

The Anastasio Law Firm



THE 2100 BLOCK OF DELANCEY PLACE

RSA-5 Zoning Guide

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RSA-5

RSA-5 districts are primarily intended to accommodate attached and semi-detached houses on individual lots, but may be applied in areas characterized by a mix of housing types, including detached houses.

Using this Guide

Single-family dwellings do not require zoning approval. Other uses require either a **Use Registration Permit** from the Department of Licenses and Inspection, or a **Special Exception** or **Variance** from the Zoning Board of Adjustment. Uses not mentioned require a Variance.

Properties must also conform to specific dimensions. Otherwise, a Variance must be obtained.

Information on how to obtain a Zoning/Use Permit, Special Exception, or Variance is also provided. If you have any questions, please feel free to contact The Anastasio Law Firm.

Please Note: This Information is presented using plain language which may differ from the specific Zoning Code provisions and court decisions. Also, this guide offers general principals which may not be applicable to a specific property or use. When going through the zoning and permit process, always contact an attorney.



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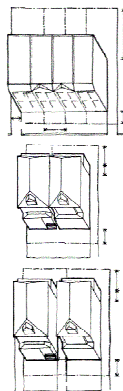
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Residential Uses

Household Living

Household Living is defined as “Residential occupancy of a building or any portion thereof by one or more families. When a household living use is rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging.”

Single Family does not require zoning approval.

Single Family is defined as “The use of a lot as a residence for one family.”

Two-Family requires a Variance (see page 18).

Two Family is defined as “The use of a lot as a residence for two families with each family occupying a single dwelling unit.”

Multi-Family requires a Variance (see page 18).

Multi-Family is defined as “The use of a lot as a residence for three or more families with each family occupying a single dwelling unit.”

Group Living

Group Living is defined as “Residential occupancy of a building or any portion thereof that is not categorized as a household living use and that typically provides communal kitchen/dining facilities. Examples of group living uses include, but are not limited to, fraternities, sororities, group homes, and temporary overnight shelters.”

Personal Care Home requires a Special Exception (see page 17).

Personal Care Home is defined as “Any premises in which food, shelter, and personal assistance or supervision are provided for a period exceeding 24 hours for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency, or medication prescribed for self-administration.” Where the Pennsylvania Department of Public Welfare requires, personal care homes must comply with 55 Pa. Code Chapter 2600.

Single-Room Residence requires a Variance (see page 18).

Single-Room Residence is defined as “A building containing rooms rented as living quarters without private bathrooms. Examples include dormitories, rooming houses, and supported independent living.”

Parks and Open Spaces

This category includes uses that may occur on land that has been identified for parks and recreation uses open to the public or to be left in a generally natural state.



Passive Recreation requires a Use Registration Permit (see page 16).

Passive Recreation is defined as “Recreational facilities associated with pastimes that are incidental to natural open space. These facilities require minor land development, require minimal maintenance, and have little impact on natural open space.”

Active Recreation requires a Special Exception (see page 17).

Active Recreation is defined as “Recreational facilities that require major land development, structure construction, and a moderate- to high-level of maintenance and can accommodate large groups of people.”

Public, Civic, and Institutional Uses

Public, Civic, and Institutional Uses includes public, quasi-public, and private uses that provide unique services that are of benefit to the public as a whole.

Day Care

Day Care is defined as “Uses providing care, protection, and supervision for children or adults for a fee on a regular basis away from their primary residence for less than 24 hours per day. Examples include preschools, nursery schools, Head Start programs, latch key programs, and adult daycare programs.” Care given by guardians or relatives of the children or adults is not regarded as day care, nor is care given away from the primary residence of the children or adults by babysitters or caregivers for fewer than 10 hours per week.

Family Day Care requires a Use Registration Permit (see page 16).

Family Day Care is defined as “The provision of care within the day care provider’s primary residence for children who are not relatives of the

provider.” A Family Day Care is limited to providing care to six or fewer children, except in certain areas where they are limited to providing care to four or fewer children. A Family Day Care must be located in a residential dwelling operated by the resident of the dwelling.



