

ARTICLE XXVI. BOARD OF ZONING ADJUSTMENT

Section 1. Members

- A. The Greene County Commission shall create by order a Greene County Board of Zoning Adjustment.
1. The Board (of Zoning Adjustment) shall consist of three (3) commissioners of the County Commission whose terms shall be only for the duration of their tenure of office.
 2. The Board (of Zoning Adjustment) shall adopt rules of procedure consistent with the provisions of the Zoning Regulations and the provisions of 64.211 to 64.295 of the 1978 Missouri Revised Statutes.
 3. The Presiding Commissioner shall act as chairman of the Board (of Zoning Adjustment) at all meetings.
 4. The Presiding Commissioner, or in their absence the designated Presiding Commissioner, shall administer oaths and compel the attendance of witnesses.
 5. Two (2) members of the Board (of Zoning Adjustment) shall constitute a quorum to hold meetings.
 - a. Less than a majority of the Board (of Zoning Adjustment) may meet and recess the meeting for the purpose of obtaining a quorum.
 6. If all members of the Board (of Zoning Adjustment) are present, the affirmative vote of a majority of the members present shall be required to exercise the powers of the Board (of Zoning Adjustment).
 7. When only two (2) members are present at a meeting, and they shall disagree in any matter submitted to them, the decision of the Presiding Commissioner shall stand as the decision of the Board (of Zoning Adjustment); provided further that:
 - a. When the Presiding Commissioner is absent and the other two (2) Board members are present, the County Clerk shall designate one (1) of the Board (of Zoning Adjustment) members present as Presiding Commissioner during the absence of the regular Presiding Commissioner; and
 - b. They shall, during the absence of the regular Presiding Commissioner, have all the powers of the regular Presiding Commissioner.

Section 2. Meetings

- A. All meetings of the Board (of Zoning Adjustment) shall be open to the public.
1. Public notices of such meeting shall be given in at least one (1) publication in a newspaper of general circulation in the County at least fifteen (15) days before the date of the meeting.
 - a. The notice shall state:
 - 1) The time and place of the hearing;
 - 2) The official docket of the Board (of Zoning Adjustment); and
 - 3) The place where the specific requests will be accessible for examination by interested parties.
 2. Minutes shall be filed in the Office of the County Clerk and shall be a public record.

Section 3. Appeals

- A. Appeals to the Board (of Zoning Adjustment) may be taken by any person aggrieved or by a public officer, department, board, or bureau affected by any order or decision of the administrative officer in administering County Zoning Regulations.
- B. The appeal shall be taken within a period of not more than three (3) months and in the manner provided by the rules of the Board (of Zoning Adjustment).
- C. The 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 (of Zoning Adjustment) that the grounds of appeal would, in their opinion, jeopardize or be detrimental to life or property.

Section 4. Authority

- A. The Board (of Zoning Adjustment) shall have the following powers, and it shall be its duty to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by an administrative official in the enforcement of the County Zoning Regulations.
 - 1. To hear and decide all matters referred to it or upon which it is required to pass under County Zoning Regulations.
 - 2. In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such order, which difficulties or hardship constitute an unreasonable deprivation of use as distinguished from merely granting a privilege, the Board (of Zoning Adjustment) may vary or modify the application of any of the Regulations or provisions so the intended purpose of the Regulations shall be strictly observed, public safety and welfare secured, and substantial justice done.

Section 5. Application, Appeals, Hearings, and Decisions of the Board

- A. Applications - When and By Whom Taken
 - 1. An application, in cases in which the Board (of Zoning Adjustment) has original jurisdiction under the provisions of the Regulations, may be filed by any property owner, including a tenant, or by a governmental officer, department, board, or bureau.
 - 2. Such application shall be filed with the Zoning Inspector, who shall transmit same to the Board (of Zoning Adjustment).
- B. Appeals - When and By Whom Taken
 - 1. An appeal to the Board (of Zoning Adjustment) may be taken by any owner, lessee, or tenant of lands, or by a public officer, department, board, or bureau, affected by a decision of the Zoning Inspector in administering a County Zoning Regulation.
 - a. Such appeals shall be taken within a period of not more than three (3) months, and in the manner provided by the rules of the Board (of Zoning Adjustment).
 - b. The Zoning Inspector shall forthwith transmit to the Board (of Zoning Adjustment) all the papers constituting the record upon which the action appealed was taken.

C. Hearings

1. The Board of Zoning Adjustment shall fix a reasonable time for the hearing of the application or appeal.
2. Each application or appeal shall be accompanied by a check, payable to the Treasurer of Greene County, or a cash payment in an amount to be determined by the County Commission, such amount to apply toward the cost of publishing and/or posting and mailing the notices of the hearing or hearings.
3. At the hearing, any person may appear in person or by attorney.

