



**COUNTY OF ACCOMACK
PLANNING AND COMMUNITY DEVELOPMENT**

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Rich Morrison, Deputy County Administrator

BOARD OF ZONING APPEALS

Application Packet for (check one):

- Special Use Permit** – Required when a proposed use is not permitted by-right according to the Accomack County Zoning Ordinance in a particular zoning district.
- Variance** – Required when a property owner cannot meet the minimum requirements (setbacks, lot size, height regulations, etc.) according to the Accomack County Zoning Ordinance.
- Special Use Permit & Variance**
- Amendment to Permit # _____ issued on ____/____/_____**
- Appeal of Zoning Administrator’s Decision**

The following items are included within this packet:

1. Accomack County Zoning Ordinance
2. Instructional Forms
3. Application for Special Use Permit (SUP)/ SUP Amendment / Variance / Appeal
4. Sample Site Plan with instructions
5. Blank Site Plan – drawing must be to scale with scale shown (if engineered plans are not required)
6. Owner’s Consent Form (to complete if you are not the owner of the property)
7. Board of Zoning Appeals (BZA) meeting schedule with application deadlines – there will be no exceptions to this deadline as it is required to advertise your request twice prior to the hearing.

In order for your application packet to be deemed complete, you must also provide the following:

1. Payment required by the Accomack County Schedule of Fees (Appendix A Sec. 9 – Zoning Fees)
 - Checks are to be made payable to: Treasurer of Accomack County*
 - a. Special Use Permit: \$335
 - b. Variance: \$335
 - c. Multiple requests for the same use: \$458
2. Detailed narrative stating what your request is, the reason for the request, and why you believe the BZA should approve your request.

<u>COMPLETE APPLICATION AND PAYMENT ACCEPTED BY:</u>	
Staff Signature: _____	Date: _____



**BOARD OF ZONING APPEALS
APPLICATION PACKET**

I. Applicant Information

Applicant Name: _____

Street Address: _____

Town: _____ State: _____ Zip: _____

Email Address: _____ Phone: (____) ____-_____

Mailing Address: **Check if same as Applicant**

Town: _____ State: _____ Zip: _____

II. Property Owner Information **Check if same as Applicant**

Applicant Name: _____

Street Address: _____

Town: _____ State: _____ Zip: _____

Email Address: _____ Phone: (____) ____-_____

III. Property Information

Tax Map # _____ Zoning District _____

911 Address (if applicable) _____

Town: _____ State: _____ Zip: _____

Existing Use: _____

Proposed Use: _____

*If the Applicant is not the property owner, a completed **Owner's Consent Form** (included) is required.*

