

PAID
6/29/15 CK
#11755

City of Beaufort Floodplain Variance Application
1911 Boundary Street
Beaufort, South Carolina 29902
Phone (843) 525-7011 / Fax (843) 986-5606
Created December 27, 2010

Application Fee \$200

FLOODPLAIN VARIANCE APPLICATION

OFFICE USE ONLY: Date Filed: <u>6-29-15</u> Application #: <u>FP15-01</u> Zoning District: <u>CC</u>
Date of hearing: <u>7/4</u> Variance: <input type="checkbox"/> approved <input type="checkbox"/> denied

The information below is **required** to process your request for a variance from the City of Beaufort Planning Department. Failure to submit the required documents may delay processing your request.

SECTION A: APPLICANT/OWNER INFORMATION

Applicant(s): Beaufort Inn, LLC
Address: 2015 Boundary Street, Suite 300 Beaufort, SC 29902
Telephone: (843) 521-9000 [day] (843) 379-9545 [fax]
E-mail: dstewart@303associates.com and ctw@303associates.com

Owner(s) if other than Applicant(s): _____
Address: _____
Telephone: _____ [day] _____ [fax]

Property Street Address: 812 Port Republic Street
Property Identification No.: R121 004 000 0984 0000

SECTION B: PROPOSED PROJECT INFORMATION

Description of proposed project (check all that apply): new structure addition remodel redevelopment
 mobile home/building attached garage accessory structure fill excavation change of use
 other (describe) renovation and maintenance

Existing Use (check one): residential non-residential mixed-use other _____
Type of foundation (check one): slab-on-grade basement crawl space enclosed area not subgrade
 other (describe) _____

SECTION C: FLOODPLAIN INFORMATION

Lowest existing ground elevation: 10.3' MSL (mean sea level)
Lowest finished ground elevation: _____ MSL
Base flood elevation: 100-year flood level _____ 500-year flood level _____
Regulatory flood protection elevation 13'
Proposed lowest floor elevation using 10-37(d): _____
Floodproofing description (if available): _____
Section(s) of City Code for which variance is being requested: _____

What circumstances justify the proposed variance? _____

The applicant hereby certifies that the above information, along with the attached plans and project descriptions, is correct. The applicant agrees to comply with the provisions of the zoning ordinance, building code and all other applicable sections of the City Code, Land Use Code, City Plan, and all other laws and ordinances affecting the construction and occupancy of the proposed building. The applicant understands that if this variance is approved, the structure and its occupants may be more susceptible to flood damage and, if in a FEMA floodplain, the cost of flood insurance may increase for the property.

Signature of applicant: _____ Date: _____

The Beaufort Inn

812 Port Republic Street

The Beaufort Inn would like to invest in this building to bring it back into use as a place to provide overflow breakfast service for Inn guests. This building was the former Back Street Café. Its location and structure make it an ideal spot for this use. We hope you grant this variance because otherwise this building as well as others in the lower levels of the city may have limited reuse options or may have to be demolished. The Beaufort Inn has a strong record of adaptive reuse and we would like to continue that pattern with this building. We need your assistance.

The building floor is currently below the established 100 year flood level and will require about 30 inches of floor elevation to be brought up to the this code requirement. This is not feasible because the floor to ceiling height would be too low for this use and the expense would be prohibitive. Based on the City's current Flood Ordinance, a substantial improvement is "[a]ny repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement... **Permits shall be cumulative for a period of five (5) years.** This creates a real risk for us and other similarly situated property owners in the lower areas of the city including portions of the historic downtown which is zoned Core Commercial. As an example, if the improvement project is conducted in phases, the total of all costs associated with each phase will be added together to determine whether "substantial improvement" has occurred. This means that even if we can stay below the fifty (50) percent threshold for the current project, we need only have roof damage, HVAC problems, hot water heater failure, put in new flooring or cabinets, change bathrooms etc. within a rolling 5 year period to find ourselves trapped and required to flood proof the building. This cannot be reasonably achieved. We simply cannot take this uncontrollable risk and so must leave the building underutilized. This situation is counter to the City's Master Civic Plan which seeks to encourage infill development in the downtown area.

