

## SECTION VIII

### **BOARD OF ADJUSTMENT**

#### **8.1 Organization.**

The Board of Adjustment shall consist of the members of the Planning Commission, and shall hold its meetings concurrently with the Planning Commission meetings on a monthly or more frequent basis at the discretion of the Chairperson.

#### **8.2 Duties.**

1. To consider appeals from the action of the Zoning Administrator wherein the Board will take the authority of the Administrator.
2. To hold hearings on Variances after proper public notice in the official newspaper and individual notice by regular mail to any property owners within a minimum of 350 feet distance of any Variance in question. Such notice shall be given at least 10 days before the hearing date.
3. To recommend action on Variances within the required time frame to the City Council with complete findings to justify the action.
4. To keep a record of its proceedings, notifications and justifications for its actions.

#### **8.3 Variances.**

1. Variances shall not create a use not provided for in a zoning district.
2. Variances shall be issued to the property and are not transferable.
3. Variances shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All applications for a Variance shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of

the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

4. Submissions for Variances. The applicant shall complete the Variance application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
5. Variances shall be decided within the required time frame with consideration for the following:
  - A. The strict interpretation of the Ordinance would create undue hardship, and
  - B. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
  - C. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
  - D. The variance will not create a land use not permitted in the zone, and
  - E. The variance will not alter the essential character of the locality, and
  - F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.
6. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.

7. Failure by the owner to act within 6 months on a Variance unless extended by the Board of Adjustment shall void the Variance. A second extension shall require a new public hearing. This provision shall apply to any Variance outstanding at the time of the Ordinance adoption.
8. Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.