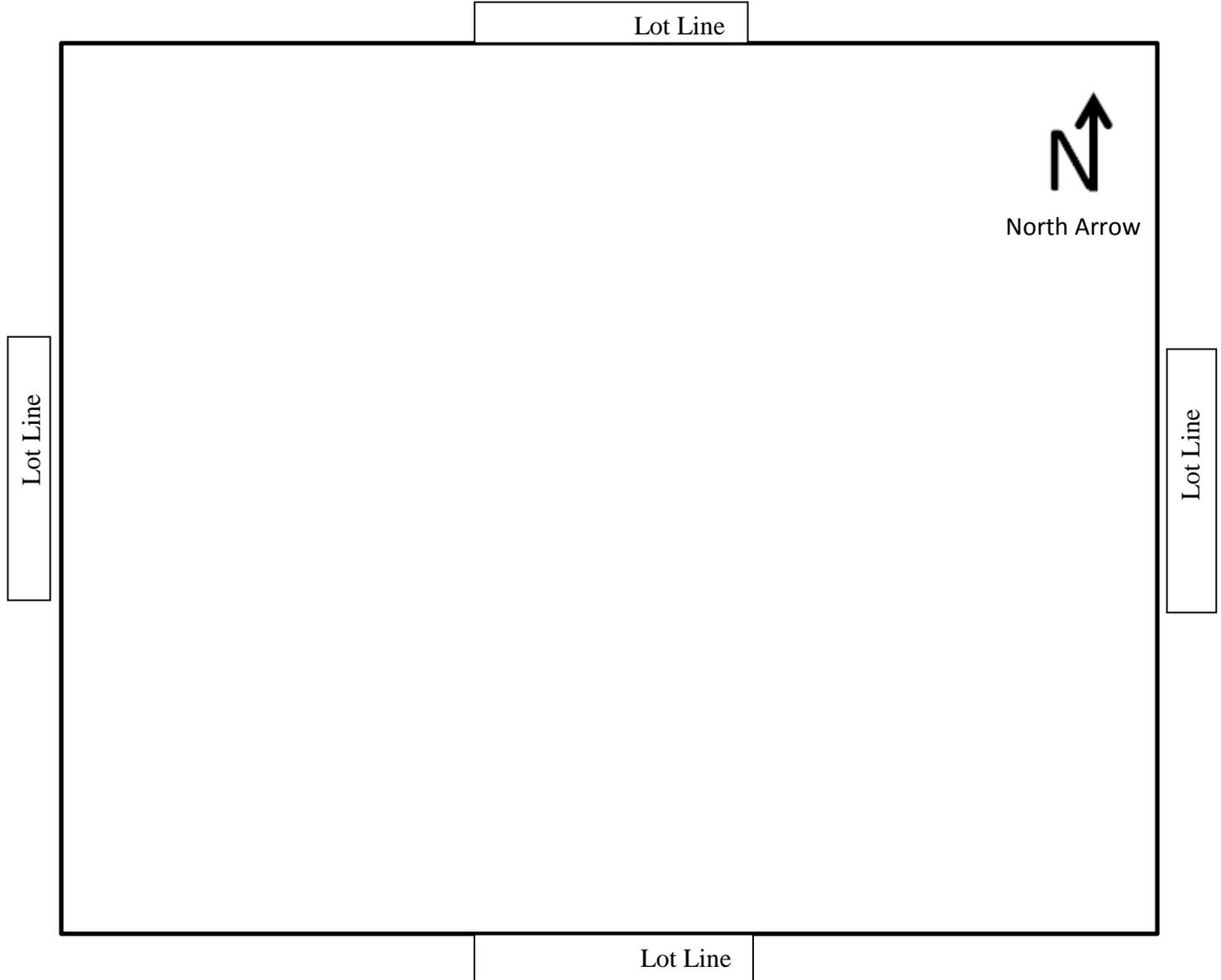
Applicant Name: _____

Applicant Signature: _____ **Date:** _____



BOARD OF ZONING APPEALS
SITE PLAN

Applicant Name _____ **Property Owner** _____
Tax Map # _____ **Zoning District** _____ **Lot Size (sq ft/acres)** _____



Main Structure Height & Width	Accessory Structure Height & Width
<p>_____ feet</p>	<p>Eave</p> <p>_____ feet</p>