We have researched our flood proofing alternatives for this building. As we understand them, we can either add 30 inches to the floor level which means a new roof and added wall height. The cost is unreasonable and there is no assurance such changes will be approved by the HRB. We don't have the option of constructing new walls around the building because the building is on the property line on two sides.

The purpose of the City of Beaufort's Flood Ordinance is to "protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction." Our proposal is not new construction. Rather, this is returning an existing structure to a previous use. We are not proposing any additions to the structure. These changes will not change any flood water flows. The only change is increased investment and use of the existing building. A goal supported by the City's Master Civic Plan

Thank you for considering this variance. The Beaufort Inn has a need best matched by making interior improvements to the property. Failure to grant this variance will result in a hardship in that we will not be able to utilize our property in a way that it has been previously used and for which it is zoned. We request instead that you be guided by the City's Master Civic Plan which encourages reuse and investment downtown.

STAFF REPORT

**CITY OF BEAUFORT
ZONING BOARD OF APPEALS
Staff Report and Recommendations
Meeting of 27 July 2015**

Case Number: FP 15-01
Property Address: 812 Port Republic Street
Applicants: Beaufort Inn, LLC
Type of Request: Flood Hazard Ordinance Variance
Zoning: CC

Background: The property is located at 812 Port Republic Street in the Beaufort Historic District (see Site Location Map attached). The property is identified as District 120, Tax Map 4, Parcel 984. The property is located in the Flood Hazard Area. A one-story commercial building is located on the property (see attached photos). The building is currently vacant, but had recently been used for retail uses. At one time, the building was used as a restaurant. According to the Beaufort County Assessor's records, the building was built in 1955. The building is not listed on the Beaufort County Historic Sites Survey. The property appears to be below the base flood elevation (BFE). The Beaufort County Assessor's office has the current value of the building as \$64,400 (see attachment). The property is zoned Core Commercial District (CC).

The applicant is proposing to renovate the building to be used as breakfast area for the Beaufort Inn. The City's current Flood Damage Prevention ordinance and National Flood Insurance Program (NFIP) regulations stipulate that repairs and improvements which are over 50% of the market value of the building are considered a "substantial improvement" (see attached definition from Section 5-4011 of the City's flood ordinance). The City's flood ordinance [Section 5-4032 (2) attached] and NFIP regulations further stipulate that buildings which undergo a "substantial improvement" must be brought into compliance with flood ordinance requirements. This means either elevating the finished first floor above the BFE, or dry floodproofing the building. Historic structures are exempt from the substantial improvement requirement; since this structure is not historic, it is not exempt from the substantial improvement requirement. The City's ordinance goes beyond NFIP requirements by stipulating that a substantial improvement is determined by considering all permits issued for a five-year period (see attached definition of "substantial improvement"). The applicant is requesting a variance from the five-year cumulative section of the ordinance.

Question to consider: Is there an elevation certificate for the building? If not, should an elevation certificate be prepared so the exact elevation of the building is known? What is the scope and cost of the work associated with the proposed renovation? Are there any future phases of work currently planned? What additional work, planned or unforeseen, can reasonably be anticipated over the next five years? Has an appraisal been done? The Beaufort County Assessor's market valuation for the building has changed dramatically between 2007 and 2014. There is even a

substantial difference between the value in Tax Year 2010 and the value today. Would a professional appraisal bring in a higher market value that set out by the County Tax Assessor?

Variance criteria: Applications for floodplain variances are evaluated using different criteria than those used for evaluating zoning variances. Section 5-4045 outlined below and attached, sets out the issues/findings that the Board must make before flood variance is approved.

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
7. The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
8. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
9. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Section 5-4048 (attached) sets out the conditions which apply to all variances:

1. Variances may not be issued when the variance will make the structure in violation of other federal, State, or local laws, regulations, or ordinances.
2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and

a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.
5. The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
6. Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Section 5-4024(5) of this ordinance.

