

- G. With the approval of the Mayor and Town Council, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation as to prevent the occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.
- H. Revoke by order, a zoning permit issued under a mis-statement of fact or contrary to the law or the provisions of this Ordinance.
- I. Record and file all applications for zoning permits with accompanying plans and documents. All applications, plans and documents shall be a public record.
- J. Maintain a map or maps showing the current zoning classification of all land in the Town.
- K. Maintain a map of a nonconforming uses and special exception uses in the Town and a file on each such use.
- L. Upon the request of the Mayor and Town Council, the Planning Commission or the Board of Appeals, present to such bodies, facts, records or reports which they may request to assist them in making decisions or assist them in any other way as requested.

901 Zoning Permits

- A. Hereafter, no structure (except certain signs as provided in Article 7) shall be erected, constructed, reconstructed, altered or moved; no land or building used or occupied and no land or building changed in use, until a zoning permit has been secured from the Zoning Administrator. Upon completion of changes in use and construction, reconstruction or moving of structures, the applicant shall notify the Zoning Administrator of such completion. No permit shall be considered as complete or permanently effective until the Zoning Administrator has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Ordinance.
- B. The Zoning Administrator may grant a permit for a nonconforming temporary building or use incidental to a construction project when such building or use is reasonably required for such project. Such temporary permit shall terminate at the time of completion of the project.

902 Application Requirements for Zoning Permits

All applications for zoning permits shall be made in writing by the owner, tenant, vendee under contract of sale, or authorized agent on a form supplied by the Town and shall be filed with the Zoning Administrator.

903 Fees

All applicants for zoning permits, special exceptions and interpretation and variance appeals shall at the time of making application, pay to the Zoning Administrator for the use of the Town a fee in accordance with a fee schedule adopted by resolution of the Mayor and Town Council upon the enactment of this Ordinance, or as such schedule may be amended by resolution of the Mayor and Town Council.

904 Life of a Permit

Any erection, construction, reconstruction, alteration or moving of a building or other structure, including a sign authorized by a zoning permit, shall be commenced and any change in use of a building or land authorized by a zoning permit shall be undertaken within one year after the date of issuance of the permit. If not, the permit shall be considered null and void.

ARTICLE 10: BOARD OF APPEALS

1000 Establishment of Board

To provide for the competent interpretation and the full and equitable achievement of the purposes of this Ordinance, there is hereby established a Board of Appeals.

1001 Membership, Terms of Office

The Board shall consist of three members. The terms of office of the members shall be three years. Members shall be appointed by the Mayor and Town Council, and shall be removable for cause upon written charges and after public hearing. The Mayor and Town Council shall designate one alternate member for the Board who shall be empowered to sit on the Board in the absence of any regular member of the Board.

1002 Procedures, Meetings, Records and Decisions

A. Procedures -- The Board shall elect a chairman from its membership, shall appoint a secretary and shall prescribe rules for the conduct of its affairs in accordance with the provisions of this Ordinance and of Article 66B of the Annotated Code of Maryland.

- B. Meetings -- Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Two members present shall constitute a quorum.
- C. Records and Decisions -- The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All actions or decisions of the Board shall be taken by resolution in which two members, present during the proceedings, must occur. Each resolution shall contain a statement of the grounds and any findings forming the basis of such action or decision.
- The Board shall notify the Mayor and Town Council, Planning Commission and Zoning Administrator of all decisions and resolutions.

1003 Why May Appeal to the Board

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decisions of the Zoning Administrator.

1004 Powers and Duties - Interpretation

Upon appeal from a decision by the Zoning Administrator, the Board shall decide any question:

- A. Where it is alleged there is error in any order, requirement, decision or determination, including any order requiring an alleged violation to stop, cease, and desist, made by the Zoning Administrator in the enforcement of this Ordinance, or
- B. Involving the interpretation of any provisions of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

1005 Powers and Duties - Variances

- A. Upon appeal from a decision by the Zoning Administrator, the Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions whereby such strict applications would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of land or building involved, but in no other case.

- B. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- C. No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that the following requirements and standards are satisfied.

The appellant must show that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the appellant shall establish and substantiate his appeal to show that the appeal for the variance is in conformance with the requirements and standards listed below:

1. That the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
  2. That the granting of the variance will not permit the establishment within a District of any use which is not permitted in that District.
  3. That special circumstances or conditions, fully described in the findings, apply to the land or buildings for which the variance is sought, which circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building or create unnecessary hardship. If the hardship is general, that is, shared generally by land or buildings in the neighborhood, relief shall be properly obtained only by legislative action or by court review of an attack on the validity of the ordinance.
  4. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without the knowledge of restrictions; it must result from the application of the Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
- D. The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulation of provisions to which variance applies.