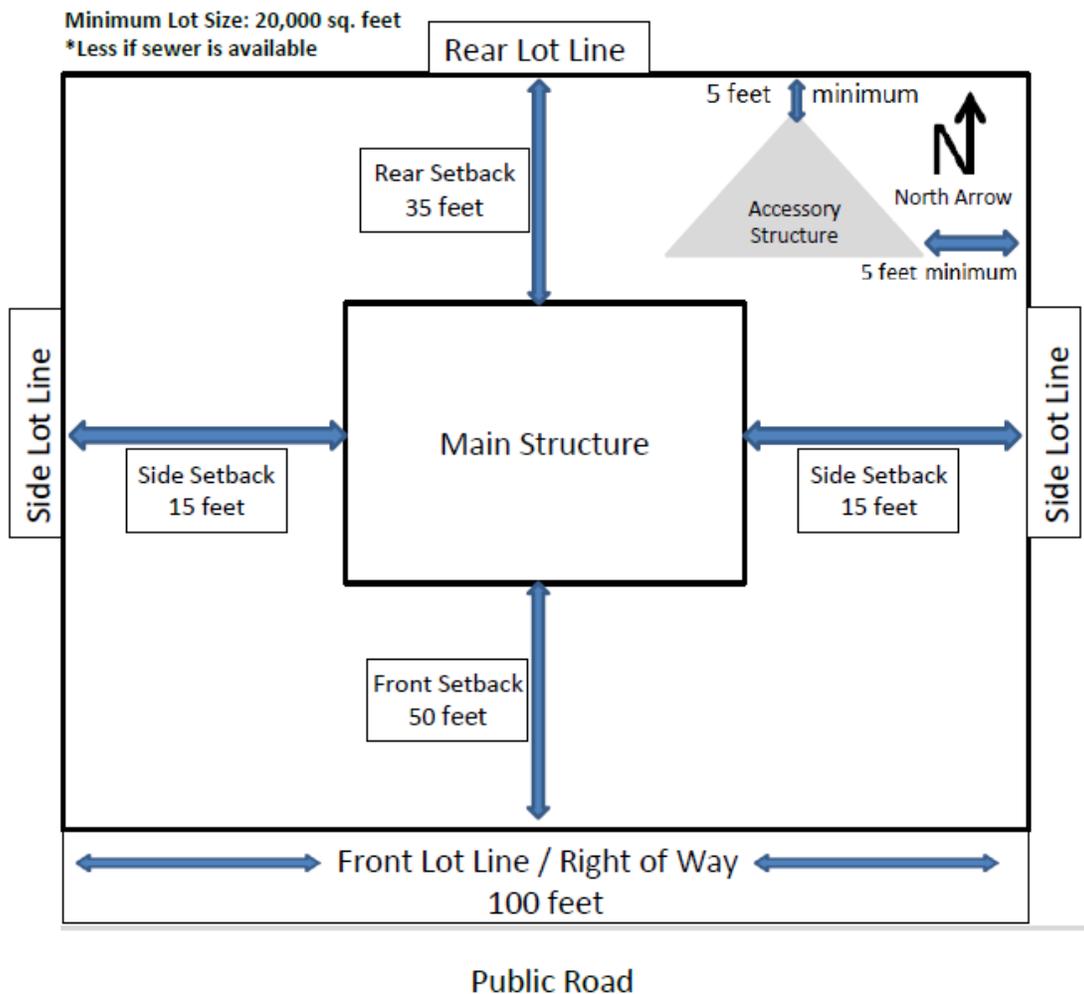


BOARD OF ZONING APPEALS
SITE PLAN REQUIREMENTS & INSTRUCTIONS

A basic site plan submitted for review shall be drawn to a scale of one (1) inch equals 100 feet or larger (when applicable) to show sufficient detailing and should show the following:

1. Boundary lines;
2. Length and width of all driveways, easements, public roadways, right of ways;
3. Front, rear, and side setbacks;
4. Size, shape, and location of existing structures (Solid Line);
5. Size, shape, and location of proposed structures with dimensions and separation distance from existing structures (Dashed Line);
6. Derelict structures, well, septic;
7. Waterways (creek, stream, swales, drainage ditch) and Wetlands;
8. Fences; and
9. Existing woods.

Example:





ACCOMACK COUNTY ZONING ORDINANCE

ARTICLE XI. - PROVISIONS FOR APPEAL

Sec. 106-251. - Board of zoning appeals.

- a) A board consisting of five members shall be appointed by the Circuit Court of Accomack County. Members of the board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing authority upon written charges and after a public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- b) The term of office shall be for five years, except that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years, and one for one year. One of the five appointed members shall be an active member of the planning commission.
- c) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has a legal interest.
- d) The board shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.

Sec. 106-252. - Powers of the board of zoning appeals.

Board of zoning appeals shall have the following powers and duties:

- 1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer or zoning administrator in the administration or enforcement of this chapter or of any ordinance adopted pursuant thereto.
- 2) To authorize upon appeal in specific cases such variances from the terms of the chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the chapter shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonable restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant provided that all variances shall be in harmony with the intended spirit and purpose of the chapter.

