

ARTICLE 12

ZONING BOARD OF APPEALS

Section 12.1 Zoning Board of Appeals

- A. There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided in this section of this Ordinance, inclusive of Act 184 of the Public Acts of 1943, as amended, in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The Zoning Board of Appeals shall consist of the elected members of the Village Council and shall act independent of the Village Council.
- B. The president of the Village Council shall not serve as chairman of the Zoning Board of Appeals.
- C. The Zoning Board of Appeals shall not conduct business unless a majority of the members of the Zoning Board of Appeals are present. Zoning Board of Appeals meetings shall be held separately from Village Council meetings.
- D. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.

Section 12.2 Meetings

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson, and at such times as the Zoning Board of Appeals may determine. All meetings of the Zoning Board of Appeals shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings, and other official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record. The Zoning Board of Appeals shall adopt rules of procedure for the operation of the Board and the conducting of hearings.

Section 12.3 Responsibilities

The Zoning Board of Appeals shall have the authority to:

- A. Grant variances from the requirements of this Ordinance.
- B. Interpret the zoning ordinance and zoning map.
- C. Hear appeals of administrative decisions including approval or denial of site plan or special use permits.

- D. Permit a legal non-conforming use of land or structures to be changed to another non-conforming use under the procedures contained within this Ordinance.

Section 12.4 Variances

The Zoning Board of Appeals shall have the power to authorize reductions in ordinance requirements including building setbacks, lot size and width, building height and parking requirements. The Zoning Board of Appeals may not authorized a use variance. In consideration of all variances, the Zoning Board of Appeals shall review each case individually as to its compliance with each of the following standards:

- A. The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome.
- B. The variance is the minimum necessary to provide adequate relief to the applicant and is not so large that it is unfair to similarly situated property owners and managed to comply with the requirements or make do with a smaller variance.
- C. The problem is due to circumstances unique to the property and not to general conditions in the area.
- D. The problem that resulted in the need for the variance was not a self-created hardship. In this instance "self-created" includes actions by the current owner or past owners of the property.
- E. Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done.

Section 12.5 Interpretation

- A. The Zoning Board of Appeals shall have the power to interpret the provisions of the Ordinance in such a way as to carry out the intent and purpose of this Ordinance. In case of any question as to location of any boundary line between zoning districts, the Zoning Board of Appeals shall interpret the Zoning map, after recommendation from the Village Planning Commission. In interpreting the location of zoning district boundaries, the Zoning Board of Appeals shall use the rules of interpretation identified in Section 3.2 of this Ordinance. The Zoning Board of Appeals shall also have the authority of interpreting whether or not a specific use is permitted within a specific zoning district. In carrying out this interpretation, the Zoning Board of Appeals may not interpret a specific use as being included in a boarder class of uses if that specific use is listed separately in other zoning districts.
- B. The authority to alter or change the Zoning Ordinance or Zoning Map is reserved to the Village Council, as provided by law.

Section 12.6 Appeals and Special Approvals

- A. An appeal may be taken to the Zoning Board of Appeals by any person, legal entity, or by any officer, department, board or bureau affected by a decision of the Zoning Administrator or a decision of the Planning Commission regarding a site plan or special use permit. Such appeals shall be taken within thirty (30) days of the posting of the minutes of the meeting at which the action to be appealed was taken, or in the case of a zoning administrator's decision, within thirty (30) days of receipt of the written decision. Such appeals shall be made by filing with the Zoning Administrator and with the Zoning Board of Appeals, a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, on application, on notice to the Zoning Administrator and on due cause shown.

Section 12.7 Procedures

- A. Applications: Applications for variance, appeal, interpretation or changes in non-conforming uses shall be submitted to the Zoning Administrator at least thirty (30) days prior to the Zoning Board of Appeals meeting at which it will be heard. The application shall consist of a completed application form and other information determined necessary by the Zoning Board of Appeals.
- B. Notice: Notice of the hearing of an appeal, variance, or other matter before the Zoning Board of Appeals shall comply with Section 10.3 of this Ordinance except for the provisions of that section dealing with notice to residents and property owners with three hundred (300) feet. Those requirements shall only be applied to notices on Zoning Board of Appeal matters when the matter involves a specific parcel.
- C. Zoning Board of Appeal Decisions:
1. Following the hearing on an issue brought before them the Zoning Board of Appeals may only reverse an administration decision or grant an applicants request by a majority vote of the members of the Zoning Board of Appeals, that is by at least three (3) votes.
 2. In making a decision on an appeal of an administrative decision, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as necessary to meet the intent of this Ordinance and shall have all the powers of the officer or board from

- whose decision the appeal was taken.
3. In making a decision on a request, the Zoning Board of Appeals shall state the basis for their decision.
- D. Record of Review: A record of the decision shall be filed with the Village Zoning Administrator, including:
1. A copy of the submitted application.
 2. A copy of any meeting minutes related to the application.
 3. A copy of any other relevant records related to the application.
- E. Appeal of Special Use Permit Decision: Any person aggrieved by the decision of the Zoning Board of Appeals in granting or denying a request may appeal the decision to Circuit Court.

Section 12.8 Time Limits

- A. Deadline to Commence Construction/use: A building permit for a project with a Zoning Board of Appeals approved variance shall be filed with the Village Building Inspector within twelve (12) months from the date of Zoning Board of Appeals approval of a variance. If a building permit is not filed within twelve (12) months, Zoning Board of Appeals approval of the variance shall expire. In cases where construction is not required, the approved use of land or buildings must have commenced within twelve (12) months.
- B. Deadline for Completion: A project with a Zoning Board of Appeals variance approved shall be completed within the time frame of the building permit issued.

Section 12.9 Conditions

- A. The Zoning Board of Appeals may place conditions on an affirmative decision when such conditions:
1. Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
 2. Would protect the natural environment and conserve natural resources and energy.
 3. Would ensure compatibility with adjacent uses of land.
 4. Would promote the use of land in a socially and economically desirable manner.
- B. In determining appropriate conditions, the Zoning Board of Appeals shall ensure that:
1. There is rough proportionality between the cost to the developer to provide

- an improvement in relationship to the impact to be mitigated.
2. There is a reasonable connection between the condition imposed and the impact it is mitigating.

End of Article 12