

**CITY OF POMPANO BEACH
ZONING DEPARTMENT
SPECIAL EXCEPTION
SPECIAL USE PERMIT APPLICATION**

Applicant must make an appointment with Vicky Newson to submit application at least 2 business days prior to deadline for P&Z Board review by calling 954-545-7783. Incomplete applications will not be accepted.

**Deadline is 4th Wednesday of preceding month for P&Z Board.
See attached Meeting Dates and Deadline Schedule.
(Meetings are subject to change)**

Application Checklist:

1. ___ Application Fee: \$910
2. ___ Three completed applications with original signatures (no copies)
3. ___ Two owner's certificates with original signatures
4. ___ Two completed affidavits with original signatures
5. ___ Three written justifications addressing the eight criteria
6. ___ Three current surveys signed and sealed
7. ___ Nineteen sets of plans (if applicable) including site plan and interior plans that support the special use

Note: If Planning & Zoning requires any changes to the site plans, the applicant must resubmit ten sets of plans two weeks prior to next scheduled ZBA meeting.

Important information:

- ◆ Special Exceptions are first heard by the Planning and Zoning Board for recommendation to the Zoning Board of Appeals Hearing the following month.
- ◆ Applicant must attend both boards to present case.
- ◆ P&Z Board consists of seven members and provides a recommendation by a majority vote after the hearing is closed.
- ◆ ZBA consists of five members. A positive vote of four members is required for approval of the request.
- ◆ Approval does not become effective for 15 days from date of approval at ZBA meeting.
- ◆ Application becomes null and void if:
 - Conditions imposed by the board are not met or maintained or,
 - All permits and/or approvals are not obtained within 180 days or,
 - If no permits/approvals are required, the use must commence within 180 days.
- ◆ Prior to expiration, an extension may be requested by submitting a letter of request with a fee of \$200.

Note: All documentation submitted as evidence including photographs, display boards, etc shall become the property of the City and must be retained in the case file. Large displays must be reduced to a manageable size which can be filed and copies must be provided to the Advisory Board Secretary at the time of Public Hearing before the Board.

SECTION 155.082 STANDARDS FOR GRANTING SPECIAL EXCEPTION USE

No special exception use shall be granted unless the Board determines that the applicant has established by a preponderance of the evidence that:

(1) The proposed special exception use will be consistent with the City's Comprehensive Plan.

(2) The proposed special exception use will be in harmony with the general character of the neighborhood. In determining whether the proposed special exception use will be in harmony with the character of the neighborhood, consideration shall be given, but not limited to, population density, intensity, character of activity, traffic and parking conditions and the number of similar uses or special exception uses in the neighborhood.

(3) There exists a need for the public convenience and service of the population of the neighborhood for the special exception use with consideration given to the present availability of such uses.

(4) The proposed special exception use shall not create a traffic hazard or nuisance with consideration given, but not limited to, location of existing uses, turning movements in relation to the access to public roads and intersections or its location in relation to other buildings or proposed buildings on or near the site within the neighborhood, the traffic pattern from such buildings or by reasons of the special exception's location near a vehicular or pedestrian entrance or crossing to a public or pedestrian entrance or crossing to a public or private school, park playground or hospital or other public use or place of public assembly.

(5) The proposed special exception use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood with consideration given, but not limited to, noise, vibration, fumes, odors, dust, glare, other environmental hazard, or physical activity which will be generated and is otherwise present in the area.

(6) The proposed special exception use will not adversely affect the health, safety, security, morals, or general welfare of the neighborhood.

(7) The proposed special exception use will not, with consideration given to existing development in the area and development permitted under the current zoning provisions, overburden existing public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements and will not create a hazard by virtue of its site and location to resident, visitors or workers in the neighborhood.

(8) The special exception use confirms with all other specific standards set forth in the Code of Ordinances or the Comprehensive Plan.