Group Day Care requires a Special Exception (see page 17).

Group Day Care is defined as “The provision of care in a facility that is not the day care provider’s primary residence for up to 12 children or 12 adults who are not relatives of the provider.”

Day Care Center requires a Variance (see page 18).

Day Care Center is defined as “The provision of care in a facility that is not the day care provider’s primary residence for 13 or more adults or 13 or more children who are not relatives of the provider.”

Educational Facility

Educational Facility requires a Special Exception (see page 17).

Educational Facility is defined as “Public and private schools at the primary, elementary, junior high, or high school level that provide basic education; or Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree.”

Fraternal Organization

Fraternal Organization requires a Special Exception (see page 17).

Fraternal Organization is defined as “The use of a building or lot by a not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests. Banquet rooms and the preparation and serving of food and beverages and occasional live entertainment are uses and activities in association with fraternal organizations.”

Hospital

Hospital requires a Special Exception (see page 17).

Hospital is defined as “Uses providing medical or surgical care to patients and offering inpatient (overnight) care.”

Library or Cultural Exhibit

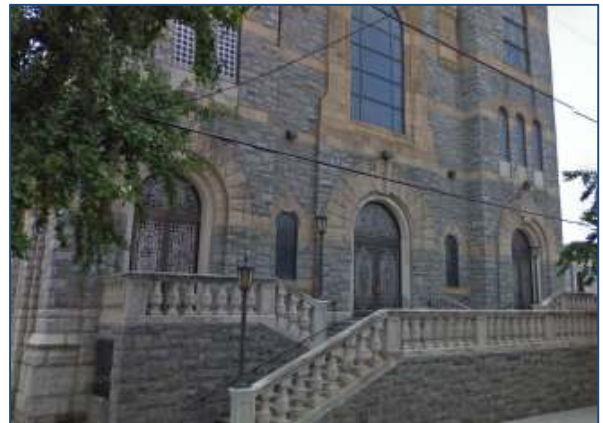
Library or Cultural Exhibit requires a Special Exception (see page 17).

Library or Cultural Exhibit is defined as “Museum-like preservation and exhibition of objects in one or more of the arts and sciences, gallery exhibition of works of art, or library collection of books, manuscripts, and similar materials for study and reading.”

Religious Assembly

Religious Assembly requires a Use Registration Permit (see page 16).

Religious Assembly is defined as “Religious services involving public assembly that customarily occur in synagogues, temples, mosques, churches, and other facilities used for religious worship.” Religious Assembly must be in a completely enclosed detached building.



Safety Services

Safety Services require a Special Exception (see page 17).

Safety Services is defined as “Establishments that provide fire, police or life protection, together with the incidental storage and maintenance of necessary vehicles.”

Transit Station

Transit Station requires a Special Exception (see page 17).

Transit Station is defined as “Stations, off-street passenger waiting areas, and loading/unloading areas for local and regional transit service. Street-side boarding locations, such as bus and trolley stops, are not regulated as transit station uses.”

Utilities and Services

Basic Utilities and Services require a Special Exception (see page 17).

Basic Utilities and Services is defined as “Public and quasi-public facilities and services that need to be located in the area where the service is to be provided, such as water and sewer pump stations; electrical transforming substations; wind energy conversion systems; solar collector systems; water conveyance systems; gas regulating stations; stormwater facilities and conveyance systems; telephone switching equipment; emergency communication warning/broadcast facilities; and central heating facilities.”

Major Utilities and Services require a Variance (see page 18).

Major Utilities and Services is defined as “Infrastructure services that have substantial land use impacts on surrounding areas. Typical uses include but are not limited to water and wastewater treatment facilities, major water storage facilities and electric generation plants.”

Wireless Service Facility

Wireless Service Facility requires a Special Exception (see page 17).

