

# Special Exception

# Process Guide



## WHAT IS A SPECIAL EXCEPTION?

A *special exception* authorizes a use not permitted in a particular district except when specific standards set forth in the City's Zoning Ordinance are met. A special exception may also authorize a development pattern or dimensional standard not typically permitted in a particular district when specifically identified in the City's Zoning Ordinance. Uses and dimensional standards allowed only by special exception are those considered to have potentially greater impact upon neighboring properties or the public. The special exception process allows potential impacts to be addressed through conditions. A granted special exception runs with the property.

## HOW IS THE DECISION MADE?

In the City of Roanoke, the authorization to hear and decide on applications for special exceptions has been delegated to the Board of Zoning Appeals (BZA), a quasi-judicial seven (7) member City Council appointed body. The following standards pursuant to *Section 36.2-560(c) of the Code of the City of Roanoke (1979), as amended*, must be considered by the Board to determine the appropriateness of the application. The BZA must determine that all six standards have been met in order to grant a special exception.

1. The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping, and other outside activities or structures;
2. The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood;
3. The use does not generate traffic on public streets that exceeds the design capacity of such streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slopes, or other factors;
4. The use does not increase the flood potential in the surrounding neighborhood;
5. The use is in conformance with the setback, yard, frontage, lot area, parking, signage, screening, shading, and other applicable requirements of the zoning ordinance as they pertain to the district in which the use is located or to the specific use, whichever the case may be; and
6. The use furthers the intent of the City's Comprehensive Plan.

## HOW MUCH WILL IT COST?

RESIDENTIAL	\$350.00
NONRESIDENTIAL	\$450.00

The application fee covers researching, reviewing, and processing the application. In addition, State Code requires that the City advertise the request two times in the local newspaper. The applicant is responsible for payment of legal advertisement fees in the amount of \$250.00, which are included in the above cost. If an application is withdrawn and the legal advertisement has already run or it is too late to pull, the applicant remains responsible for the cost.

## HOW LONG DOES IT TAKE?

The process takes a minimum of one month once an application is filed. Visit <https://www.roanokeva.gov/1074/Board-of-Zoning-Appeals> for public hearing dates and filing deadlines.

## WHAT IS THE PROCESS?

All *special exceptions* follow the same general process as follows:

(1) PRE-FILING CONFERENCE

Applicants are encouraged to schedule a pre-filing conference with staff to determine the necessity, grounds, completeness, and accuracy of the *special exception* request. To schedule a pre-filing conference, please call (540) 853-1730.

(2) APPLICATION SUBMITTAL

A *special exception* application, consisting of the following components, must be filed in Room 170 of the Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia 24011. An application for a *special exception* may be made by any property owner, tenant, governmental official, department, board, or bureau. Because a *special exception* is a legal matter, it is strongly recommended that an attorney represent you and assist with the preparation of the *special exception* application. Staff will check the application for completeness before accepting it for filing. If there are delinquent real estate taxes owed on the subject property, the application will not be processed until such time as the taxes are paid in full.

- (a) **Application Form.** The application must be signed by the applicant(s). If the applicant(s) is not the property owner(s), the property owner(s) must also sign the application form or submit a consent letter at the time of filing. If a legal representative signs for a property owner, a copy of the executed power of attorney may be required. If the owner is a Corporation or LLC, right to sign documents may be required.
- (b) **Written Narrative.** An informative yet concise written narrative addressing the following items:
  - a. Description of the proposed project;
  - b. How the request meets the standards for a special exception per Section 36.2-560(c) of the Zoning Ordinance;
- (c) **Development Plan.** The development plan shall be drawn to a fixed scale. The development plan shall geographically depict the property that is to be considered and shall address any potential land or design issues arising from the request. It is preferred that the development plan be prepared by a professional surveyor, architect, or engineer. If the rendering or drawing is larger than 11" x 17", a digital copy must be provided by the applicant. A development plan must include the following:
  - a. Title, preparer, and date of development plan
  - b. Address and tax map number of the property
  - c. Scale of drawing and north arrow
  - d. All lot dimensions
  - e. Location and dimensions, to scale, of all existing and proposed structures
  - f. Setback measurements from property lines for all existing and proposed structures
  - g. Location and dimensions of all driveways, parking spaces, and loading spaces
  - h. Location, width, and name of all existing or platted streets or other public rights-of-way within or adjacent to the property
  - i. Physical features of the property such as sever slopes (show contours if applicable), rock formations, substantial tree or vegetative cover, natural watercourses, and flood plain restrictions, if application to the request
  - j. All public or other easements affecting the property, if applicable to the request
  - k. Water and sewer line locations serving the property, if application to the request
  - l. Dimensions and location of any outdoor play areas, storage yards, or similar existing or proposed improvements, which are applicable to the request
  - m. Delineation of any required landscaping, including location, size and description of required planting areas and planting materials.
- (d) **Elevation rendering or drawing to scale of any proposed building or building addition.** If the rendering or drawing is larger than 11" x 17", a digital copy must be provided by the applicant.

