

SECTION 17.1200 ZONING BOARD OF APPEALS

17.1201 ESTABLISHMENT

There is hereby established a Zoning Board of Appeals for the Village for the purpose of hearing appeals and applications, and for granting variances and exceptions to the provisions of this Zoning Ordinance.

17.1202 MEMBERSHIP

The Zoning Board of Appeals shall consist of five (5) members appointed by the Village President and confirmed by the Village Board.

- A. Terms shall be for staggered three-year periods.
- B. Chairman shall be designated by the Village President.
- C. Alternate Member. The Village President shall appoint a first alternate member and a second alternate member to act only when a regular member is absent or refuses to vote because of interest. The second alternate member may act only when the first alternate is unable to act or is already sitting.
- D. One Member should be a Plan Commissioner and one member should be a registered architect, registered professional engineer, builder, or real estate appraiser.
- E. Secretary and the office of the Board of Appeals shall be the Village Clerk and the Village Clerk's office.
- F. Building Inspector shall attend all meetings for the purpose of providing technical assistance when requested by the Board.
- G. Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within 10 days of receiving notice of their appointment.
- H. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

17.1203 ORGANIZATION

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

- A. Meetings shall be held at the call of the chairman and shall be open to the public.
- B. Minutes of the proceedings and a record of all actions shall be kept by the secretary, or other designated person, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be a public record.
- C. When a quorum is present and voting, all actions of the Zoning Board of Appeals shall be decided by a simple majority.

17.1204 POWERS

The Zoning Board of Appeals shall have the following powers:

- A. Errors: To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by any administrative official.

- B. Variances:
1. Use Variance. Zoning Board of Appeals does not have the power and/or authority to grant use variance.
 2. Dimensional variances. The Zoning Board of Appeals does have the power and/or authority to grant dimensional variances upon the finding that:
 - (a) The proposed variances is not contrary to the public interest;
 - (b) The property has a special or unique condition; and
The special condition of the property creates an unnecessary hardship.
 3. Lot variance. Lot area variances shall not be granted if the purpose of the variance is to allow the lot be divided into more parcels than would be allowed absent the variance.
- C. Special Exceptions: To hear and decide applications for special exceptions to the parking requirements for offices set forth in Section 17.0603(K)(3) of this Ordinance on a case-by-case basis where it is determined that fewer parking spaces will be required because of the availability of shared parking; the availability of public transportation; the availability of car pools or van pools; the availability of alternative transportation such as walking or bicycles; or because the office operations has limited customer operations. The Board of Appeals may require the filing of signed agreements, parking studies, or evidence to support the reduced parking requirements.
- D. Interpretations: To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
- E. 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 permits such a substitution, the use may not thereafter be changed without application.
- F. Temporary Uses: To hear and grant applications for temporary uses in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses, and provided that the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, and subject to any conditions required by the Board of Zoning Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this Ordinance shall be required.
- G. Permits: The Board may reverse, affirm wholly, or partly modify the requirements appealed from, and may issue or direct the issue of a permit.
- H. Assistance: The Board may request assistance from other Village officers, departments, commissions, and boards.
- I. Oaths: The chairman may administer oaths and compel the attendance of witnesses.

17.1205

APPEALS AND APPLICATIONS

Appeals of the decision of the Building Inspector or any administrative official concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, board, or bureau of the Village. Such appeals shall be filed with the

secretary within 30 days after the date of written notice of the decision or order of the Building Inspector or any administrative official 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 secretary. Such appeals and applications shall include the following:

- A. Name and Address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 17.0205 for a Building Permit.
- C. Additional Information required by the Plan Commission, Village Engineer, Zoning Board of Appeals, or Building Inspector.

17.1206

HEARINGS

The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, shall give public notice thereof as specified in Section 17.1400 of this Ordinance, and shall give due notice to the parties in interest, the Building Inspector, and the Plan Commission. At the hearing the appellant may appear in person, by agent, or by attorney.

17.1207

NOTICE TO DNR

The Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in a shoreland or to floodland regulations, and a copy of all shoreland and floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to conservancy regulation in a shoreland or to floodland regulations, and a copy of all decisions to shoreland and floodland appeals, shall be transmitted to the DNR within 10 days of the date of such decision.

17.1208

WETLAND AND FLOODLAND MAPPING DISPUTES

- A. Wetland Disputes. Whenever the Board of Appeals is asked to interpret a LCO Lowland Conservancy Overlay District boundary where an apparent discrepancy exists between the Village's Final Wetland Inventory Map and actual field conditions, the Village shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the Plan Commission to initiate appropriate action to rezone the property within a reasonable amount of time.
- B. Floodland Disputes. Refer to Chapter 14 Section 14.960

17.1209

FINDINGS

No variance to the provisions of this Ordinance 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.

- A. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
- B. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual

circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties of uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

- C. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- D. Preservation of Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- E. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
- F. Additional Requirements in Floodland Districts: Refer to Section 14.900 to Section 14.990.

17.1210

DECISION

The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, and Plan Commission.

- A. Conditions may be placed upon any building permit ordered or authorized by this Board.
- B. Variances, Substitutions, or Use Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
- C. Applicants Receiving Variances in Floodlands. Pursuant to Federal Regulations [44 CFR Part 60.6(5)], applicants receiving variances shall be notified, in writing, by the Board of Appeals that increased flood insurance premiums may result from the granting of the variance. The Board shall keep a record of the notification in its file.

17.1211

REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.