

7.29 BOARD OF APPEALS

- (1) **Establishment of Board.** In order that the objectives of this ordinance may be more fully and equitably achieved and a means for interpretation provided, there is established a Board of Appeals (hereinafter referred to as the Board) for the Town of Greenville.
- (2) **Membership and Terms of Office.**
 - (a) **Board Members.** The Board shall consist of five (5) members. The *Town Chairperson* shall appoint the members subject to confirmation by the Town Board. The members of the Board shall all reside within the Town. The Town Chairperson *shall designate one of the members as chairperson. (2-10-03)*
 - (b) **Terms.** The terms of the first appointed shall be for *one for one (1) year, two (2) for two (2) years and two (2) for three (3) years.* Successors shall be appointed in such manner at the expiration of each term and their terms of office shall be three (3) years in all cases, beginning July 1, in the year in which they were appointed and until their successors are appointed.
 - (c) **Vacancies and Removal.** Vacancies shall be filled for the un-expired term of any member whose term becomes vacant. *Members shall be removable by the Town Chairperson for cause upon written charges and after public hearing. (2-10-03).*
 - (d) **Compensation.** The actual and necessary expenses incurred by the Board in the performance of its duties shall be paid and allowed by the Town Board as in cases of other claims against the Town. The Town Board may also compensate the members of the Board and their assistants as may be authorized by the Town Board.
- (3) **Rules, Meetings, Decisions and Records.**
 - (a) **Rules.** The Board shall adopt rules for the conduct of the business of the Board in accordance with the provisions of this ordinance. The Board may adopt further rules as necessary. No rule may be changed without the concurring vote of a majority of the Board.

(b) **Meetings.** Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairman, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

(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 Town Clerk and shall be a public record. *The concurring vote of four (4) 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 on any matter upon which it is required to pass or to effect a variation. The grounds of every such determination shall be stated.* Notice of filing of all actions and decisions shall be mailed to the parties in interest as determined by the Board. (2-10-03)

(4) **Powers and Duties - Appeals.**

(a) **Powers.** The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance. The Board may 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 such ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, *and may issue or direct the issue of a permit.* (2-10-03)

(b) **Procedures.** Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or the building inspector or other administrative officer. Such appeal shall be taken within sixty (60) days of the order, requirement, decision or determination appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the

action appealed from was taken. The Board may request the applicant to provide additional information as may be needed to determine the case.

(c) **Stays.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would 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 a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(d) **Withdrawal or Amendment.**

(1) If the applicant elects to withdraw the appeal any time before final determinations is made by the Board, this fact shall be noted on the application, with the signature of the applicant attesting withdrawal. Copies of the withdrawn application shall be returned to the files of the Board, to the Building Inspector or officer and to the applicant.

(2) Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case different from its description in the notice of public hearing. If the amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice, the applicant shall pay an additional fee to cover the cost of amending the public notice. If the amended notice can be published within the time frame specified for the public hearing, the hearing on the amended appeal may be held on that date, otherwise the chairperson shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for deferral.

(5) **Powers and Duties - Variances.**

(a) **Powers.** The Board shall have the power to authorize upon appeal in specific cases such variance 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 will result in *practical difficulty or unnecessary hardship*, so that the spirit of this ordinance shall be observed and substantial justice done. (2-10-03)

(b) **Requirements for a Variance.** In general, the power to authorize a variance from the requirements of the ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions that require an amendment to this ordinance. Variances shall only be granted when the Board finds that:

- (1) The variance is not contrary to the public interest and that such a variance will be in general harmony with the purpose and intent of this ordinance.
- (2) The variance will not permit the establishment of a use that is not permitted or permissible in the district.
- (3) 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.
- (4) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
- (5) The hardship is not shared generally by other land or buildings in the area.

- (6) The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
- (6) **Powers and Duties - Interpretations.** The Board shall have the power to hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts.
- (7) **Public Hearing.**
- (a) **Time Period.** Upon filing with the Board an application for an appeal or variance, the Board shall fix a reasonable time (not more than sixty (60) days from the filing date) for a public hearing.
- (b) **Notice of Hearings.** A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall be published specifying the date, time and place of the hearing and matters to come before the Board.
- (8) **Appeals from Board Decisions.** Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the municipality, may within thirty (30) days after the filing of the decision in the office of the Board, commence an action seeking the remedy available by certiorari.