Wireless Service Facility is defined as “Towers, antennas, equipment, equipment buildings, and other facilities used in the provision of wireless communication services.” Freestanding towers must meet the requirements of §14-603(16) of the new Zoning Code. Building- or tower-mounted antennas must meet the requirements of §14-603(17).

Office Uses

Office Uses includes uses in an enclosed building, customarily performed in an office, that focus on providing executive, management, administrative, government, professional, or medical services.

Business and Professional

Business and Professional requires a Variance (see page 18).

Business and Professional is defined as “Office uses for companies and non-governmental organizations. Examples include corporate office, law offices, architectural firms, insurance companies, and other executive, management, or administrative offices for businesses and corporations.”

Medical, Dental, Health Practitioner

Medical, Dental, Health Practitioner is defined as “Office uses related to diagnosis and treatment of human patients’ illnesses, injuries, and physical malfunctions that can be performed in an office setting with no overnight care. Surgical, rehabilitation, and other medical centers that do not involve overnight patient stays are included in this subcategory, as are medical and dental laboratories, unless otherwise indicated.”

Sole Practitioner requires a Variance (see page 18).

Sole Practitioner is defined as “An office exclusively operated by one medical, dental, or health practitioner and having no more than one assistant regularly-employed there-in.”

Group Practitioner requires a Variance (see page 18).

Group Practitioner is defined as “A medical, dental, or health practitioner office that does not meet the definition of a sole medical, dental, and health practitioner.”

Government

Government requires a Variance (see page 18).

Office uses related to the administration of local, state, or federal government services or functions.

Retail Sales Uses

Retail Sales includes uses involving the sale, lease, or rental of new or used goods to the ultimate consumer. It must be in an enclosed structure unless the code states otherwise.

Consumer Goods

Consumer Goods requires a Variance (see page 18).

Consumer Goods is defined as “Uses that sell or otherwise provide furniture, appliances, equipment, and similar consumer goods, large and small, functional and decorative, for use, entertainment, comfort, or aesthetics.”

Drug Paraphernalia

Drug Paraphernalia Store requires a Variance (see page 18).

Drug Paraphernalia Store is defined as “Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession is subject to the provisions of “The Controlled Substance, Drug, Device and Cosmetic Act,” 1972, April 14, P.L. 233, No. 64, 51 et seq., 35 P.S. Section 780-101 et seq., including, but not limited to, water pipes, pipe “screens,” hashish pipes, “roach” clips, “coke” spoons, “bongs,” and cigarette rolling paper, except that this term does not include the sale of cigarette rolling paper by a store that also sells loose tobacco or the sale by prescription of implements needed for the use of prescribed drugs or narcotics.”



Gun Shop

Gun Shop requires a Variance (see page 18).

Gun Shop is defined as “Any retail sales business engaged in selling, leasing, purchasing, or lending of guns, firearms, or ammunition.”



Food, Beverages, and Groceries

Food, Beverages, and Groceries requires a Variance (see page 18).

Food, Beverages, and Groceries is defined as “Uses that sell or otherwise provide food or beverages for off-premise consumption, including grocery stores and similar uses that provide incidental and accessory food and beverage service as part of their primary retail sales business.”

Pets and Pet Supplies

Pets and Pet Supplies require a Variance (see page 18).

Pets and Pet Supplies is defined as “Uses that sell or otherwise provide household pets and pet supplies.”

Sundries, Pharmaceuticals, and Convenience Sales

Sundries, Pharmaceuticals, and Convenience Sales require a Variance (see page 18).

Sundries, Pharmaceuticals, Convenience Sales is defined as “Uses that sell or otherwise provide goods for personal grooming and for the day-to-day maintenance of personal health and well-being.”

Wearing Apparel and Accessories

Wearing Apparel and Accessories requires a Variance (see page 18).

Wearing Apparel and Accessories is defined as “Uses that sell or otherwise provide goods to cover, protect, or visually enhance the human form.”

Commercial Services

Commercial Services includes uses that provide for consumer or business services, for the repair and maintenance of a wide variety of products, and for entertainment.

