

ARTICLE XXI. BOARD OF ADJUSTMENT

Section 1. CREATION AND MEMBERSHIP. A Board of Adjustment is hereby created. The word "Board" when used in this Article shall mean the Board of Adjustment. The Board shall consist of five members serving without compensation, appointed by the County Board of Supervisors, for a term of five years, excepting that when the Board shall first be created, one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Any vacancy shall be filled by appointment by the Board of Supervisors for the unexpired portion of the term.

Section 2. MEETINGS AND GENERAL PROCEDURES. 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.

1. 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.
2. The Board shall have power to call on any county department or officer for assistance in the performance of its duties, and it shall be the duty of any such department to render such assistance as may reasonably be required.
3. The Board shall adopt, from time to time, such rules and regulations as it may deem necessary to carry into effect the power and authority granted it by the provisions of this Ordinance or any state law.
4. The occurring vote of three (3) members of the Board shall be necessary to decide any appeal, exception, or variation upon which the Board is authorized by this Ordinance to render a decision.
5. The Board shall render its decisions without unreasonable delay.

Section 3. APPEALS. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the county affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days by filing with the officer from whom the appeal is taken and with Board of Adjustment, a notice of appeal, specifying the grounds thereof. The Administrative 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. Any person may appear and testify at the hearing, either in person or by his agent or attorney.

1. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer from whose decision or action the appeal is taken certifies to the Board after the notice of appeal shall have been filed that by reason of acts stated in the certificate a stay would, in his 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 a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

Section 4. JURISDICTION. The Board shall have the following powers and authority:

1. To hear and decide an appeal where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Ordinance.
2. To grant a Conditional Use Permit as detailed in Article XX.
3. To grant an exception in the following instances:

- a. In the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or a public enemy, to the extent of more than fifty (50) percent of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use and that the primary purpose in continuing the nonconforming use is not to continue a monopoly.
  - b. In the waiving or reduction of the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provisions of the parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience.
4. To grant a variation in the following instances:
- a. In the bulk requirements (front, side and rear yard setback requirements and height limitations) and parking requirements of any district where there are unusual or practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions provided such variations will not seriously affect any adjoining property or the general welfare.
  - b. In the determination that a strict application of the terms of this Ordinance relating to the use, construction, or alterations of building or structures, or use of land will impose upon the property owner unusual and practical difficulties or particular hardship, such variations of the strict application of the terms of this Ordinance being in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the comprehensive plan as established by this Ordinance, and at the same time, such variation will not seriously affect any adjoining property, or the general welfare. This clause shall not allow the Board of Adjustment to permit a non-conforming land use to occur in any district without a rezoning of the land by the Planning and Zoning Commission or by the granting of a Conditional Use Permit as detailed in Section XX.
  - c. To hear and decide appeals from any order, requirement, decision, or determination made by the Planning & Zoning Commission in the enforcement of Article XXII.
  - d. To hear and decide special exemptions to the terms of Article XXI upon which the board of adjustment under such regulations may be required to pass.
5. The board of adjustment shall have any other powers, which are specifically granted, to them in any section of this ordinance.
6. In considering all appeals and all proposed exceptions or variations to this Ordinance the Board shall, before making any exceptions or variations from the Ordinance in a specific case, first determine that it will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of Hardin County.
7. Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change the Zoning Ordinance or the District Map.

Section 5. NOTICE AND FEE. The Board shall make no findings except in a specific case and after a public hearing conducted by the Board. The Board shall select a reasonable time and place for the hearing of the appeal and shall give due notice thereof to the parties. The notice of the time and place of such public hearing shall be published in a Hardin County publication of general circulation in Hardin County at least four (4) days and no longer than twenty (20) days previous to the hearing. Such notice shall contain the address or location of the property for which the variation or other ruling by the Board is sought, as well as a brief description of the nature of the appeal. Property owners within one thousand (1,000) feet of the request shall be notified by mail at least four (4) days and no longer than twenty (20) days previous to the hearing.

1. If a special use permit is requested a fee of \$75.00 shall be paid to Hardin County at the time of the notice of appeal is filed. If a variance is requested a fee of \$50.00 shall be paid to Hardin County at the time the notice of appeal is filed. Fees shall be credited to the general government fund of Hardin County, Iowa.

Section 6. RELIEF. 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 Hardin County shall have recourse to such relief as is provided by statute.