Staff recommendation: Staff recommends reviewing a scope of work for the project and comparing the cost of the various phases of improvements with the market value of the building, ideally as established by professional appraiser. If for example, the project is to be done in three stand-alone phases over a three-year period, it may make a difference in the Board's decision as to whether each phase was a "45% improvement" totaling 135% over the three years, or whether each phase was a 20% improvement, totaling 60% over three years. Unforeseen circumstances such as a tree falling through the roof could be addressed by a variance at the time these incidents might occur.





Beaufort County, South Carolina

generated on 7/7/2015 4:25:44 PM EDT

Property ID (PIN)	Alternate ID (AIN)	Parcel Address	Data refreshed as of	Assess Year	Pay Year
R120 004 000 0984 0000	06577634	,	7/5/2015	2014	2014

Current Parcel Information

Owner	BEAUFORT INN LLC	Property Class Code	ComImp Trade RetEat&Drink
Owner Address	2015 BOUNDARY ST SUITE 300 BEAUFORT SC 29902	Acreage	.2000
Legal Description	BLK 60 #BACK STREET CAFE PLAT IN DB1164 P408 PB71 P102 PB119 P97 11/07 0.08 AC ADDED FM 4/924		

Historic Information

Tax Year	Land	Building	Market	Taxes	Payment
2014	\$195,700	\$64,400	\$260,100	\$4,087.95	\$4,087.95
2013	\$195,700	\$64,400	\$260,100	\$3,896.38	\$3,896.38
2012	\$162,032	\$58,000	\$220,032	\$3,084.82	\$3,084.82
2011	\$162,032	\$58,000	\$220,032	\$3,032.03	\$3,330.93
2010	\$217,412	\$121,439	\$338,851	\$3,149.34	\$3,149.34
2009	\$217,412	\$121,439	\$338,851	\$3,087.55	\$3,087.55
2008	\$87,100	\$113,100	\$200,200	\$2,856.03	\$2,856.03
2007	\$52,300	\$214,800	\$267,100	\$3,725.85	\$3,725.85
2006				\$3,455.01	\$3,455.01
2005				\$3,315.59	\$3,315.59

Sales Disclosure

Grantor	Book & Page	Date	Deed	Vacant	Sale Price
ASSOCIATED LUXURY INNS OF BEAUFORT	3202 2074	12/28/2012	Ge		\$10
Multiple Owners	3016 1912	12/3/2010	Ba		\$10
BIDDLE R MCCALLIE III KRISTEN	1164 405	3/26/1999	Fu		\$275,000
WELLARD CARL S NANCY K DEAN THOMPSON	807 629	9/29/1995	Fu		\$175,000

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Please refer to the definition of "substantial improvement".

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. Permits shall be cumulative for a period of five (5) years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur. The term does not, however, include either:

- (1) Any project of improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (does not include American with Disabilities Act compliance standards); or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home park or subdivision. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

Variance. The grant of relief from a term or terms of this ordinance.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Code of Federal Regulations Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

(Ord. No. O-29-04, 9-28-04; Ord. No. O-12-07, §§ 2, 3, 4-10-07; Ord. No. O-25-11, § 1, 8-9-11)

Secs. 5-4012—5-4020. - Reserved.

ARTICLE D. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 5-4031. - General standards.

In all areas of special flood hazard, the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;
- (2) All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage;
- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
- (4) Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. This requirement does not preclude the installation of outdoor faucets for shower heads, sinks, hoses, etc., as long as cut off devices and back flow devices are installed to prevent contamination to the service components and thereby minimize any flood damages to the building;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and
- (8) Any alteration, repair, reconstruction, or improvement to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance. This includes post-FIRM development and structures.
- (9) Nonconforming buildings or uses. Nonconforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway, provided that the bulk of the building or structure below base flood elevation in the floodway is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (10) American with Disabilities Act (ADA). A building must meet the specific standards for floodplain construction outlined in section 5-4032, as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.