Business Support

Business Support requires a Variance (see page 18).

Business Support is defined as “Uses that provide personnel services, printing, copying, photographic services, or communication services to businesses or consumers. Typical uses include employment agencies, copy and print shops, telephone answering services, and photo developing labs.”

Eating and Drinking Establishment

Eating and Drinking Establishment requires a Variance (see page 18).

Eating and Drinking Establishment is defined as “Uses that prepare or serve food or beverages for on- or off-premise consumption. Establishments that meet the definition of a use classified in the eating and drinking establishments use subcategory and that also include occasional live entertainment may be classified as eating and drinking establishment uses.”



Personal Services

Personal Services requires a Variance (see page 18).

Personal Services is defined as “Uses that provide a variety of services associated with personal grooming, personal instruction, and the maintenance of fitness, health, and well-being.”

Visitor Accommodations

Visitor Accommodations requires a Variance (see page 18).

Visitor Accommodations is defined as “Uses that provide temporary lodging for less than 30 days where rents are charged by the day or by the week or portion thereof and may also provide food or entertainment primarily to visitors and tourists.”

Urban Agriculture

Urban Agriculture includes uses such as gardens, farms, and orchards that involve the raising and harvesting of food and non-food crops and the raising of farm animals.

Animal Husbandry

Animal Husbandry requires a Variance (see page 18).

Animal Husbandry is defined as “Uses that involve the feeding, housing, and care of farm animals for private or commercial purposes.” Animal Husbandry is subject to §10-101(8) and §10-112 of the Philadelphia Code regarding farm animals.

Community Garden

Community Garden requires a Use Registration Permit (see page 16).

Community Garden is defined as “An area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for personal or group consumption, for donation, or for sale that is incidental in nature.” A community garden area may be divided into separate garden plots or orchard areas for cultivation by one or more individuals or may be farmed collectively by members of the group. A community garden may include common areas (e.g., hand tool storage sheds) maintained and used by the group. Community gardens may be principal or accessory uses and may be located on a roof or within a building.

Market or Community-Supported Farm

Market or Community-Supported Farm requires a Use Registration Permit (see page 16).

Market or Community-Supported Farm is defined as “An area managed and maintained by an individual or group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for sale or distribution that is not incidental in nature.” Market farms may be principal or accessory uses and may be located on a roof or within a building.

Horticulture Nurseries and Greenhouses

Horticulture Nurseries and Greenhouses requires a Variance (see page 18).

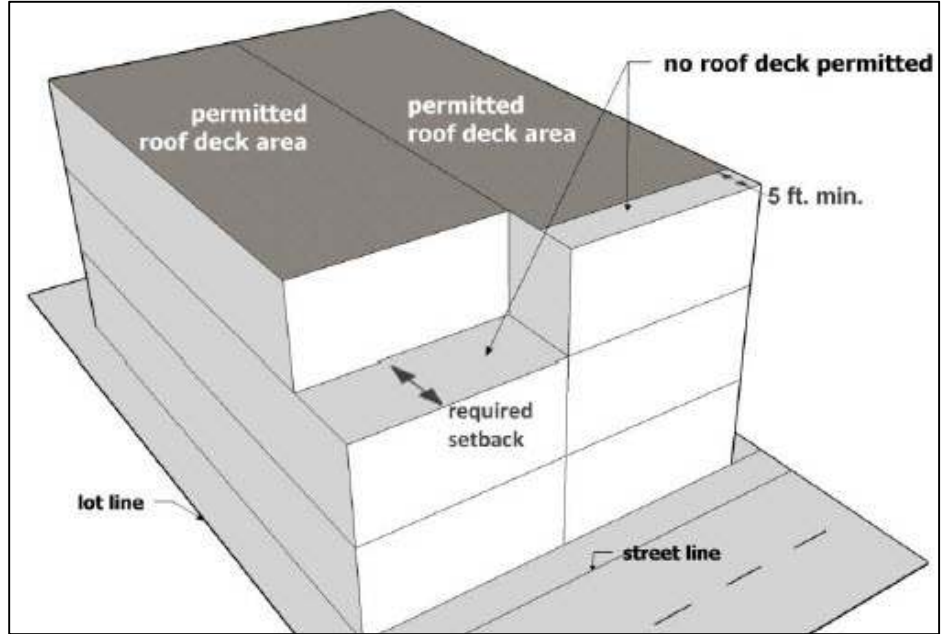
Horticulture Nurseries and Greenhouses is defined as “A principal use involving propagation and growth of plants in containers or in the ground for wholesale or retail sales and distribution.”

Roof Decks

Roof Decks require a Zoning Permit (see page 16) and must comply with the following rules unless a Variance is obtained (see page 18).

Setback

Roof decks must be set back at least five ft. from the front building line. In cases where the top story is already set back at least five feet, the roof deck does not require an additional setback. Some properties in RSA-5 districts require that the third floor must be set back from the first two floors (see “front setback” on pages 13-15). In that case, a roof deck may not be constructed on the second floor roof.

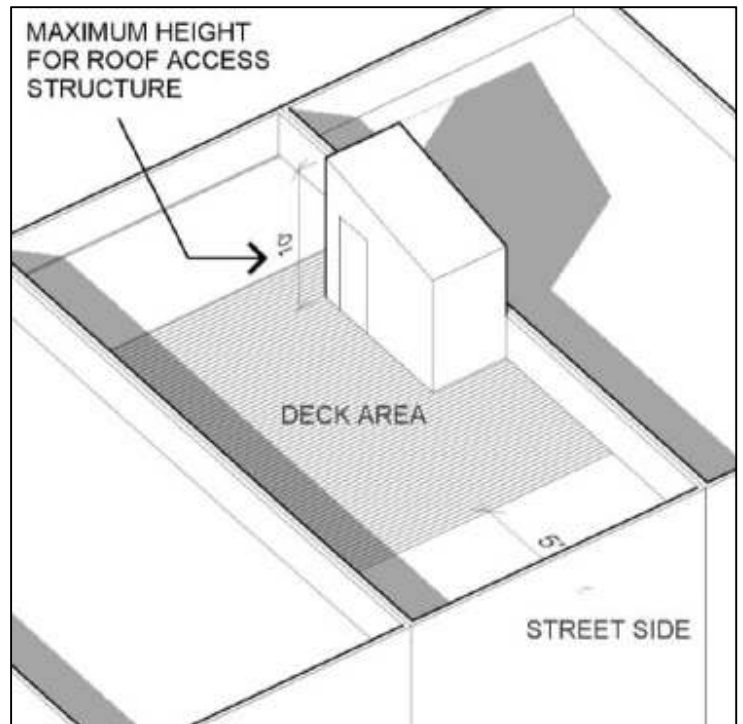


Access Structures (“Pilot Houses”)

Roof deck access structures (known as “pilot houses”) may extend above the maximum height allowed for the building (see pages 13-15) if they only serve to enclose the access stairs and do not exceed 10 feet in height.

Railings

Railings are permitted up to 48 inches above the midway point between the highest and lowest points of the roof. Railings can extend above the maximum height allowed for the building (see pages 13-15).



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Dimensions

Buildings which do not comply with these dimensions require a Variance (see page 18).

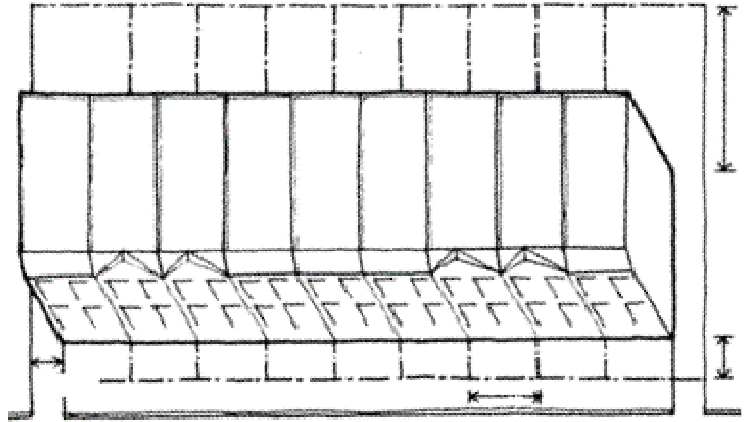
Attached Properties

Attached properties must be residential.