1006 Powers and Duties - Special Exceptions

- A. The Board shall have the power to approve special exceptions for any of the uses for which this Ordinance requires obtaining of such exceptions and for no other use or purpose. The Board shall not grant a special exception except in conformance with the conditions and standards of this Ordinance.
- B. In granting a special exception, the Board shall make findings of fact consistent with the provisions of this Ordinance. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. The Board shall, among other things, require that any proposed use and location be:
  1. In accord with the Town's Comprehensive Development Plan and consistent with the spirit, purposes, and intent of this Ordinance.
  2. Suitable for the property in question, and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
  3. Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
- C. The Board may impose whatever conditions regarding layout, circulation and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this Ordinance. The Board shall consider recommendations of the Planning Commission, if any, prior to rendering a decision.

1007 Rules for Filing Appeals and Applications

A. General Rules

1. Any appeal shall be made by filing the same with the Zoning Administrator within 30 days after the date of the Zoning Administrator's decision.
2. All appeals and applications made to the Board shall be in writing on standard forms prescribed by the Board.
3. All appeals and applications shall list names and addresses of all adjoining owners including those across the streets from the subject property.

B. Interpretation Appeals

Appeals concerning the interpretation of any provisions of this Ordinance shall exactly set forth the interpretation that is claimed.

C. Variance Appeals

Appeals for variance from the strict application of this Ordinance shall include the zoning permit application denied by the Zoning Administrator together with a statement with any supporting data regarding the requirements listed in Section 1005.

D. Special Exception Applications

Applications for special exceptions shall include a zoning permit application with all information required therein and a statement with any supporting data regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Ordinance.

1008 Notice of Hearings

Upon transmittal to the Board of an application filed with the Zoning Administrator for a special exception, variance or appeal from alleged error of the Zoning Administrator, the Board shall fix a reasonable time (not less than 30 days nor more than 45 days) from the transmittal date for a public hearing thereon and give notice as follows:

- A. At least 15 days prior to the date fixed for public hearing, publish a notice containing the name of the applicant or appellant; the date, time, and place fixed for the hearing; and a brief statement of the special exception sought by the applicant, or the error alleged by the appellant, or of the variance or other question which is subject to appeal, in at least one newspaper of general circulation within the Town.
- B. Post, in a conspicuous place on the property involved, a notice of pending action containing the same information as in A. above, such posting to take place at least 15 days prior to the date fixed for the public hearing.
- C. Give written notice of the time and place of such hearing sent by registered mail to the applicant or appellant and to the owners of record of property contiguous to or opposite the property affected.

1009 Review by the Planning Commission on Applications for Special Exceptions, Variances and Interpretations

The Board shall request an advisory opinion from the Planning Commission on any application for a special exception and the Board shall consider such advisory opinion, if any, prior to making decision on an application.

The Board shall also request an advisory opinion from the Planning Commission on any application for a variance or interpretation.

1010 Decision by the Board

- A. Decisions by the Board on special exception, variances and interpretation appeals shall be rendered within 10 calendar days of the hearing on said exception, variance or interpretation, unless a later date is mutually agreed upon by the Board and applicant.
- B. In exercising its powers concerning interpretation appeals, the Board may, in conformity with law and the provisions of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and 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.
- C. In making its decisions pursuant to the authority conferred by this Ordinance, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals, or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board may give consideration, among other things, to the following:
  1. The orderly growth of a community, as expressed in the Comprehensive Development Plan or otherwise.
  2. The number of people residing or working in the immediate area concerned.
  3. Traffic conditions and facilities.
  4. The effects of such use upon the peaceful enjoyment of people in their homes.
  5. The conservation of property values.
  6. The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
  7. The most appropriate use of land and structure.
  8. Decision of the courts.

9. The purpose of these regulations as set forth herein.
10. Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

#### 1011 Time Limitation on Board Approvals

A decision of the Board permitting the erection or alteration of a building shall be valid for a period of one year, unless a zoning permit for such erection or alteration is obtained within this period and the erection or alteration proceeds to completion in accordance with the terms of the decision. No decision of the Board permitting the use of a building or land shall be valid for a period longer than one year, unless such use is established within said period; except that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning permit for such erection or alteration is obtained within said period, and such erection or alteration proceeds to completion in accordance with the terms of the decision.

#### 1012 Appeal to Court

Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer of the Town or any officer, department, board or bureau of the Town may appeal the same to the Circuit Court of Washington County.

### ✓ ARTICLE 11: AMENDMENTS, REMEDIES AND PENALTIES

#### 1100 Power of Amendment

The Mayor and Town Council may from time to time amend, supplement, change, modify or repeal this Ordinance including the Zoning Map. When doing so, the Mayor and Town Council shall proceed in the manner prescribed in this Article.

#### 1101 Who May Initiate

Proposals to amend, supplement, change, modify, or repeal may be initiated by the Mayor and Town Council on their own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions: