

CHAPTER 1264
Zoning Board of Appeals

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CROSS REFERENCES

Board of Appeals - see M.C.L.A. Sec. 125.585
 Meetings of the Board; freedom of information - see M.C.L.A.
 Sec. 125.585a
 Review by Circuit Courts; appeals to Supreme Court; procedure -
 see M.C.L.A. Sec. 125.590
 Actions for review; proper and necessary parties; notice; failure
 to appear - see M.C.L.A. Sec. 125.591

1264.01 APPOINTMENT.

Council shall appoint a Zoning Board of Appeals, hereinafter referred to as the Board, which Board shall have the powers and duties prescribed by law and by this Zoning Code. (Ord. Unno. Passed 12-14-87.)

1264.02 COMPOSITION; TERMS; RULES AND REGULATIONS.

(a) The Zoning Board of Appeals shall consist of five regular members and two alternate members, each to be appointed for a term of three years, provided that the members of the Board in existence at the time of passage of this chapter shall continue to serve as members of the Board as established by this chapter, and provided further that their terms of office shall be the same as their terms of office at the time of passage of this chapter.

(b) A quorum for the Zoning Board of Appeals shall consist of three members. Regular and alternate members shall be notified of all scheduled meetings and be provided with pertinent appeal information prior to scheduled meetings. In the event that a quorum of regular members is not present at the call of the meeting, alternates shall be called upon to serve.
 (Ord. Unno. Passed 11-9-94.)

1264.03 APPEALS.

The Zoning Board of Appeals shall hear and decide appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Zoning Code. The Board shall also hear and decide all matters referred to it or upon which it is required to pass under any ordinance of the Village adopted pursuant to Act 207 of the Public Acts of 1921, as amended. The concurring vote of two-thirds of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Village. Such appeal shall be taken within such time as shall be prescribed by the Board, by general rule, by the filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal has been filed with him or her, that by reason of fact stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(Ord. Unno. Passed 12-14-87.)

1264.04 PUBLIC NOTICE AND TIME OF HEARINGS.

The Zoning Board of Appeals shall fix a reasonable time for the hearing of an appeal, shall give due notice thereof to the parties, including all owners of record of property within three hundred feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll, and shall decide the same within thirty days. Upon the hearing, any party may appear in person, by agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination as in its opinion ought to be made regarding the premises and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning

Code, the Board shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in equipment or alteration of buildings or structures, including yard, lot area, lot width, lot coverage, open space and height regulations, or the use of land, buildings or structures, so that substantial justice is done.

(Ord. Unno. Passed 12-14-87.)

1264.05 INTERPRETATION.

The Zoning Board of Appeals shall interpret the words, terms, rules, regulations, provisions and restrictions of this Zoning Code, where there is doubt as to the meaning thereof, and shall determine the location of boundaries of districts where uncertainty exists after the rules herein for determining such boundaries have been applied. Where this Zoning Code provides that uses similar to those specifically permitted may be permitted in certain districts and that objectionable uses are prohibited, the Board shall determine whether or not questionable uses are similar or are objectionable, as the case may be, in specific instances.

(Ord. Unno. Passed 12-14-87.)

1264.06 IMPOSITION OF CONDITIONS.

The Zoning Board of Appeals may impose, in connection with an action on any appeal or variance or the approval of any permit, conditions which may include time limits within which a permit acted upon shall be valid or a use shall be conducted, and which may establish the following similar requirements for bringing the proposed use into conformity with the character of the district and adjoining properties, for protecting the public health, safety, convenience and welfare or for preventing traffic congestion:

- (a) Specific yard, area, open space and height regulations that shall supersede such regulations herein as would otherwise apply;
- (b) Provisions for off-street parking space, and spaces or easements for protective planting screens, necessary facilities and service supplemental to the principal or accessory use of the premises;
- (c) Limitation of use and specification of the manner of maintaining and conducting such use;
- (d) Structural requirements; and
- (e) Dedication to the Village of areas required for any public purposes.

The Board may permit erection and use of a building or an addition to an existing building, of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established, and may permit the location in any use district of a public utility building, structure or use if the Board finds such use, height, area, building or structure reasonably necessary for the public welfare or public convenience and service.

The Board may require a written agreement, bond or other assurance of faithful performance of any such conditions, the violation of which shall invalidate the permit and shall be subject to the penalties prescribed herein for a violation of this Zoning Code. (Ord. Unno. Passed 12-14-87.)

1264.07 STANDARDS FOR VARIANCES.

The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as use, lot area and width, building height, bulk, yard and depth and off-street parking and loading space, as established in this Zoning Code, provided that the following conditions can be met:

- (a) To obtain a variance the applicant must show that an unnecessary hardship or a practical difficulty unique to the property exists. This requires demonstrating that all four of the following circumstances exist:
 - (1) That strict compliance with the strict letter of the provisions of this Zoning Code (use, setbacks, frontage, height, bulk or density) would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restriction unnecessarily burdensome;
 - (2) That the plight of the property owner is due to unique circumstances peculiar to the property (i.e. odd shape or a natural feature like a stream or wetland) and is not due to general neighborhood conditions;
 - (3) That the proposed use would not alter the essential character of the area; and
 - (4) That the problem was not self-created.
- (b) The Board may specify, in writing, such conditions regarding the character, location and other features that will, in its judgment, secure the intent and purposes of this section. The breach of any such condition shall automatically invalidate the permit granted.
- (c) Each variance granted under the provisions of this section shall become null and void, unless:
 - (1) The construction authorized by such variance or permit has been commenced within twelve months after the granting of the variance; and
 - (2) The occupancy of land, premises or buildings authorized by the variance has taken place within two years after the granting of the variance.
- (d) No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one year from the date of the last denial except on grounds of newly discovered evidence or proof of changed conditions found, upon inspection by the Board, to be valid. (Ord. Unno. Passed 11-9-94.)