Lot Width (Minimum): 16 ft.

Lot Area (Minimum): 1,440 sq. ft.

A lot containing at least 1,600 sq. ft. of land may be divided into lots with a minimum lot size of 800 sq. ft., provided that: (a) At least 75% of lots adjacent to the lot to be divided is 1,000 sq. ft. or less; (b) Each of the lots created is used for one single-family attached home; and (c) Each of the lots created meets the minimum lot width requirement of the zoning district.



Open Area (Minimum): 30 percent for mid-block properties; 20 percent for corner lots

On lots less than 45 ft. in depth, the open area requirement does not apply to the first 12 ft. of building height. Portions of the buildings above 12 ft. must comply with the requirement.

Front Setback:

In the case of a mid-block property where both neighbors on either side have only two stories of habitable space, any story above the second story must be set back 8 ft.

The front setback shall be no further from the street than the furthest front façade of the principal building on either of the two immediately abutting lots, and shall be located no closer to the primary street than the closest front façade of the principal building on either of the two abutting lots. If both abutting lots are vacant, setback is based on the closest building. Front setback must be 8 ft. if there are no sufficient lots to establish a front setback.

Rear Yard Depth (Minimum): The greater of 9 ft. or 20 percent of the lot depth

On lots less than 45 ft. in depth, the minimum rear yard depth is 5 ft. for the first 12 ft. of building height. Portions of the buildings above 12 ft. must comply with the rear yard depth minimum.

Height (Maximum): 38 ft.

Buildings which do not comply with these dimensions require a Variance (see page 18).

Semi-Detached Properties

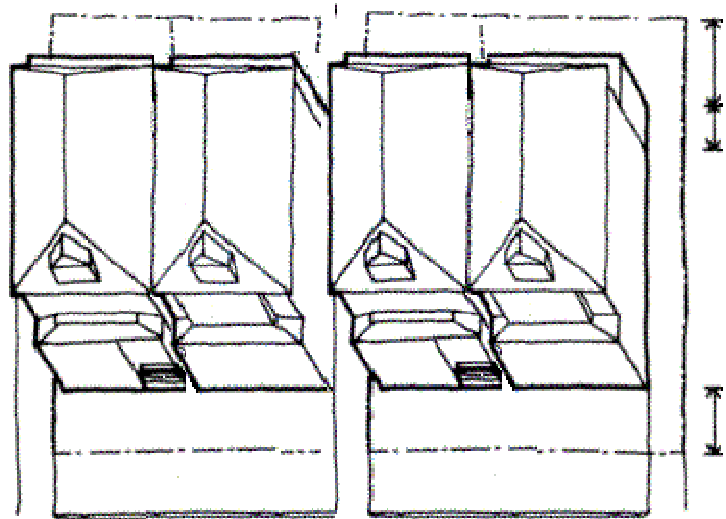
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Rear Yard Depth (Minimum): The greater of 9 ft. or 20 percent of the lot depth

On lots less than 45 ft. in depth, the minimum rear yard depth is 5 ft. for the first 12 ft. of building height. Portions of the buildings above 12 ft. must comply with the rear yard depth minimum.

Side Yard Width (Minimum): 5 ft.

Height (Maximum): 38 ft.