8/13/2008

SECTION 155.077(D) The Zoning Board of appeals may approve the Special Outdoor Use Permit provided the application and development plan are determined to meet the criteria listed below:

- (1) The proposed activity will not unreasonably interfere with the peaceable enjoyment of any property in the vicinity of the proposed activity;
- (2) The proposed activity will not unreasonably interfere with the public health, welfare and safety;
- (3) The proposed activity is not reasonably anticipated to incite violence, crime, or disorderly conduct;
- (4) The proposed activity will not entail unusual, extraordinary or burdensome expense for police operation by the City unless a prior agreement has been made for payment of such extra expenses;
- (5) The proposed activity complies with all requirements of this section;
- (6) Adequate parking and sanitary facilities will be provided for the activity.

8/13/2008

CALL (954) 545-7783 TO SCHEDULE AN APPOINTMENT FOR REVIEW FOR COMPLETENESS. NO APPLICATIONS WILL BE ACCEPTED WITHOUT AN APPOINTMENT. APPOINTMENTS MUST BE SCHEDULED 2 BUSINESS DAYS IN ADVANCE OF THE SUBMITTAL DEADLINE.

**** ATTENTION ****

The Zoning Board of Appeals and the City Commission have adopted certain requirements for the filing of variances, special conditions and temporary permits. In accordance with those requirements, no applications will be accepted unless they meet all the following prerequisites:

- 1) All applications must be typed or legibly printed in "black" ink.
- 2) The applicant shall retain one of the four applications and **MUST** provide written explanation on how the request meets the required prerequisites. The prerequisites are printed on the reverse side of the application form.
- 3) All material submitted by the applicant for the Board's consideration shall be marked as Exhibits by the Development Review Coordinator at the time of filing and shall become a permanent part of the file in each case. All documents, photographs, petitions or any other items of any kind, nature or description submitted for the Board's examination during the hearing shall be retained by the Board and put in the case file. All architectural renderings will be excepted from these provisions.
- 4) Where the petitioner, and/or owner of record, is other than an individual, the petition shall state whether the petitioner, and/or owner of record, is a partnership, corporation, proprietorship, or other legal entity, and:
 - a) if a partnership, a partner must execute the petition and indicate his interest;
 - b) if a corporation, an officer authorized to bind the corporation must execute the petition and indicate his title; and
 - c) if a proprietorship, the proprietor must execute the petition, indicate his interest and state the business name, where applicable.
- 5) In addition to the above requirements, the petition for variance shall comply with the following rules:
 - a) for additions to existing single-family dwellings, the petition shall be accompanied with ten (10) legible copies of a site plan indicating the existing and proposed layout of buildings or structures on the lot with reference to lot lines.
 - b) for all two-family, multiple-family, business (commercial) and industrial buildings, the petition must be accompanied with ten (10) legible copies of the proposed site plan drawn to scale and reduced to a size measuring eleven (11) inches by seventeen (17) inches.
 - c) for petitions involving off-street parking, the petition must be accompanied with ten (10) legible copies of the existing conditions (where applicable) and the proposed site plan indicating the number and dimensions of parking spaces, ingress and egress to and from parking areas, landscaping, and any other relevant matters.

The Planning and Growth Management Department shall not accept for filing any petition which does not comply with these rules relating to the form and filing of petitions. [Section 155.024(D)(2)]

THE CITY OF POMPANO BEACH'S
ZONING BOARD OF APPEALS

Welcome to the Zoning Board of Appeals (ZBA) for the City of Pompano Beach. This short introduction is intended to assist you in preparing for your hearing before the ZBA. This document is for informational purposes only and is not intended to provide legal guidance, nor does it replace or supplement any written or unwritten rules or procedures adopted and practiced by the ZBA. If you have questions regarding specifics of your case, you may wish to consult with an attorney. In case of any discrepancy between information in this document and anything within the City Ordinances, the Ordinances take precedence.

A. Membership.

The ZBA is made-up of five residents of Pompano Beach who receive no pay or benefits from the City, yet have volunteered their time and efforts to assist the City and its citizens in the enforcement of the zoning code. Each member has been appointed by a City Commissioner and serves a three-year term.

B. Purpose.

The ZBA hears appeals from property owners who have been refused building permits, or from those who seek special exceptions, temporary permits for a nonconforming use, or variances from the City's Zoning Code (Chapters 151 and 155).

C. Application Procedures.

1. The applicant for a variance, special exception or temporary permit should submit an application with the Zoning Department. Application forms are available at the Zoning Department office in City Hall. The application should be completed as fully as possible. Failure to complete the application as directed may result in its rejection, or at a minimum, it will delay the hearing before the ZBA.

