

**SECTION 15**  
**BOARD OF ZONING APPEALS**

**15.1 ESTABLISHMENT.**

There is hereby established a Board Of Zoning Appeals for the purpose of hearing appeals of administrative acts and zoning variations.

**15.2 MEMBERSHIP.**

The Board Of Zoning Appeals shall consist of five (5) regular and two (2) alternate members each appointed for staggered three (3) year terms and where:

- (1) the alternate member shall act only when a regular member is absent or refused to vote because of conflict of interest.
- (2) All appointments shall be made by the Town Chairman subject to confirmation by the Town Board.
- (3) The Chairman of the Board Of Zoning Appeals shall be appointed by the Town Chairman.
- (4) The Vice-Chairman of the Board Of Zoning Appeals shall be elected by the Board Of Zoning Appeals.
- (5) The Zoning Administrator shall be the recording secretary and attend all meetings of the Board Of Zoning Appeals. The Building Inspector, if different than the Zoning Administrator shall attend meetings when requested for the purpose of providing technical assistance to the Board Of Zoning Appeals.
- (6) Official oaths shall be taken by all members of the Board Of Zoning Appeals in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.
- (7) Vacancies of the Board Of Zoning Appeals shall be filled for the unexpired term in the same manner as appointments for a full term.
- (8) Terms for the resident members shall commence in the first week in May.
- (9) The Town Board shall advertise and/or post vacancies on the Board of Zoning Appeals in order to solicit interested and qualified persons wanting to be considered for possible appointment. Interested persons shall provide a letter of interest and/or file an application as may be provided by the Town Clerk. *{amended July, 2008}*

**15.3 ORGANIZATION.**

The Board Of Zoning Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Ordinance. Further:

- (1) Meetings of the Board Of Zoning Appeals shall be held at the call of the Chairman or, if the Chairman is not available, the Vice-chairman based upon an application filed with the Zoning Administrator. All meeting of the Board Of Zoning Appeals shall be open to the public.
- (2) Minutes of the proceedings of the Board Of Zoning Appeals and a record of all actions shall be kept showing the vote of each member upon every question, the reasons for the Board Of Zoning Appeals' determination, and its findings of facts. These records shall be filed immediately in the office of the Town Clerk and shall otherwise be a public record.
- (3) A quorum shall be a majority of members present, but all actions shall require the consenting vote of four (4) members in order to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the

applicant on any matter upon which the Board is required to pass, or to effect any variation to the provisions of this Ordinance as authorized herein except a motion to adjourn.

#### **15.4 POWERS.**

The Board Of Zoning Appeals shall have the following powers:

- (1) Alleged Errors.  
To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator, Building Inspector, or Plan Commission.
- (2) Variances.  
To hear and grant appeals for variances as will not be contrary to the public interest, when owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare and justice secured. Use Variances shall not be granted. {amended 5/13/2002}
- (3) Interpretations.  
To hear and decide applications for interpretation of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
- (4) Substitutions.  
To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board Of Zoning Appeals permits such a substitution, the use may not thereafter be changed without application.
- (5) Permits.  
The Board Of Zoning Appeals may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit.
- (6) Assistance.  
The Board Of Zoning Appeals may request assistance from other Town officers, departments, commissions, and boards.
- (7) Oaths.  
The Chairman of the Board Of Zoning Appeals may administer oaths and compel the attendance of witnesses.
- (8) Special Exceptions.  
To hear and grant appeals for special exceptions to the requirements of this Ordinance as provided herein that, subject to appropriate conditions and safeguards, are in harmony with the general purpose and intent of this Ordinance.