- (e) **Filing Fee.** Check for \$350.00 (residentially zoned property) or \$450.00 (non-residentially zoned property) made payable to *Treasurer, City of Roanoke*. If an application is withdrawn and the legal advertisement has already run or it is too late to pull, the applicant remains responsible for the cost.

**(3) POST-FILING PROCESS:**

- (a) **Staff Review:** Once an application has been filed, it is distributed to City departments, affected neighborhood organizations, and adjoining localities (if applicable) for comment. Staff then prepares a report and recommendations for the BZA's consideration which include pertinent code sections, facts of the case, and issues as they relate to the standards for the granting of a special exception. A copy of the staff report is mailed to the applicant approximately one week prior to the public hearing.
- (b) **Public Notice:** Notice of public hearing is published two times as a legal advertisement in the Roanoke Times and mailed to adjoining property owners, including those immediately across the street. Notice will also be posted on the subject property in the form of a yard sign. The notice includes a general description of the special exception request as well as the time and location of the public hearing
- (c) **Board of Zoning Appeals Public Hearing:** The BZA's public hearing is held the second Wednesday (see page 2 for specific dates) of each month at 1:00 p.m. on the 4<sup>th</sup> floor of the Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, VA 24011 in Council Chambers. Applicant's are not required to attend the public hearing, but attendance is highly recommended. Anyone from the public may speak or submit written comments in favor of, or in opposition to, any request.

At the BZA's public hearing, the applicant presents the request; staff presents its report and recommendation; the BZA takes public comment; and the BZA discusses the request and takes action. The concurring vote of a majority of the membership of the BZA is necessary to grant a *special exception*. This means at least four (4) members of the seven (7) member BZA must vote in favor of granting the *special exception* for it to be approved, even if there are only four (4) members present. In authorizing a *special exception*, the BZA may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of the permit (*Virginia Code §15.2-2309(6)*).

Any decision of the Board is final; however, the applicant or an aggrieved party may file an appeal with the Clerk of the Circuit Court within thirty (30) days after the final decision of the Board. Once the board considers and renders a decision on an application the board cannot reconsider a substantially similar request for one

(1) year, except when the decision is the subject of a motion to rehear as set forth in the Board's bylaws.

# Special Exception Application



Planning Building, & Development  
Noel C. Taylor Municipal Building  
215 Church Avenue, S.W., Room 170  
Roanoke, Virginia 24011  
Phone: (540) 853-1730

- Application Checklist:
- Application Form
  - Right to Sign Docs (if applicable)
  - Written Narrative
  - Development Plan
  - Elevation
  - Filing Fee

Date:

## Property Information:

Street Address:

Official Tax No(s):

Size of Property (acres or square feet):

Base Zoning District:  Overlay Zoning District:

Request for a special exception as set forth in Section 36.2-, Zoning, Code of the City of Roanoke (1979), as amended.

Briefly describe the special exception request:

## Applicant Information:

Name:  Phone Number:

Address:  E-Mail:

Applicant's Signature: *(Right to sign documents may be required for Corporations and LLCs)*

## Owner Information:

Name:  Phone Number:

Address:  E-Mail:

Owner's Signature: *(Right to sign documents may be required for Corporations and LLCs)*

Application accepted as submitted in accordance with the provisions of Chapter 36.2, Zoning, Code of the City of Roanoke (1979), as amended.

Secretary to the Board's Signature

Intake Date

Public Hearing Date