(Ord. No. 0-29-04, 9-28-04)

Sec. 5-4032. - Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in section 5-4004 or section 5-4023(10), the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes), or an addition to a residential structure, the footprint of which is over thirty-three (33) percent of the footprint of the existing structure, shall have the lowest floor elevated no lower than the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with section 5-4032(5) [5-4023(5)].
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes), or an addition, the footprint of which is over thirty-three (33) percent of the footprint of the existing structure, shall have the lowest floor elevated no lower than the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with section 5-4032(5) [5-4023(5)]. No basements are permitted. Structures located in A-zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic

and hydrodynamic loads and the effect of buoyancy. A registered, professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in sections 5-4022(7) and 5-4022(9). A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in section 5-4044 of this ordinance. Agricultural structures not meeting the criteria of section 5-4044 must meet the nonresidential construction standards and all other applicable provisions of this ordinance. (Structures which are floodproofed are required to have (an approved maintenance plan) with an annual exercise.) The maintenance plan must be approved by the local administrator and notification of the annual exercise shall be provided to same.

- (3) **Manufactured homes.** No new manufactured homes or manufactured home parks shall be permitted in areas of special flood hazard.
 - a. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision must be elevated so that the lowest floor of the manufactured home is elevated no lower than two (2) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
 - b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with section 19-425.39 of the South Carolina Manufactured Housing Board Regulations, effective date May 25, 1990, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis at least thirty-six (36) inches or less above the grade at the sight, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above thirty-six (36) inches in height an engineering certification is required.
- (4) **Recreational vehicles.** A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreational vehicles placed on sites shall either be on site for fewer than one hundred eighty (180) days and be fully licensed and ready for highway use, or meet the requirements of section 5-4022 and section 5-4031.
- (5) **Elevated buildings.** New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access, or storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria;
 - b. Provide a minimum of two (2) openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - c. The bottom of all openings shall be no higher than one foot above grade;
 - d. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and
 - e. Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building.
 - f. Hazardous velocities. Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than five (5) feet per second), foundation systems other than solid foundations walls should be considered so that obstructions to damaging flood flows are minimized.
 - g. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - h. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose a single storage area and must be void of utilities except for essential lighting as required, and cannot have a permanent thermostatic controlled HVAC system. One wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in sections 5-4032(1) and 5-4022(2).
 - i. All construction materials below the required lowest floor elevation specified in sections 5-4032(1) and 5-4032 (2) shall be of flood resistant materials.

ARTICLE E. - VARIANCE PROCEDURES

Sec. 5-4041. - Establishment of appeal board.

The zoning board of appeals (ZBOA) as established by city council shall hear and decide requests for variances from the requirements of this ordinance.

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4042. - Right to appeal.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the court.

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4043. - Historic structures.

Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4044. - Agricultural structures.

Variances may be issued to wet floodproof an agricultural structure in accordance with Technical Bulletin 7-93, Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program, document number FIA-TB-7, dated 12/93, and available from the Federal Emergency Management Agency. In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of section 5-4048(4), this section, and the following standards:

- (1) Use of the structure must be limited to agricultural purposes as listed below:
 - a. Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;
 - b. Steel grain bins and steel frame corn cribs;
 - c. General purpose barns for the temporary feeding of livestock which are open on at least one side;
 - d. For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures which were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of section 5-4032(2); and
- (2) The agricultural structure must be built or rebuilt, in the case of an existing building which is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation;
- (3) The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed five (5) feet per second, fast-flowing floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls;
- (4) The agricultural structure must meet the venting requirement of section 5-4032(5)d.;
- (5) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation so that they are contained within a watertight, floodproofed enclosure which is capable of resisting damage during flood conditions. The structure must comply with section 5-4031(4);
- (6) The agricultural structure must comply with the floodway encroachment provisions of section 5-4032(8); and
- (7) Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the floodplain in accordance with the temporary development provisions of section 5-4032(6).

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4045. - Considerations.

In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and the following:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (9) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and
- (10) Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the special flood hazard area and no other alternative locations for the structure are available.

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4046. - Findings.

Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the department of natural resources, land, water and conservation division, state coordinator's office, must be taken into account and included in the permit file.

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4047. - Floodways.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4048. - Conditions.

Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:

- (1) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (3) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.
- (5) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (6)

Variations shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with section 5-4024(5) of this ordinance.

(Ord. No. O-29-04, 9-28-04)

Sec. 5-4049. - Functionally dependent uses.

Variations may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.

(Ord. No. O-27-12, § 4, 12-11-12)

Sec. 5-4050. - Reserved.