D. Decisions of the Board (of Zoning Adjustment)

1. The Board (of Zoning Adjustment) shall decide all applications and appeals within thirty (30) days after the final hearing thereof.
2. A certified copy of the Board (of Zoning Adjustment) decision shall be transmitted to the applicant or appellant and to the Zoning Inspector and observed by him/her, and they shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the Board (of Zoning Adjustment).
3. A decision of the Board (of Zoning Adjustment) shall not become final until the expiration of five (5) days from the date of such decision is made, unless the Board (of Zoning Adjustment) shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

Section 6. Stay of Proceedings

A. An appeal shall stay all proceedings in furtherance of the action appealed from:

1. Unless the officer from whom the appeal is taken shall certify to the Board (of Zoning Adjustment) that by reasons of facts stated in the certificate, a stay would, in their opinion, cause immediate peril to life or property.

Section 7. Powers of the Board of Zoning Adjustment

A. The Board (of Zoning Adjustment) shall have the power to hear and decide, in accordance with the provisions of the Regulations, applications filed as hereinafter provided:

1. For conditional uses;
2. Special exceptions;
3. Interpretation of the Zoning Map; or
4. For decisions upon other special questions on which the Board (of Zoning Adjustment) is authorized by the Regulations to pass.

B. In considering an application for a conditional use, a special exception, or interpretation of the Zoning Map, the Board (of Zoning Adjustment) shall give due regard to the nature and conditions of all adjacent uses and structures.

C. In authorizing a conditional use or special exception, the Board (of Zoning Adjustment) may impose such requirements and conditions with respect to location, construction, maintenance, and operation in addition to those expressly stipulated in the Regulations for the particular conditional use or special exception as the Board (of Zoning Adjustment) may deem necessary for the protection of adjacent properties and the public interest.

Section 8. Conditional Uses and Special Exceptions

- A. In addition to permitting the conditional uses and special exceptions hereinafter specified, the Board (of Zoning Adjustment) shall have the power to permit the following conditional uses and special exceptions:
1. Nonconforming Uses
 - a. The substitution of a nonconforming use existing at the time of enactment of the Regulations by another nonconforming use, if no structural alterations, except those required by law or resolution, are made provided, however, that:
 - 1) In an R District, no change shall be authorized by the Board (of Zoning Adjustment) to any use which is not a permitted or conditional use in any R District; and
 - 2) In a C District, no change shall be authorized to any use which is not a permitted or conditional use in any C District.
 2. The extension of a nonconforming building upon the lot occupied by such building, or on an adjoining lot, provided that:
 - a. Such lot was under the same ownership as the lot in question at the time the use of such building became nonconforming; and
 - b. Such extension is necessary and incidental to such existing nonconforming use, provided that:
 - 1) The value of such extension shall not exceed in all one-third ($\frac{1}{3}$) of the assessed valuation for tax purposes of the existing building devoted to a nonconforming use;
 - 2) Such extension shall be within a distance of not more than fifty (50) feet of the existing building or premises; and
 - 3) Provided further that such extension shall in any case be undertaken within five (5) years of the enactment of the Regulations.
 - c. Provided, however, that the Board (of Zoning Adjustment) shall not authorize any extension or enlargement which would result in extending the useful life of a nonconforming building, or which would result in violation of the provisions of the Regulations with respect to any adjoining premises.

Section 9. Extension of Use on Border of District

- A. The extension of a use or building into a more restricted district immediately adjacent thereto, but not more than twenty-five (25) feet beyond the dividing line of the two (2) districts, under such conditions as will safeguard development in the restricted district.

Section 10. Conditional Industrial Uses

- A. Permitting in such parts of any M-2 District as are more than six hundred (600) feet distant from any R District and more than two hundred (200) feet from every other District except an M-1 District:
 - 1. Any of the industries or uses listed in Article XIX and permitted in any M-1 District as an accessory use;
 - 2. Any use permitted in an M-2 District as a principal use, as specified in Article XX.
- B. In doing so, the Board (of Zoning Adjustment) may require the installation, operation, and maintenance in connection with the proposed use of such devices or such methods of operation as may, in the opinion of the Board (of Zoning Adjustment), be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, water-carried waste, noise, vibration, or similar objectionable features; and
- C. May impose such conditions regarding the extent of open spaces between such industries or uses and surrounding properties as will tend to prevent or reduce the harm which might otherwise result from the proposed use of surrounding properties and neighborhoods.

