

Chapter 400. Zoning Code

Section 400.150. Board of Adjustment.

[Ord. No. 530 §15, 11-2-1965]

- A. A Board of Adjustment is hereby created. The Board shall consist of five (5) members appointed by the Mayor and approved by the Board of Aldermen, each to be appointed for a term of five (5) years, excepting that when the Board shall first be created, one member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years, and one for a term of one (1) year. Members shall be removable for cause by the Mayor and Board of Aldermen upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- B. The Board of Adjustment shall adopt rules for the conduct of its business, establish a quorum and procedure, and keep a public record of all findings and decisions. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Each session of the Board of Adjustment, at which an appeal is to be heard, shall be a public meeting with public notice of said meeting and business to be carried or published in a newspaper of general circulation in the City, at least one (1) time, seven (7) days prior to the meeting.
- C. An appeal may be taken to the Board of Adjustment by any person, group or organization, public or private, affected by a decision of the Building Inspector. Such appeal shall be taken within such time as prescribed by the Board by general rule, by filing with the Building Inspector, a notice of appeal specifying the grounds thereof. A fee of ten dollars (\$10.00) shall accompany all notices of appeal. The Building Inspector shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- D. The Board of Adjustment shall have the following powers:
 1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Inspector in the enforcement of this Chapter, and may affirm or reverse, in whole or part, said decision of the enforcement officer.
 2. To hear requests for variances from the literal provisions of the Zoning Ordinance in instances where strict enforcement of the Zoning Ordinance would cause undue hardship due to circumstances unique to the individual property under consideration and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the Zoning Ordinance. The Board of Adjustment shall not permit, as a variance, any use in a district that is not permitted under this Chapter. The Board of Adjustment may impose conditions in the granting of variance to insure compliance and to protect adjacent property.
 3. To hold public hearings on, and decide the following exceptions to or variations of this Chapter.
 - a. To permit the extension of a district where the boundary line thereof divides a lot held in a single ownership on or after November 2, 1965.
 - b. Interpret the provisions of this Chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning District Map where the street layout on the ground varies from the street layout as shown on this Map.
 - c. Permit reconstruction of a non-conforming building otherwise prohibited by Section **400.110** where such action would not constitute continuation of a monopoly.
 - d. Vary the yard regulations where there is an exceptional or unusual physical condition of a lot, not generally prevalent in the neighborhood, which condition when related to the yard regulations of this Chapter would prevent a reasonable or sensible arrangement of buildings on the lot.
 - e. Vary the parking regulations by not more than fifty percent (50%) where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this Chapter, or where it can be conclusively shown that adequate off-street parking to serve a particular use has been provided by or is controlled by the municipality.
- E. Decision of the Board of Adjustment in respect to the above shall be subject to appeal to the District Court of Atchison County within thirty (30) days after the filing of the decision in the Office of the Board.