorized to permit the enlargement or alteration of a nonconforming structure, except any sign, as a special exception upon application, notice and hearing as provided in sections 22-141(a), 22-142(11), and 22-143, and upon finding and determining the following:
 - (1) The granting of the special exception will not adversely affect the public interests;
 - (2) Such enlargement or alteration is in harmony with the purpose and intent of this chapter and all amendments thereof;
 - (3) The enlargement or alteration, if allowed, will not violate any height, yard, setback, area or density limitations imposed by the zoning district in which the property is located, or if the enlargement or alteration would increase such violation, such enlargement or alteration would not adversely affect traffic flow, safety and control, pedestrian safety and convenience or visibility at any street intersections, drives, rights-of-way, curbcuts or crosswalks;
 - (4) Such enlargements or alteration shall be compatible with adjacent properties and other properties within that zoning district;
 - (5) If in a commercial, business or industrial zone, that adequate buffers are provided between such structures and adjacent residential areas;
 - (6) That adequate off-street parking shall be provided for any multifamily, commercial, industrial or business use upon the property;
 - (7) The enlargement or alteration will not increase gross floor area of the principal structure by more than fifty (50) per cent;
 - (8) The use of the structure prior to, and subsequent to, the granting of the request for the special exception shall be a semi-restricted use or permitted conditional use within the district in which the property is located;
 - (9) There will be adequate availability and access to, and for, public utilities as may be required.
- (b) The board of adjustment shall confer with the city planning board on all applications for such special exception.**
- (c) In granting a special exception hereunder, the board of adjustment may require certain conditions and safeguards for the public health, safety and welfare, concerning the following:
 - (1) Public off-street parking;
 - (2) Adequate ingress and egress with particular emphasis upon traffic and pedestrian safety;
 - (3) Adequacy of and access for fire and other emergency vehicles;
 - (4) Any signs and/or exterior lighting with reference to effect upon and harmony with surrounding properties;
 - (5) Any required landscaping, greenbelts, buffers or fencing in any residential, commercial or business districts, with reference to compliance with provisions of this Code, harmony and effect upon surrounding properties, lines of vision.
- (d) In granting any special exception, the board of adjustment may prescribe a reasonable time limit within which the enlargement or alteration for which the special exception is requested shall be begun and/or completed.
- (e) The procedure by which an application shall be made to the board of adjustment under this section shall be as provided in section 22-110 and section 22-112
- (f) The approval of any enlargement or alteration of a nonconforming structure as a special exception under this section shall require the conforming vote of four (4) members of the board of adjustments.

(Ord. No. H-244, § 2, 12-20-82; Ord. No. I-98, § 6, 1-7-85)

Editor's note—

Ord. No. H-244, § 2, amended the 1960 Code by addition of § 30-102A, designated herein as § 22-102.1