

BOARD OF ALDERMEN

ITEM NO. D(2)

AGENDA ITEM ABSTRACT

MEETING DATE: Tuesday, January 15, 2002

TITLE: REVIEW: Screening, Setback Requirements and Special Exceptions

DEPARTMENT: PLANNING	PUBLIC HEARING: YES ___ NO <u>X</u> ___
ATTACHMENTS: A. Resolution B. Section 15-184 C. Section 15-304 D. Appendix E E. Memo from Town Attorney, June 9, 1994 F. Section 15-92.1, Appendix H	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327

PURPOSE

The Board of Aldermen 2001-2002 Action Agenda calls for a review of screening and setback requirements and the special exception permit provision. A report has been prepared. A resolution receiving the report is recommended for the Board's approval.

INFORMATION

The Board of Aldermen 2001-2002 Action Agenda item #20 requests a review of screening and setback requirements and an investigation of other instances where special exceptions may be applied. This item was included under the Board's second goal of providing effective, efficient and responsible government, particularly through accessible, user-friendly communications and services to the public. This report provides an overview of the Town's screening and setback requirements and of the special exception provisions.

Overview of Land Use Ordinance Provisions

The Town's Land Use Ordinance includes a number of dimensional regulations and standards that were selected to maximize the enjoyment of most residents by minimizing the impacts of any particular use on adjacent properties and the rest of the community. Among these is included one of the most straightforward zoning regulations, setback requirements. Setback requirements establish a minimum distance that structures must be located from a known point (e.g. property line, right-of-way, street centerline). The ordinance also utilizes screening requirements that are designed to minimize conflicts between differing uses.

Setbacks. Setbacks are used to prevent encroachments by providing adequate area on a property for principal and accessory uses to occur, to create a streetscape that is uniform and pleasing, and to maintain a consistent feel between older and newer developments that occur along connecting streets and neighborhoods. For the most part, the general pyramidal or hierarchical organization of the Town's zoning districts results in setback requirements that are most relaxed in the most intensive, core commercial areas, and most restrictive in the areas intended for the least intensive uses. The basic setbacks are established by zoning district and are included within a table in the Land Use Ordinance. Due to the particular characteristics of some uses and properties, the desire to provide flexibility for some activities, and the recognition of pre-existing conditions, a series of specific exceptions are noted as well (see Section 15-184 – *Attachment B*).

Screening. The need for screening requirements is spelled out in a series of findings made by the Board of Aldermen in establishing these provisions (see Sections 15-304 – 312 *Attachment C*) and a general standard was developed, as follows: “Every development shall provide sufficient screening so that:

- (1) Neighboring property are shielded from any adverse external effects of that development;
- (2) The development is shielded from the negative impacts of adjacent uses such as streets or railroads.

The standard is a presumptive one and three screen types, Opaque Screen, Type “A”, Semi-Opaque Screen, Type “B,” and Broken Screen, Type “C” are defined. Illustrations of the screen types are included in Appendix E (*Attachment D*). Screening requirements (shown in Section 15-308) are determined for the interface of existing (dominant) and proposed (servient) uses. The responsibility for satisfying the screening requirement is assigned to the proposed use, rather than the existing one.

Special Exceptions. Some flexibility is included in relation to both the setback and screening provisions. As with most local governments, the Town utilizes other measures to deal with circumstances that warrant additional consideration. These measures have been developed in recognition of the fact that it is nearly impossible to predict how land use regulations may affect each and every property in a jurisdiction. While a variance is the tool that most commonly comes to mind when considering such circumstances, the strict limitations on the applicability of this measure make it difficult to obtain. In 1994, the Board of Adjustment requested that the Town Attorney prepare an LUO amendment that would “allow minor deviations from certain dimensional requirements of the ordinance” (see Brough memorandum – *Attachment E*) when an applicant could not satisfy the criteria for variances. The term “special exception” was applied to this measure. This term is typically (i.e. in the general statutes and in planning literature) used alternatively with special use or conditional use. Carrboro’s special exception was developed as a hybrid of a variance and a special use since the deviations requested by the Board of Adjustment were dimensional and not a new “use.” The Board of Adjustment is authorized to approve two types of exceptions:

- 1) A reduction of up to 50 percent of the required setback from lot boundary lines for buildings on lots used for conforming residential purposes in residential districts and subject to time and North Carolina State Building Code requirements.
- 2) An addition or extension of an existing, nonconforming structure into front, rear or side yard setbacks to match the extent of the existing encroachment.

These provisions are included in Section 15-92.1 and illustrated in Appendix H (*Attachment F*). In accordance with the quasi-judicial nature of the action, the Board of Adjustment is authorized to issue a permit for the specified deviations subject to receiving public comment in a hearing, and making a series of findings related to the general and specific impacts of the requested deviation.

Applicability of Special Exception to Other Situations

The special exception is a unique approach, and one that provides some additional flexibility with regard to dimensional requirements. Presumptive and performance standards are used for other requirements, such as screening, parking, and height (in some districts) to provide similar flexibility. The special exception findings are not as strict as the variance findings, and the exception is therefore somewhat less difficult to obtain. At this time, a wider application of this measure is not recommended.

ADMINISTRATION’S RECOMMENDATION

The Administration recommends that the Board of Aldermen adopt the attached resolution (*Attachment A*) that receives the report.