No such variance shall be authorized by the board unless it finds: (a) that the strict application of the chapter would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorizing of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

- 3) *Appeal from decision of the zoning administrator.* The board of zoning appeals shall have the authority to hear and decide appeals from the decision of the zoning administrator. No such appeal shall be heard except after notice and hearing as provided by Code of Virginia, § 15.1-431.
- 4) *Interpretation.* The board of zoning appeals shall have the authority to hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Code of Virginia, § 15.1-431, the board may interpret the map in such a way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power to change substantially the location of district boundaries as established by ordinance.
- 5) *Special exceptions.* The board of zoning appeals shall have the authority to accept, hear and decide applications for special exceptions as may be authorized by the chapter. The board shall have the authority to grant special exceptions and issue special use permits pursuant to this ordinance and Code of Virginia, § 15.1-495. Such applications shall be made to the zoning administrator in accordance with rules and regulations adopted by the board. No such special exception shall be authorized except after notice and hearing as required by Code of Virginia, § 15.1-431.

Before issuance of a special use permit the board of zoning appeals shall consider the general character of the surrounding neighborhood in order to facilitate the preservation and creation of an attractive and harmonious community.

The board of zoning appeals shall also consider the environmental effect on scenic, historic and waterfront areas including the property rights and values of adjoining and nearby property owners.

The board of zoning appeals shall have the authority to establish such conditions as it may deem necessary to assure and protect the health, safety, convenience and welfare of the general public within the district. Conditions may include, but need not be limited to, additional requirements for area, frontage, setback, side and rear yard, lighting, noise and odor control and location of streets including ingress and egress.

The board of zoning appeals may also impose such other conditions relating to the use for which a special use permit is granted as it may deem necessary in the public interest, including time limitations.

The board of zoning appeals shall not extend or renew any special use permit, or any conditional use permit previously granted, without the applicant complying with the procedures as set forth in [section 106-253](#) of this chapter.

All special use permits granted by the board of zoning appeals shall expire one year after the date of issuance unless construction or the use for which said permit was granted has actually commenced.

The board of zoning appeals may require a guarantee or bond with sufficient surety to insure that any of the conditions which may be imposed pursuant to this article, are being and will continue to be complied with.

A special use permit shall not be required for a temporary field office on a construction site. Such a use shall be considered as permitted by right.

The same or substantially the same application for a special use permit or variance will not be considered by the board within three months of the date the previous application was acted on by the board of zoning appeals.

The board of zoning appeals shall have the power to revoke a special use permit if the board determines that there has not been compliance with the terms and conditions of the permit. No special use permit may be revoked except after notice and hearing as provided in Code of Virginia, § 15.1-495.

Sec. 106-253. - Applications for special exceptions and variances.

Applications for special exceptions and variances may be made by any person, property owner, tenant, governmental official, department, board, or bureau. Such applications shall be made to the zoning administrator in accordance with rules and regulations adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. No such special exceptions or variances shall be authorized except after notice and hearing as required by Code of Virginia, § 15.1431. The zoning administrator shall also transmit a copy of the application to the local commission which may send a recommendation to the board or appear as a party at the hearing.

Sec. 106-254. - Appeal to the board of zoning appeals.

An appeal to the board may be taken by any person aggrieved or by any office, department, board or bureau of the county or municipality affected by any decision of the zoning administrator. Such appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property in which case proceedings shall not be stayed otherwise, than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown. No such appeal shall be heard until after notice and hearing as required by Code of Virginia, § 15.1-431.

- 1) Appeals shall be mailed to the board of zoning appeals, c/o the zoning administrator and a copy of the appeal mailed to the secretary of the planning commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

Sec. 106-255. - Rules and regulations.

- a) The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.

- b) The meeting of the board shall be held at the call of its chairman or at such times as a quorum of the board may determine.
- c) The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
- d) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- e) All meetings of the board shall be open to the public.
- f) A favorable vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

Sec. 106-256. - Public hearing.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within 60 days. In exercising its power, the board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the chapter or to effect any variance from the chapter. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses.

