

## CHAPTER 9

### BOARD OF ZONING APPEALS

#### SECTION:

- 2-9-1: Creation
- 2-9-2: Meetings
- 2-9-3: Appeals
- 2-9-4: Powers and Duties
- 2-9-5: Procedure

**2-9-1: CREATION:** The "Board" when used in this Chapter shall be construed to mean Board of Zoning Appeals. The Board shall consist of seven (7) members appointed by the Mayor and with the consent of the Village Board. The terms of office shall be five (5) years; provided that the members of the first Board shall serve respectively for the following terms (or until their respective successors are appointed and qualified): one for one year, one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years and one for seven (7) years; and five (5) years each for those following the first appointment. The Chairman of the Board shall be appointed by the Mayor with the consent of the Board of Trustees and shall hold office until his term of appointment expires, or is otherwise terminated.

**2-9-2: MEETINGS:** Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman or any two (2) members, or at such times as the Board may determine. All hearings conducted by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or in absence or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions. Findings of fact shall be included in the minutes of each case of a requested variation, special permit or planned building development and the reason for granting or denying such application shall be specified. Every rule or regulation, every amendment or repeal thereof, and every order, requirement and interpretation, decision or determination of the Board shall be filed immediately in the office of the Board and shall be a public record. The Board shall adopt its own rules and procedures, not in conflict with this Ordinance or with Illinois Statutes.

**2-9-3: APPEALS:** An appeal may be taken to the Board of Zoning Appeals by any person, firm or corporation, or by any officer, department, board, or bureau affected by a decision of the Zoning Official to Title 10. Such appeal shall be taken within such time as shall be prescribed by the Board of Zoning Appeals by general rule, by filing with the Zoning Official and with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. The Zoning Official shall there upon transmit to the Board all paper constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of action appealed from, unless the Zoning Official certifies to the Board of Zoning Appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate, the stay would, in his opinion, cause eminent peril to life or property, in which

case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by a Court of Record on application, or notice to the Zoning Official and on due cause shown. The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney. The Board may reverse or affirm wholly or partly, or may modify or amend the order, requirement, decision of determination appealed from to the extent and in the manner that the Board may decide to be fitting and proper to the premises.

**2-9-4: POWERS AND DUTIES:** The Board of Zoning Appeals shall have all the powers and duties prescribed by law and by Title 10, including the following:

(A) Interpretation. Upon an appeal from a decision by any administrative official, to decide any question involving the interpretation of any provision or the term of Title 10, including the determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(B) Variance. To vary or adapt the strict application of any of the requirements of Title 10 in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in such practical difficulty and/or unnecessary hardship as would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board shall prescribe any conditions that it deems to be necessary or desirable for the public interest, convenience or welfare. However, any Use Variance shall be subject to the applicable provisions of Section 10-5-5 of Title 10, and no other variance in the application of any provisions of Title 10 shall be granted by the Board unless it finds:

1. That there are special circumstances or conditions fully described in the findings, applying to the land or buildings for which the variances are sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of Title 10 would deprive the applicant of a reasonable use of such land or building;
2. That, for reasons fully set forth in the findings, the granting of the variances necessary for the reasonable use of land or buildings, and that the variance as granted by the Board is the minimum variance that will accomplish this purpose;
3. That the granting of this variance will be in harmony with the general purpose and intent of Title 10, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the Board, in making its findings, shall take into account whether the conditions of the subject premises is peculiar to the lot or tract described in the petition or is merely part of the general condition of the neighborhood which would appropriately be the proper jurisdiction of the Village Board for consideration of rezoning of the area rather than a

variance which would affect only a small segment of the area.

(C) Permits for Variances and Special Permits. To issue or authorize permits for any of the uses or matter for which Title 10 allows or requires the obtaining of a variance of special permit from the Board of Zoning Appeals.

**2-9-5: PROCEDURE:**

(A) The Board of Zoning Appeals shall act in accordance with the procedure specified by law in this Chapter. Four (4) members shall constitute a quorum and, except as otherwise provided by this Chapter, an affirmative vote of at least four (4) members shall be necessary to authorize any action of the Board. All appeals and applications to the Board shall be in writing. Every appeal or application shall refer to the specific provision of Title 10 involved, and shall exactly set forth the interpretation that is claimed, the use for which the variance or special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

(B) The Village may appear by any designated official of the Village Board and be heard as a party in interest in any hearing before the Board, and the Village may appeal any decision of the Board to a court of competent jurisdiction.

(C) Notice and Hearing. No action of the Board of Zoning Appeals shall be taken on any case until after notice has been given that the public hearing has been held as follows:

1. A notice of the time and date of said hearing and a brief summary of explanation of the subject matter of the hearing shall be posted in three (3) prominent places within the Village or shall be published in the newspaper of general circulation within the Village at least fifteen (15) days prior to the hearing date.

2. Said notice in the foregoing subsection (1) shall be sent first class mail, at least ten (10) days prior to the hearing, to the applicant and owners of property in question in cases where a use variance or special permit is applied for. In any other case, such notice shall be sent by first class mail at least (10) days prior to the hearing date merely to the applicant and owners of property abutting the property in question.

(D) Expiration of Permit. Permit shall expire at such time as may be fixed by the Board; otherwise, six (6) months after the date of the permit.

(E) Cost. For application to the Board of Zoning Appeals, the applicant shall pay a fee of one dollar (\$1.00) plus advertising costs.