2. A fee must be paid by the applicant, the purpose of which is to cover the City's costs for administrative and advertising services performed.

3. A hearing date is assigned to the applicant. The ZBA usually meets on the third Thursday of every month at 7:00 p.m., in the City Commission Chambers located adjacent to City Hall.

D. Conduct of Hearings.

1. After the ZBA Chairman calls the case, all potential witnesses must be sworn prior to testifying. The applicant will then go first and should present the ZBA with sufficient "competent, substantial evidence" (defined by the Florida Supreme Court as "such relevant evidence as a reasonable mind would accept as adequate to support a conclusion."). This presentation of evidence may be in the form of sworn testimony, written documents, photographs, charts, diagrams, etc. **Please note that any written or documentary evidence**

presented will be collected and kept by the ZBA secretary, and will constitute part of the record of the proceedings. You may wish to bring sufficient copies of any evidence for the five ZBA members, as well as an extra copy to file with the secretary (large maps, photos, diagrams, etc. should be reduced in size in order to be placed in the file).

2. The applicant **MUST** present the ZBA with evidence which supports those prerequisites applicable to the relief sought. For example, an applicant who seeks a variance must present the ZBA with factual testimony or documentary evidence which tends to prove that each of the four prerequisites have been met. A simple restating of the prerequisites is insufficient, e.g. “the existing conditions and circumstances are not the result of my actions” (prerequisites no.2 for a variance), provides no factual evidence and is simply an opinion or conclusory statement which provides the ZBA with absolutely no “competent, substantial” evidence. The burden to present competent, substantial evidence sufficient to prove all applicable prerequisites, is on the applicant. Once the applicant has done so, and presented all evidence in favor of the requested action, the ZBA will hear from a City representative, usually a member of the Zoning Department, who will present their case, including a recommendation for or against the relief requested by applicant. All interested persons will also be invited to speak, under oath, either for or against the applicant. Either side may ask questions or “cross-examine” any witness who chooses to testify. If the applicant has successfully presented proof as to all prerequisites, then the burden of proof shifts to the City or any other party opposing the application, to show that the requested action would be adverse to the public’s interest, or that the evidence presented on behalf of the applicant is insufficient or wrong.

3. Following the presentation of all evidence, the applicant (or his/her attorney) will be invited to make a closing statement, summarizing the evidence and indicating how such facts may be applied to prove the applicable prerequisites.

4. At that point, the public hearing portion is over, and the ZBA members will discuss the case, consider the evidence, and apply it to the prerequisites. Finally, one member will make a motion to approve the requested relief, another member will “second” the motion, and the ZBA will vote. All motions are made in the affirmative, that is, the motion will always be to approve your request, even if that member does not believe you have proved your case. The reason for this is that the **ZBA rules require a “supermajority” of four (4) concurring votes to approve any appeal.** Even where an applicant receives a 3-2 majority in favor of approving the relief requested, the application is still denied. Unless the vote is 4-1 or 5-0 in favor of the motion to approve, your application has been denied.

5. If the request is approved, you must wait fifteen (15) days for it to be effective, as a City Commissioner, the City Manager, or any interested person entitled to receive notice of the hearing may bring an appeal of the ZBA approval to the City Commission for their review (this does not apply to approval of temporary permits.) If however, your application is denied, you may either accept it, file a Petition in state Circuit Court within thirty days for issuance of a Writ of Certiorari, or, if you discover new and additional evidence which was not available at the time of the hearing and which has a strong likelihood of affecting the results of a new hearing, you may apply for a re-hearing within ten (10) days of the decision. You may wish to bring a court reporter to the ZBA hearing in order to record and transcribe the ZBA proceedings in case you decide to appeal, as the appellate court requires a “record”.

