



LAND DEVELOPMENT

Appendix A-5  
D Variance (Use Variance)

CHECKLIST D VARIANCE

4-12-2004  
Rev. 12-8-2004

**SUBMISSION CHECKLIST  
TOWNSHIP OF SOUTHAMPTON, NEW JERSEY  
APPLICATION FOR "D" USE VARIANCE  
ZONING BOARD OF ADJUSTMENT**

(ORIGINAL AND 15 COPIES OF ALL INFORMATION SUBMITTED, MUST BE PROVIDED BY APPLICANT.)

BLOCK 701 LOT(S) 4.01

APPLICANT/DEVELOPER'S NAME Richards Mobile Home Court LLC

PROPERTY LOCATION ADDRESS: 150 Route 530

DATE OF SUBMISSION: November 13, 2020

- Required Application.
- Required Application Fee and Escrow Deposit. (See attached Fee and Escrow Ordinance.)
- Certification by the Tax Collector that all taxes on said property are paid to date.
- Waiver Current Survey and/or Site Plan in accordance with Site Plan Ordinance.
- Escrow Agreement.
- Written request for any waiver(s).

This checklist is not a substitute for any specific submission requirement of our Ordinances. See Ordinances for details. For any of the above requirements not submitted, a statement requesting a waiver and reason(s) must be submitted.

All applications received by the Zoning Board will be reviewed for completeness. No application will proceed to the Board until deemed complete by the review staff.

Pursuant to N.J.S.A. 40:55D-70(d) "The Zoning Board of Adjustment shall have the power to: In particular cases for special reasons, grant a variance to allow departure from regulations pursuant to Article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to § 54 of P.L. 1975, c.291 (C.40:55D-67) pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in § 3.1 of P.L. 1975, c.291 (C.40:55D-4), (5) an increase in the permitted density as defined in § 3.1 of P.L. 1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which

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exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members, in the case of a municipal board, or 2/3 of the full authorized membership, in the case of a regional board, pursuant to article 10 of this act.”

No variance or other relief may be granted under the terms of this section, including variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance.

### USE VARIANCE:

The granting of a Use or “d” variance under N.J.S.A. 40:55D-70(d) requires the applicant to provide certain proofs, specifically positive and negative criteria.

### POSITIVE CRITERIA

In demonstrating the positive criteria, the applicant should rely upon providing special reasons for the requested relief. The applicant is required to prove that the proposed project carries out a purpose of zoning or an undue hardship will result if the proposed project is denied.

1. The purposes of zoning in N.J.S.A. 40:55D-2 are:
  - a. To encourage municipal action to guide the appropriate use of development of all lands in the State, in a manner which will promote the public health, safety, morals and general welfare;
  - b. To secure safety from fire, flood, panic and other natural and man-made disasters;
  - c. To provide adequate light, air and open space;
  - d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
  - e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment.
  - f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
  - g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
  - h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
  - i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;

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- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the state and to prevent urban sprawl and degradation of the environment through improper use of land;
  - k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;
  - l. To encourage senior community housing construction;
  - m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
  - n. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.
2. In addition, the following purposes of zoning from the Southampton Township's Zoning Ordinances can be used as sufficient proofs in providing special reasons:
    - a. To further the goals and policies of the Master Plan of the Township of Southampton.
    - b. To further the goals and objectives of the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.
    - c. To promote the development and use of greenways, which are contiguous tracts and corridors of recreation, forest or other open space land that protects sensitive natural and cultural resources including endangered species and particularly ground and surface.
  3. The Supreme Court has also stated that "the preservation of the character of a neighborhood and conservation of neighborhood values" can also be considered valid purpose of zoning. Promotion of a State policy has also been held as promoting the general welfare and can serve as a special reason.
  4. General Welfare as a Special Reason. If the applicant relies upon the promotion of general welfare as a special reason, the use must be considered inherently beneficial or is peculiarly suitable to the particular location for which the variance is sought. Typical inherently beneficial uses such as schools, hospitals and public housing have characteristics that are essential within a community and are generally institutional and noncommercial in nature. The applicant is required to prove that the use is peculiarly suitable to the proposed location.

## NEGATIVE CRITERIA

In addition to proving special reasons, the applicant must offer "an enhanced quality of proof." The applicant must address to the satisfaction of the Zoning Board of Adjustment the following issues:

1. The applicant must prove that the proposed is not inconsistent with the intent and purpose of the Southampton Township's Master Plan and Zoning Ordinances.

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2. The applicant must also prove that the proposed use will not present a substantial detriment to the public good. The applicant should provide potential impacts on surrounding properties in determining whether the character of the neighborhood will be substantially impacted. The Board should consider potential impacts to traffic, safety, aesthetic views, the environment, noise and property values.

## BALANCING TEST

The responsibility of the Zoning Board of Adjustment is to determine whether the benefits outweigh the detriments. There is a four-step process to help the Board make this determination as provided below:

1. Identify the public interest at stake.
2. Identify the detrimental effects that would result from the granting of the variance.
3. Identify potential mitigating reasonable conditions that would reduce the anticipated detriments.
4. Weigh the public interest issues against the public detriments to determine if the granting of the variance would cause a substantial detriment to the public good.