
PART THIRTEEN — PROJECT AND ZONING CODE

ARTICLE 1324 Conditional Use Permit Approval Procedure

- 1324.01 General.**
- 1324.02 Application.**
- 1324.03 Required findings.**
- 1324.04 Conditions of approval.**

CROSS REFERENCES

Conditional use—see WV Code 8A-1-2(d)

1324.01 General.

The Board of Zoning Appeals may issue Conditional Use Permits only after a public hearing is conducted by the Board of Zoning Appeals. The public hearing is intended to determine whether the Conditional Use complies with all applicable provisions of the Zoning Ordinance and its proposed location and design are such that it meets the needs of the community for such Conditional Use without creating significant adverse conditions or a nuisance in the neighborhood.

1324.02 Application.

To apply for a Conditional Use Permit, a Project Permit application shall be submitted to the Board of Zoning Appeals. Notice and timelines regarding a Conditional Use Permit shall conform to the following:

- (a) Within ten days of receipt of an application for a Conditional Use Permit, the Board of Zoning Appeals shall set a time for a public hearing of the application and give notice. A public hearing must be held within 45 days of receipt of the application unless the Board of Zoning Appeals requires expert advice in which case the limit is 75 days.
- (b) At least 15 days before the date set for a public hearing on an application, the Board of Zoning Appeals shall publish a notice of the date, time and place of the public hearing on the application as a Class I legal advertisement in compliance with the provisions of Article Three, Chapter 59 of West Virginia State Code and written notice shall be given to the interested parties as determined by the Board of Zoning Appeals.
- (c) The applicant shall be required to pay for the cost of public notice and written notice to interested parties in accordance with a fee schedule approved by the Town Council. The costs of expert studies shall be borne by the applicant.
- (d) At a public hearing, any interested party may appear in person, by agent or by an attorney licensed to practice in this state.
- (e) Every decision by the Board of Zoning Appeals must be in writing and state findings of fact and conclusions of law on which the Board of Zoning Appeals based its decision.
- (f) The written decision by the Board of Zoning Appeals shall be rendered within 30 days after the date of the last public hearing pertaining to such decision. If the Board of Zoning Appeals fails to render a written decision within 30 days, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a *writ of mandamus*.

HISTORY:

Ord. 2015-02 (passed 01-29-2015, effective 02-16-2015) superseded all previous zoning and related ordinances to bring the Town into compliance with current WV Code. Ord. 2015-02 was further refined by Ord. 2015-07 (passed 07-13-2015) and Ord. 2017-01 (passed 02-25-2017).

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1324.03 Required findings.

The Board of Zoning Appeals shall grant a Conditional Use Permit only if, from the facts established within the application, at the public hearing and by investigation, the following conditions have been found:

- (a) That the location, size, design and operating characteristics of the proposed Conditional Use will be compatible with the Abutting uses and Abutting Structures, with consideration given to harmony in scale, bulk, lot coverage, and Structure density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed Conditional Use; and
- (b) The impact and location of the proposed Conditional Use are consistent with the Comprehensive Plan.

1324.04 Conditions of approval.

The Board of Zoning Appeals may establish any reasonable conditions of approval as determined appropriate or necessary to remain consistent with the Comprehensive Plan and with this Zoning Ordinance.