

South Brunswick Township Checklist

Sec. 62-167 – Variance Applications

(a) *Application requirements.* At least ten days and no more than 20 days prior to a regular meeting of the municipal agency, the applicant for a variance shall file the following documents with the secretary of the municipal agency:

(1) *Area plan.* The applicant shall submit 16 black- or blue-line copies of an area plan, drawn to a scale no smaller than one inch equals 400 feet, showing the premises affected by the application and the lot and block number and names of owners of all property within 200 feet of the premises.

(2) *Plat plan.* The applicant shall submit 16 black- or blue-line copies of a plot plan of the property which is the subject of the application, drawn to scale, showing all locations, lot dimensions and dimensions of existing and proposed structures.

(3) *Certification by tax collector.* The applicant shall submit a certificate by the tax collector that all municipal taxes due and owing by the applicant have been paid.

(4) *Application forms.* The applicant shall submit three copies of a completed application form, which form shall be obtained from the secretary of the municipal agency.

(5) *Disclosure of ownership.* Disclosure of ownership shall be pursuant to section 62-2838(b).

(b) *Application procedure.* The application procedure shall be as follows:

(1) *Copies of application; review and report.* The secretary of the municipal agency shall, within three days, forward a copy of the completed application to the township planner, the township engineer, the chairman of the subdivision and site plan review committee and such other officers as the board may direct and shall request each to review the application and to file a written report of his findings and recommendations prior to the next regular meeting of the board.

(2) *Notice of hearing.* The applicant shall comply with the hearing and notice requirements of this chapter.

(3) *Copies of decision; publication.* The secretary shall mail a copy of the decision of the board to the applicant or his attorney and to all other persons who have requested it, within ten days after approval has been granted or denied. The secretary shall also file a copy of the decision with the township clerk and shall cause a brief notice of the decision to be published in the official newspaper of the township.

(4) *Signatures required upon approval.* If the application is approved, the approval shall be noted upon the plot plan and shall be signed by the chairman and the secretary of the board within ten days of the date of approval.

(5) *Approval limited to scope of application.* In approving a use variance, the municipal agency shall approve only the use for which the applicant seeks approval. The extent of development, including the number of units or the size of units or structures, shall be determined only after the applicant has submitted an application for subdivision or site plan approval. Nothing in this section shall be construed to prevent the applicant from submitting applications for approval of a use variance and for approval of a subdivision or site plan simultaneously.

(6) *Site plan required for variance affecting three or more lots.* In approving a variance, other than a use variance, which affects more than three lots, the municipal agency shall not approve the number of lots to be created or the number of units to be constructed thereon. Such determination shall be made only after the applicant has submitted an application for subdivision or site plan approval. Nothing in this section shall be construed to prevent the applicant from submitting an application for approval of other than a use variance and for approval of a subdivision or site plan simultaneously.

(c) *Time for approval when exercising certain powers of the planning board.* Whenever an applicant for development requests relief pursuant to section 62-114(d), the board of adjustment shall grant or deny approval of the application within 120 days after submission by the developer of the complete application to the township planner or within such other time as may be consented to by the applicant. If the developer elects to submit separate consecutive

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applications, such provision shall apply to the application for approval of the variance. Approval for granting or denying any subsequent approval shall be as otherwise provided in this chapter. Failure of the board of adjustment to act within the period prescribed shall constitute approval of the application, and a certificate of the proper township official as to the failure of the board of adjustment to act shall be issued upon request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval required and shall be so accepted by the county recording officer for purposes of filing subdivision plats. Whenever review or approval of the application by the county planning board is required by N.J.S.A. 40:27-6.3, for a subdivision, or N.J.S.A. 40:27-6.6, for a site plan, the board of adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time. An application under this subsection may be referred to any appropriate person or agency, including the township planning board, for its report, provided that such reference shall not extend the period of time within which the board of adjustment shall act.

(d) *Expiration of variance.* Any variance from the terms of this chapter granted by the board of adjustment or planning board permitting the erection or alteration of any structure or permitting a specified use of any premises shall expire by limitation, unless a construction permit for such construction or alteration shall have been issued or unless such permitted use has actually commenced within 12 months from the date of the judgment or determination of the board. However, the running of the period of limitation provided in this subsection shall be tolled from the date of the decision of an appeal from the decision of the board to the township council or to a court of competent jurisdiction, until the termination, in any manner, of such appeal or proceeding. No construction permit, once issued, shall be renewed without approval of the board which granted the initial variance. A variance approval may be extended for no more than 12 additional months beyond the expiration of the variance upon a finding by the board, at a duly noticed public hearing, that the character of the neighborhood, the general hardship, special reasons or other findings of fact upon which basis the variance was initially granted have not changed in the interim.

(Code 1988, § 175-55; Ord. No. 65-94, § 6, 12-6-1994)