

TYPES OF APPEALS TO THE BOARD OF ZONING ADJUSTMENT

Administrative Review

The Board of Zoning Adjustment hears and decides appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of the zoning ordinance.

Such appeals shall be taken within a reasonable time, not to exceed thirty days, by filing with the Building Official and with the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board may, in conformity with the provisions of the zoning ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and, to that end shall have all the powers of the officer from whom the appeal is taken.

Special Exceptions

A list of Special Exceptions, if allowed, is found in the zoning ordinance under each zoning classification. The Board of Zoning Adjustment hears and decides special exceptions to the terms of the zoning ordinance upon which the Board of Zoning Adjustment is required to pass by the terms of the zoning ordinance. They decide such questions as are involved in determining whether special exceptions should be granted; and grant special exceptions with such conditions and safeguards as are appropriate under the zoning ordinance, or deny special exceptions when not in harmony with the purpose and intent of the ordinance.

- A. A written application for a special exception must be submitted indicating the section of the zoning ordinance under which the special exception is sought and stating the grounds on which it is requested, plus the administrative fee.
- B. A public hearing has been held, notice of which is given pursuant to the Code of Alabama at least five days prior to the public hearing and the owner of the property for which the special exception is sought has been notified by mail and personally attends the hearing or is represented by his agent or attorney.
- C. The Board of Zoning Adjustment has made a finding that it is empowered under the section of this ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
- D. In granting any special exception, 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 term under which the special exception is granted shall be deemed a violation of this ordinance and punishable as prescribed in the zoning ordinance. The Board of

Zoning Adjustment may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit shall void the special exception.

VARIANCES

The Board of Zoning Adjustment is authorized upon appeal in specific cases to grant such variance from the terms of the zoning ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating:

- A. 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.
- B. That 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.
- C. The special conditions and circumstances do not result from the actions of the applicant.
- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- E. That relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this ordinance.
- F. That the variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by special exception in this district involved.
- G. Notice of public hearing shall be given as required as well as due notice to the parties in interest.
- H. The public hearing shall have been held, the appealing party appearing in person, or by agent or attorney.
- I. The Board of Adjustment shall have made a finding that the requirements regarding a written application have been met by the applicant and the administrative fee paid for a variance.
- J. The Board of Adjustment shall have made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structures.
- K. The Board of Adjustment shall have made a finding that the granting of the

variance will be in harmony with the general purpose and intent of this ordinance, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- L. In granting a 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 the zoning ordinance and punishable as prescribed in this ordinance.
- M. Under no circumstances shall the Board of Adjustment grant a variance to permit a use not generally or by special exception permitted in the district except as provided for in sections concerning interpretation of uses, and unclassified uses.

APPEALS FROM ACTION OF THE BOARD

Any party aggrieved by any final judgement of the Board of Zoning Adjustment, may appeal therefrom to the circuit court or court of like jurisdiction as provided by Section 11-52-81, Code of Alabama, 1975, or as same may be amended.