

Applicant Burden of Proof for Special Use Permits, Article 11.4.10(e).2:

The applicant has the burden of producing competent, material, and substantial evidence establishing that:

1. The proposed special use will not materially endanger the public health or safety;
2. The proposed special use will not substantially injure the value of abutting property or it constitutes a public necessity;
3. The proposed special use will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and any applicable small area plan;
4. The proposed special use will comply with all of the lot, size, yard, and other standards which this ordinance applies to all uses permitted in the zoning district in which the property is located; and
5. The proposed special use will comply with all general and specific standards required by the appropriate section of this ordinance for the issuance of a special use permit for this use.

Please note, if the applicant fails to provide substantial, material, and competent evidence addressing the applicable criteria, then the Town Board must deny the permit. That is true regardless of whether potential opponents present any evidence on point or not.

Expert Witness & Competent, Material, and Substantial Evidence:

Expert Witness:

- Generally, an expert witness is one qualified by knowledge, skill, experience, training, or education to provide specialized knowledge to help with the understanding of evidence or the determination of facts.
- Expert witnesses may include (but are not limited to):
 - A qualified appraiser when determining property value impact.
 - In North Carolina an owner of real property is generally competent to testify as to the value of their own property even though their knowledge on the subject would not qualify them as a witness were they not the owner.
 - An owner is generally expected to know what price the owner paid for the property and the uses to which the property may be put and to have a reasonably good idea of what it is worth. It is understood that the owner's opinion of the value of her own property may be subject to bias.
 - A transportation engineer when determining traffic impact.
 - A doctor or scientist when determining if the emissions from a proposed development would endanger the public health.

Competent, Material, and Substantial Evidence:

- Competent evidence is evidence that is sufficiently trustworthy and reliable, and that is legally fit and acceptable for consideration by the Board.
 - Speculative, irrelevant, or vague evidence; non-expert opinions on something that requires an expert; and hearsay evidence will likely not be competent evidence.
- Material evidence is evidence that shows that the standards will or will not be met.
- Evidence is substantial if it is relevant and regarded by a reasonable person as sufficient to support a specific conclusion.
 - Speculation, unsubstantiated fears of the community, or vague assertions do not constitute substantial evidence.

3. The proposed special use will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and any applicable small area plan.

4. The proposed special use will comply with all of the lot, size, yard, and other standards which this ordinance applies to all uses permitted in the zoning district in which the property is located.

5. The proposed special use will comply with all general standards in Article 11.4 and all specific standards in Article 9 for the issuance of a special use permit for this use.

Attach additional documents if needed.