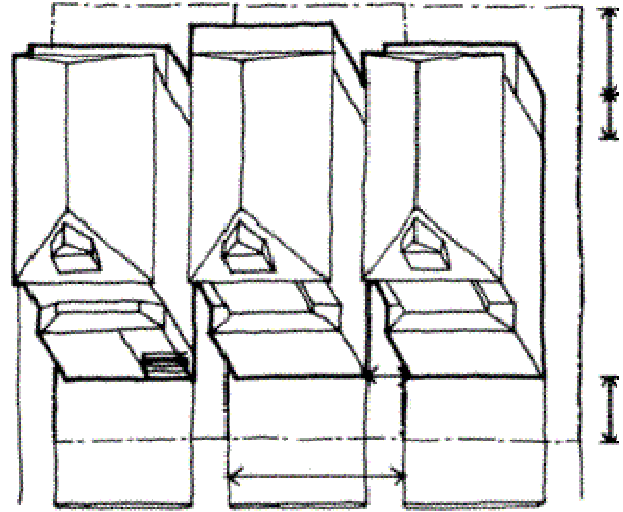
Buildings which do not comply with these dimensions require a Variance (see page 18).

Detached Properties

Lot Width (Minimum): 16 ft.

Lot Area (Minimum): 1,440 sq. ft.

A lot containing at least 1,600 sq. ft. of land may be divided into lots with a minimum lot size of 800 sq. ft., provided that: (a) At least 75% of lots adjacent to the lot to be divided is 1,000 sq. ft. or less; (b) Each of the lots created is used for one single-family attached home; and (c) Each of the lots created meets the minimum lot width requirement of the zoning district.



Open Area (Minimum): 30 percent for mid-block properties; 20 percent for corner lots

On lots less than 45 ft. in depth, the open area requirement does not apply to the first 12 ft. of building height. Portions of the buildings above 12 ft. must comply with the requirement.

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In the case of a mid-block property where both neighbors on either side have only two stories of habitable space, any story above the second story must be set back 8 ft.

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Rear Yard Depth (Minimum): The greater of 9 ft. or 20 percent of the lot depth

On lots less than 45 ft. in depth, the minimum rear yard depth is 5 ft. for the first 12 ft. of building height. Portions of the buildings above 12 ft. must comply with the rear yard minimum.

Side Yard Width (Minimum):

Residential: Two 5 ft. side yards for mid-block properties; One 5 ft. side yard for corner lots

Nonresidential: Two 8 ft. side yards for mid-block properties; One 8 ft. side yard for corner lots

Height (Maximum): 38 ft.

Obtaining a Zoning / Use Registration Permit


*Zoning permits permit the proposed structure, site improvement, construction, or sign.
Use registration permits permit the proposed land use.*



Zoning permits and User Registration Permits can be obtained from the Department of Licenses and Inspection, located on the ground floor of the Municipal Services Building.

Filling out an application for a Permit requires knowledge and experience regarding Philadelphia Zoning law so as to ensure that the property is approved for a broad range of uses without the application getting rejected.

To speak to an attorney, call The Anastasio Law Firm at (215) 609-4165, e-mail info@phillyzoning.com or visit us at 1221 Locust Street, Suite 201.

APPLICATION FOR ZONING / USE REGISTRATION PERMIT		 <p>CITY OF PHILADELPHIA DEPARTMENT OF LICENSES AND INSPECTIONS MUNICIPAL SERVICES BUILDING – CONCOURSE 1401 JOHN F. KENNEDY BOULEVARD PHILADELPHIA, PA 19102 <i>For more information visit us at www.phila.gov</i></p>	
<small>(For office use only)</small> APPLICATION # _____			
ZONING CLASSIFICATION _____			
PREVIOUS APPLICATION NO. _____			
<small>(Applicant completes all information below. Print clearly and provide full details)</small> LOCATION OF PROPERTY (LEGAL ADDRESS) _____			
PROPERTY OWNER'S NAME _____		PROPERTY OWNER'S ADDRESS: _____	
PHONE # _____	FAX # _____	LICENSE # _____	E-MAIL: _____
APPLICANT: _____		ADDRESS: _____	
FIRM/COMPANY: _____		_____	
PHONE # _____	FAX # _____	LICENSE # _____	E-MAIL: _____
RELATIONSHIP TO OWNER: <input type="checkbox"/> TENANT/LESSEE <input type="checkbox"/> ATTORNEY <input type="checkbox"/> DESIGN PROFESSIONAL <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> EXPEDITOR			
TABULATION OF USES			
FLOORSPACE # _____	CURRENT USE OF BUILDINGSPACE _____	Last Previous Use _____	Date Last Used _____