8/13/2008

E. *Reminder Regarding Prerequisites.*****

The prerequisites which are provided to each applicant at the time of application, and which are also found in the Agenda package at the meetings, are the minimum factual showings an applicant must make. It is these prerequisites which the ZBA members are interested in, and they are looking for **facts** which prove or disprove each applicable prerequisite. The only evidence which is relevant, and which should be submitted to the ZBA, is factual evidence which relates to these prerequisites. **It is suggested that the applicant, particularly those not represented by an attorney, organize their presentation to the ZBA by taking each prerequisite in order, and present any and all factual evidence tending to prove that prerequisite, then pointing out to the ZBA members how this information, be it testimonial or documentary, lends support to a particular prerequisite.** Applicants who fail to make an orderly presentation in this fashion risk denial of the application because of confusion, disorganization, and a resulting lack of competent substantial evidence offered for each and every prerequisite applicable to the relief sought. **Remember, it is your initial burden to convince the ZBA that you are entitled to the relief sought, and it is not the ZBA members' duty to assist you by asking the questions necessary to obtain this evidence. Please, for your own sake, and to allow for an efficient ZBA meeting, come prepared and organized, and most of all, be familiar with the prerequisites applicable to your case!**

8/13/2008

PETITION TO THE ZONING BOARD OF APPEALS

The undersigned presents the following petition for a: **SPECIAL EXCEPTION** _____, **SPECIAL USE PERMIT** _____ under the Zoning Regulations of the City of Pompano Beach, Section _____ and located in _____ (Zoning District) at:

Number of Street	Lot No.	Block No.	Subdivision
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1. Name of Petitioner: _____

2. Petitioner's interest in property (Owner, Lessee, Etc.): _____

3. Has any previous petition been filed? _____. If so, give date of hearing and finding:

Brief statement in which this petition may differ:

4. Explain how this petition meets necessary criteria. (Refer to Section 155.077 for special use permits; Section 155.082 for special exceptions).

Date this _____ day of _____, 20 ____.

Type or Print Petitioner's Name and Title

Type or Print Owner's Name and Title

Petitioner's Signature

Owner's Signature

Address

Address

(Zip Code)

(Zip Code)

Phone No.: _____

Phone No.: _____

Fee Paid:
Receipt No. _____

This application shall be signed by
Owner of record.

8/13/2008

PETITION TO THE ZONING BOARD OF APPEALS

The undersigned presents the following petition for a: **SPECIAL EXCEPTION** _____, **SPECIAL USE PERMIT** _____ under the Zoning Regulations of the City of Pompano Beach, Section _____ and located in _____ (Zoning District) at:

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Brief statement in which this petition may differ:

4. Explain how this petition meets necessary criteria. (Refer to Section 155.077 for special use permits; Section 155.082 for special exceptions).

Date this _____ day of _____, 20 ____.

Type or Print Petitioner's Name and Title

Type or Print Owner's Name and Title

Petitioner's Signature

Owner's Signature

Address

Address

(Zip Code)

(Zip Code)

Phone No.: _____

Phone No.: _____

Fee Paid:
Receipt No. _____

This application shall be signed by
Owner of record.

8/13/2008

PETITION TO THE ZONING BOARD OF APPEALS

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Date this _____ day of _____, 20 ____.

Type or Print Petitioner's Name and Title

Type or Print Owner's Name and Title

Petitioner's Signature

Owner's Signature

Address

Address

(Zip Code)

(Zip Code)

Phone No.: _____

Phone No.: _____

Fee Paid:
Receipt No. _____

This application shall be signed by
Owner of record.

8/13/2008

OWNERS CERTIFICATE

This is to certify that I am the owner of the subject lands described in the **PETITION FOR SPECIAL EXCEPTION/PETITION FOR VARIANCE/PETITION FOR TEMPORARY PERMIT** and that I have authorized the filing of the aforesaid petition. I further certify that this request is not related to any existing violation of the zoning code.

Note: If this request is related to an existing zoning violation, please submit documentation as to the Special Master's disposition of the matter.

Owner's Name: _____
(Print or Type)

Address: _____

(Zip Code)

Phone: _____

(Signature of Owner or Authorized Official)

SWORN AND SUBSCRIBED before me this _____ day of _____, 20 ____.

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Notary Public: Print, stamp, or Type as Commissioned.)

Personally know to me, or

Produced identification: _____

(Type of Identification Produced)

8/13/2008

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(Print or Type)

Address: _____

(Zip Code)

Phone: _____

(Signature of Owner or Authorized Official)

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(Name of Notary Public: Print, stamp, or Type as Commissioned.)