Section 11. Temporary Structures and Uses

- A. Any use designated as temporary, such as neighborhood block parties, fairs, festivals, re-enactments, or outdoor concerts, including seasonal uses such as fireworks stands, Christmas tree sales, roadside produce stands, not including those agricultural products grown on-site, but including other uses requiring retail sales, must have a Conditional Use Permit to be allowed in any Agricultural or Residential District.
 - 1. Activities conducted as fundraising events for non-profit organizations such as churches, libraries, and museums do not require a Conditional Use Permit so long as they do not exceed six (6) events per calendar year, and each event shall not exceed a period of three (3) consecutive days.
 - 2. The Board (of Zoning Adjustment) shall have the authority to allow any conditional use proposed, finding that such use is not inappropriate for the neighborhood or for adjacent properties.
 - a. The Board (of Zoning Adjustment) may make requirements, limitations, or conditions with respect to the location, construction, maintenance, and operation deemed reasonably necessary for the protection of the neighborhood or adjacent properties.
 - 3. No permit shall be granted for a period exceeding six (6) days, except to promote seasonal sales or to allow a reasonable period in which to erect and take down temporary structures.
 - 4. A site plan must be submitted with all applications showing temporary structures, parking facilities and drives, emergency access easements, and any applicable setbacks.
 - 5. Garage sales do not require a Conditional Use Permit and are regulated as described in Article IV, Section 26 Garage and Yard Sales of these Regulations.
- B. Outdoor events must include provisions for public safety, insurance of sanitary conditions, and adequate site design to accommodate vehicles, pedestrians, and temporary structures. At a minimum, an applicant must include:
 - 1. Provisions for adequate parking facilities;
 - 2. Estimates of the expected attendance for adequate restroom and wastewater disposal facilities;
 - 3. Access easements for ambulance and other emergency services to the entire festival area;
 - 3. A litter control plan showing location of all trash receptacles;
 - 5. Arrangements must be made for policing during and after the hours of the event; and
 - 6. Provisions must be made for any temporary street closure with the proper County office.

Section 12. Interpretation of Zoning Map

- A. Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot line as shown on the Zoning Map, the Board (of Zoning Adjustment), after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of these Regulations.
 - 1. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board (of Zoning Adjustment) and a determination shall be made by said Board (of Zoning Adjustment).

Section 13. Administrative Review and Variances

- A. Administrative Review
 - 1. The Board (of Zoning Adjustment) shall have the power to hear and decide appeals, filed as hereinafter provided, where it is alleged by the appellant that there is an error in any order, requirements, decisions, grant, or refusal made by the Zoning Inspector or other administrative official in the provisions of these Regulations.
- B. Variances
 - 1. The Board (of Zoning Adjustment) shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions of requirements of the Regulations, as will not be contrary to the public interest; but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of the Regulations would cause undue and unnecessary hardship.
 - 2. Where, by reasons of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of the Regulations, or by reasons of exceptional topographic conditions, or other extraordinary situation or condition on such piece of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of the Regulations would involve practical difficulty or would cause unnecessary hardship to carry out the spirit and purpose of the Regulations. The Board (of Zoning Adjustment) shall have the power to authorize a variance from the terms of the Regulations, so as to relieve such hardship and so that the spirit and purpose of the Regulations shall be observed and substantial justice done.
 - 3. In authorizing a variance, the Board (of Zoning Adjustment) may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the Regulations and in the public interest.
 - a. In authorizing a variance, with guarantee or bond as it may deem to be necessary, that the conditions attached are being and will be complied with.
 - 4. No such variances in the provisions or requirements of the Regulations shall be authorized by the Board (of Zoning Adjustment) unless the Board (of Zoning Adjustment) finds, beyond reasonable doubt, that all the following facts and conditions exist:
 - a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning districts.
 - b. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
 - c. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the Regulations or the public interest.
 - 5. No grant of a variance shall be authorized unless the Board (of Zoning Adjustment) specifically finds that the condition or situation of the specific piece of property, or the intended use of said property, for which variance is sought, one or the other in combination is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

Section 14. General

- A. In exercising its power, the Board (of Zoning Adjustment) may, in conformity with the provisions of statute and of the Regulations, 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 sought to be made, and to that end shall have all the power of the office from whom the appeal is taken.
- B. The Board (of Zoning Adjustment) shall issue Conditional Use Permits only after receiving a report and recommendation from the Planning Board.

Section 15. Appeal from Decision by the Board (of Zoning Adjustment)

- A. Any owners, lessee, or tenants of buildings, structures, or lands jointly or severally aggrieved by any decision of the Board (of Zoning Adjustment), may present to the Circuit Court having jurisdiction in Greene County, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom.
 - 1. Upon the presentation of the petition, the Court shall allow a Writ of Certiorari directed to the Board (of Zoning Adjustment) or the County Commission, respectively, of the action taken and data and records acted upon, and:
 - a. May appoint a referee to take additional evidence in the case.
 - 2. The Court may reverse or affirm or may modify the decision brought up for review.
 - a. After entry of judgment in the Circuit Court on the action in review, any party to the cause may prosecute an appeal to the Appellate Court having jurisdiction in the same manner now or hereafter provided by law.