Obtaining a Special Exception

The Zoning Board of Adjustment may grant a Special Exception if the Applicant shows the proposed use will not cause: (a) congestion in streets/transit systems; (b) Overcrowding the land; (c) Impairing light/air to adjacent property; (d) Burdening public facilities; (e) Impairing or permanently injuring the use of adjacent properties; (f) Endangering the public health or safety; or (g) Inconsistency with the Comprehensive Plan of the City.

If a Special Exception is required, the first step is to apply for a Use Registration Permit from the Department of Licenses and Inspection (see page 16). The application will be “referred” to the Zoning Board of Adjustment (ZBA). The applicant has 30 days to appeal to the ZBA, which will schedule a hearing to decide whether to grant the Special Exception.

Before going before the ZBA, the applicant must line up support from the neighborhood. In addition to circulating a petition to neighbors on surrounding blocks, the applicant must notify and meet with the Registered Community Organization for the neighborhood where the property is located.



Each community group has their own requirements for applicants. Most require architectural drawings depending on the proposal.

The Applicant must work to gain the support of the community before the hearing before the ZBA in order to maximize the chance of being granted a Special Exception. Even with support of the Registered Community Organization, one or more neighbors may present evidence that the proposed use is likely to cause a detrimental impact on the health, safety, and welfare of the neighborhood.

Gaining the support of both the neighborhood group and the Zoning Board is a unique and difficult process that requires an experienced professional. Before beginning the process, a potential applicant should **seriously consider hiring an experienced zoning attorney**. To speak to an attorney, call The Anastasio Law Firm at (215) 609-4165, e-mail us at info@phillyzoning.com or visit us at 1221 Locust Street, Suite 201.

Obtaining a Variance

A Variance may be issued if an applicant proves that the denial of the variance would result in an unnecessary hardship, and that the unnecessary hardship was not created by the applicant.

The Variance must be the minimum variance (the least modification possible) that will afford relief and must be in harmony with the purpose and spirit of the Zoning Code. The Variance cannot substantially increase congestion in the streets/transit, burden public facilities, endanger the public welfare, affect implementation of a neighborhood plan, injure the adjacent properties (including supply of light and air), or create significant environmental damage.

If a Variance is required, the first step is to apply for a Use Registration Permit from the Department of Licenses and Inspection (see page 16). The application will be “rejected.” The applicant has 30 days to appeal to the Zoning Board of Adjustment (ZBA), which will schedule a hearing to decide whether to grant a Variance.

Before going before the ZBA, the applicant must line up support from the neighborhood. In addition to circulating a petition to neighbors on surrounding blocks, the applicant must notify and meet with the Registered Community Organization for the neighborhood where the property is located.

Each community group has their own requirements for applicants. Most require architectural drawings depending on the proposal.

The Applicant must work to gain the support of the community before the hearing before the ZBA in order to maximize the chance of being granted a Variance. Even with support of the Registered Community Organization, one or more neighbors may present evidence that the proposed use is likely to cause a detrimental impact on the health, safety, and welfare of the neighborhood.

Gaining the support of both the neighborhood group and the Zoning Board is a unique and difficult process that requires an experienced professional. Before beginning the process, a potential applicant should **seriously consider hiring an experienced zoning attorney**. To speak to an attorney, call The Anastasio Law Firm at (215) 609-4165, e-mail us at info@phillyzoning.com or visit us at 1221 Locust Street, Suite 201.