Personally know to me, or

Produced identification: _____
(Type of Identification Produced)

8/13/2008

ADDENDUM TO APPLICATION

ALL APPLICATIONS MUST BE ACCOMPANIED BY THE FOLLOWING AFFIDAVIT. PLEASE TAKE THE TIME TO CAREFULLY READ AND THEN SIGN THE FOLLOWING AFFIDAVIT. SHOULD YOU HAVE ANY QUESTIONS REGARDING THE APPLICABILITY OF THE FOLLOWING, PLEASE ASK FOR CLARIFICATION PRIOR TO SIGNING THIS DOCUMENT.

AFFIDAVIT

The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative officer, or decide in favor of the applicant on any matter on which it is required to pass under any zoning ordinance, or to effect any variance in the zoning ordinance. The relief granted by the Zoning Board of Appeals is limited to the authority vested in the Board and does not exempt the petitioner or owner from the responsibilities of obtaining all applicable permits and/or approvals as may be required by law or by the City for both new and existing structures. Any variance, special exception, temporary permit or other decision of the Board shall expire and become null and void 180 days after said action unless, within the said 180-day period, any and all permits and/or approvals required by law or by the City, including building permits, have been properly acquired or unless within the 180-day period, a request is made consistent with the Code of Ordinances seeking an extension of item for the variance, special exception or other specific order that had been approved by the Board. If no approval or permit is required, the use allowed by the Board must be commenced within the said 180-day period, a request is made consistent with the Code of Ordinances seeking an extension of time for the variance, special exception or other specific order that had been approved by the Board. Any request for an extension from the time frames as required by an order of the Zoning Board of Appeals must be made by the petitioner or owner and it shall be the petitioner's or owner's burden to establish a good and sufficient cause for any extension of time. There shall be no more than five (5) extensions of time in any one case, each of which shall be no greater than 180 days or in the aggregate in excess of 900 days for any variance, special exception or other specific order of the Board.

Any person, which term shall include, but is not limited to, an individual, firm, association, joint venture, partnership, estate(s), trust, business trust, syndicate, fiduciary or other similar entities that do not meet or adhere to any and all restrictions or conditions imposed by the Board of Appeals and any of its orders shall be deemed in violation of the provisions of this chapter.

I/We, _____, the petitioner(s) in this matter have had the
(Print or Type)
opportunity to read the above language and fully understand the contents thereof.

Signature of Affiant(s)

**STATE OF FLORIDA
COUNTY OF BROWARD**

SUBSCRIBED AND SWORN TO (OR AFFIRMED) before me on this ____ day of _____, 20__ by _____, who is personally known to me or who has presented _____ as identification.

(Type of Identification)

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA
(Signature of Notary Taking Acknowledgment)

(Name of Notary Typed, Printed or Stamped)

Commission Number

8/13/2008

ADDENDUM TO APPLICATION

ALL APPLICATIONS MUST BE ACCOMPANIED BY THE FOLLOWING AFFIDAVIT. PLEASE TAKE THE TIME TO CAREFULLY READ AND THEN SIGN THE FOLLOWING AFFIDAVIT. SHOULD YOU HAVE ANY QUESTIONS REGARDING THE APPLICABILITY OF THE FOLLOWING, PLEASE ASK FOR CLARIFICATION PRIOR TO SIGNING THIS DOCUMENT.

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Any person, which term shall include, but is not limited to, an individual, firm, association, joint venture, partnership, estate(s), trust, business trust, syndicate, fiduciary or other similar entities that do not meet or adhere to any and all restrictions or conditions imposed by the Board of Appeals and any of its orders shall be deemed in violation of the provisions of this chapter.

I/We, _____, the petitioner(s) in this matter have had the
(Print or Type)
opportunity to read the above language and fully understand the contents thereof.

Signature of Affiant(s)

**STATE OF FLORIDA
COUNTY OF BROWARD**

SUBSCRIBED AND SWORN TO (OR AFFIRMED) before me on this ____ day of _____, 20__ by _____, who is personally known to me or who has presented _____ as identification.

(Type of Identification)

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA
(Signature of Notary Taking Acknowledgment)

(Name of Notary Typed, Printed or Stamped)

Commission Number