Sec. 106-257. - Decision of the board of zoning appeals.

- a) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the county or municipality, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the board.
- b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.
- c) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- d) If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court

shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

- e) Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.
- f) If any person, firm or corporation petitions the circuit court for a writ of certiorari, appealing the decision of the board of zoning appeals, the zoning administrator shall provide the court with a transcript of the testimony given at the hearing before the board of zoning appeals. The appellant shall pay the treasurer of the county, the sum of \$5.00 per page for the cost of transcribing the testimony.

Sec. 106-258. - Rules and regulations of the board of zoning appeals.

- a) Each person, firm or corporation desiring to obtain a special use permit, shall apply to the building department for a building permit. A copy of this application will be promptly transmitted to the zoning office.
- b) Each applicant for a special use permit shall complete a site plan, form III, and site requirements, form IV. The applicant shall certify to the accuracy of the information and agree in writing to comply with the site requirements.
- c) Each person, firm, or corporation desiring a variance from the zoning ordinance shall write a letter to the zoning administrator explaining the reason the variance is requested. form II, (adjoining property owners) and form III, (site plan), shall be accurately completed.
- d) Each person, firm or corporation who may desire to appeal a zoning decision to the board of zoning appeals shall write a letter specifying the facts in the case involved and the reason for the appeal.
- e) Each applicant, at the time of making an application for a special use permit for a mobile home, shall execute form I, which outlines the specific requirements and conditions as set forth in the chapter and which the applicant shall comply, if a special use permit is granted. The executions of this agreement, form I, shall be considered as acknowledgment that the applicant understands the requirements and conditions and agrees to comply therewith.
- f) Each applicant for a mobile home, except those in an approved mobile home park, shall obtain written comments on form II or by letter from property owners as set forth in the chapter.
- g) Any other applicant for a special use permit and/or variance, shall obtain written comments on form II or by letter, from such property owners as re specified in form II. when there are more than 15 adjoining property owners within 500 feet, only the signatures of adjacent property owners will be required.
- h) Before a temporary special use permit is issued each applicant shall execute form V agreeing in writing to remove the structure from the location on or before the period of time approved by the board of zoning appeals.
- i) The board of zoning appeals, after a public hearing pursuant to the chapter, may postpone or delay a final decision on any application for special use permits, variance or appeals in order to obtain additional information or wherever there is a legal question involved. The applicant shall not be required to re-advertise the application unless the board deems it to be necessary.

- j) Any structural addition to a mobile home which is grandfathered or for which a permanent special use permit has been granted without any conditions to the contrary, shall not be considered an expansion or enlargement of a nonconforming structure provided the owner complies with all provisions of the zoning ordinance. If the mobile home has been legally located on the site, it shall not be considered a nonconforming use or activity. It shall be considered as a use permitted by the chapter.
- k) The zoning administrator shall send a copy of each application for a special use permit and/or variance to a member of the local planning commission and shall maintain a file of such applications in the planning commission office. This procedure, in addition to the newspaper advertisement, shall be considered as compliance with [section 106-253](#) of the chapter.
- l) The board of zoning appeals shall refuse to consider any case in which the applicant has failed or refused to comply with any of the aforesaid rules and regulations of the zoning ordinance.
- m) A temporary special use permit shall not be granted for a period of time exceeding 36 months, except that in hardship circumstances a permit may be granted for use by a specific occupant. the permit shall terminate and become null and void on the date specified in the permit or when the approved occupant no longer resides in the mobile home.
- n) Prior to issuance of temporary permits, the applicant shall agree in writing to remove the mobile home to a legal location on or before the end of the period of time specified in the permit.
- o) If the permittee should desire to continue occupancy, the applicant shall apply for a renewal of a temporary permit at least on month prior to each 12-month period from date of permit.
- p) The applicant shall apply at least two months prior to the termination date for a new permit to relocate the mobile home in a legal location. If the permit was issued for use by a specific occupant, the applicant shall apply immediately upon termination of occupancy for a new permit to relocate the mobile home.