

## **Section 1003 Powers and Duties of the Board of Adjustment**

**1003.1 Administrative review.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer in the enforcement of this ordinance.

The Board may interpret zoning maps, pass upon disputed questions of lot lines or district boundary lines, and hear and decide all matters referred to it or upon which it is required to pass under the zoning ordinance.

**1003.2 Variances.** To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing, to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

(A) A written application for a variance is submitted demonstrating:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- (2) That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- (3) That said circumstances do not result from the actions of the applicant;
- (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other lands, structures, or buildings in the same district;
- (5) That no non-conforming use of neighboring land, structures, or buildings in the same district and no permitted use of land, structures or buildings in other districts will be considered grounds for the issuance of a variance.

(B) The Board of Adjustment shall make findings that the requirements of Subsection 1003.2A have been met for a variance, as well as the following:

- (1) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum one that will make possible the reasonable use of the land, building or structure.

(2) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(C) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 905 of this ordinance.

(D) Under no circumstances shall the Board of Adjustment grant a permanent variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.