

10-3-3: POWERS AND DUTIES:

The board of adjustment shall have judicial power to interpret the provisions of this title. It shall also have administrative duties to grant variances, special exceptions or conditional use permits as follows: (Ord. 6-18-81A, 6-18-1981)

A. Interpret Ordinance And Map:

1. Intent: It is the intent of this provision to provide a way whereby applicants who believe that the planning and zoning administrator is in error or does not interpret the provisions correctly to obtain a relief from such error in an expeditious and inexpensive manner without having to resort to the courts. (Ord. 6-18-81A, 6-18-1981; amd. 2003 Code)
2. Duty To Interpret: The board of adjustment shall hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, decision or refusal made in the enforcement of this title. The board of adjustment shall also interpret the zone map and boundaries thereof in cases of dispute or disagreements.

B. Grant Variances: The board of adjustment may authorize, upon appeal, variances from the terms of this title pertaining to area and width of lot, size of yards and height and size of buildings, where owing to special conditions peculiar to the property a literal enforcement of the provision of this title would result in a hardship which is unnecessary in carrying out the intent of this title. Before any variance can be granted, however, it must be shown that:

1. The variance will not substantially affect the comprehensive plan of zoning and that adherence to the strict letter of this title will cause difficulties and hardships upon the petitioner which are unnecessary in order to carry out the purposes of this title.
2. Special circumstances are attached to the property covered by the application that do not apply to other property in the same zone.
3. Because of said special circumstances, property covered by the application is deprived of privileges possessed by other properties in the same zone; and that the granting of a variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The difficulties and hardships were not created by any act of the appellant subsequent to the effective date of the regulation appealed from.

C. Grant Certain Special Exceptions Or Conditional Uses:

1. Intent: There are certain uses which are not permitted within particular zones unless they are made to comply with conditions which are compatible with other uses in the same zone. It is the intent of this provision to authorize the board of adjustment to use its discretion in prescribing these conditions. However, the board of adjustment may not authorize a conditional use unless such use is specifically permitted by the terms of this title.
 2. Duty To Prescribe Conditions: The board of adjustment shall hear and decide requests for "special exceptions", but only when authorized by the terms of this title to do so. In deciding whether or not to grant a special exception, the board of adjustment shall be guided by the conditions set forth in this title with respect thereto, which conditions shall be deemed to be the minimum standards which must be complied with.
- D. May Attach Reasonable Conditions: The board of adjustment may attach reasonable conditions or requirements to the granting of a variance, special exception or conditional use which the petitioner must comply with as a condition of the grant of approval. A time limit of one year shall be attached to the exercise or nonexercise of any grant, unless specifically extended by action of the board.
- E. May Reverse Or Affirm Enforcing Office: In performing the duties and powers as set forth herein, the board of adjustment is hereby empowered to reverse, affirm wholly or partly, or modify the order, requirement, decision or determination of the enforcing office, and may make such order or requirement as ought to be made; provided, however, that in interpreting and applying the provisions of this title, the requirements contained herein shall be deemed to be the minimum requirements for the purpose set forth. (Ord. 6-18-81A, 6-18-1981; amd. 2003 Code)