#### **15.5 APPEALS AND APPLICATIONS.**

Appeals of the decision of the Zoning Administrator, Building Inspector, Plan Commission and/or the town Board concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer of the Town. Such appeals shall be filed with the Town Clerk within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator, Building Inspector, or Plan Commission. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed

with the Town Clerk. Appeals and applications shall be made on forms provided or prescribed by the Town Clerk and shall include the following supporting information:

- (1) Name and mailing address of the appellant or applicant and all owners of record of abutting and opposite property.
- (2) Plat of survey prepared by a registered land surveyor, or a location sketch if allowed by the Zoning Administrator, drawn to scale showing all of the following information:
  - (a) locations, boundaries, dimensions, elevations, and list of uses for the subject property, existing and proposed structures, existing and proposed easements, streets and rights-of-way, driveways, off-street parking and loading areas, access restrictions (if any), applicable building setbacks.
  - (b) locations, boundaries, dimensions, elevations and list of uses of any abutting property and structures thereon within fifty (50) feet of the subject property.
- (3) Statement indicating the section(s) of the Ordinance being appealed, variance is being appealed, or for which an interpretation from the Zoning Administrator is being requested and the reason(s) for such request.
- (4) Statement indicating the exceptional, extraordinary, or unusual circumstances or conditions applying to the subject property, structure, use that do not apply generally to other properties or uses in the same district and which cause the hardship.
- (5) date of previous application for any appeals, variances, or interpretations and the disposition of such previous actions.
- (6) Additional information required by the Plan Commission, Board Of Zoning Appeals, Zoning Administrator, or Building Inspector. *{amended July, 2008}*

#### **15.6 PUBLIC HEARING.**

The Board of Zoning Appeals shall schedule a reasonable time and place for the required public hearing within sixty (60) days after receiving an appeal application and shall give notice as specified in this Ordinance. Notice of any public hearing which the Board Of Zoning Appeals is required to hold shall specify the date, time, and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be published in a newspaper of general circulation at least once each week for two (2) consecutive weeks and the hearing shall not be held until at least seven (7) days following the last publication. *{amended July, 2008}*

#### **15.7 FINDINGS.**

No variances to the provisions of this Chapter shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

- (1) *Variance Appeals.*
  - (a) *Unnecessary Hardship.*  
Strict Compliance with the zoning regulation(s) from which the variance(s) is/are being sought would create a practical difficulty or be unreasonably burdensome to the property owner in terms of severely limiting or prohibiting the reasonable use of the property as intended under the Zoning Ordinance and when compared to surrounding properties.

- (b) *Unique Property Limitations.*  
The unnecessary hardship is due to unique physical limitations of the property that are not generally shared by other surrounding properties.
  - (c) *Public Interest.*  
If granted, the variance(s) must not be contrary to the public interest by having an adverse impact on the public health, safety, or welfare of adjoining and surrounding properties or the community.
- (2) *Special Exception Appeals.*
- (a) *Unique Property Limitations.*  
The unnecessary hardship is due to unique characteristics or limitations of and/or created by the property that are not generally shared or affected by other surrounding properties.
  - (c) *Public Interest.*  
If granted, the variance(s) must not be contrary to the public interest by having an adverse impact on the public health, safety, or welfare of adjoining and surrounding properties or the community. *{amended 5/10/2004}*

#### **15.8 DECISION.**

The Board Of Zoning Appeals shall decide in writing all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, Town Plan Commission, and the Dodge County Planning and Development Department (where necessary).

- (1) Conditions may be placed upon any variance or special exception granted and any zoning permit ordered or authorized by this Board. Such conditions shall be related and/or required to eliminate or reduce potential adverse impacts necessary to meet one or more of the Findings of Fact. *{amended 5/13/2002; 5/10/2004}*
- (2) Variances and substitutions granted by the Board shall apply to use and or development of the subject property for an indefinite period of time provide such use or development is consistent with the approval granted. Permits issued by the Board shall expire within twelve (12) months unless substantial progress or work has commenced pursuant to such grant.

#### **15.9 NOTICE TO DNR AND DODGE COUNTY PLANNING AND DEVELOPMENT DEPARTMENT.**

The Board Of Zoning Appeals shall transmit a copy of each application for a variance to floodland regulations or to land, structures or uses within floodland and shoreland to the Wisconsin Department of Natural Resources (DNR) and to the Dodge County Planning and Development Department for review and comment. Final action on the application shall not be taken for thirty (30) days or until the DNR and the Dodge County Planning and Development Department have made a recommendation, whichever comes first. A copy of all decisions relating to variances to floodland regulations shall be transmitted to the DNR and the Dodge County Planning and Development Department within ten (10) days of the effective date of such decision.