

Board of Adjustment evaluation

Sunset Hills

Appendix B, Section 9.3-2 Findings:

The board of adjustment may grant variances from the strict application of this ordinance when by reason of the strict application of this ordinance or amendments thereto would result in unusual difficulty or unreasonable hardship upon the owner of said property; provided that such variance can be granted without substantial impairment of the intent, purpose and integrity of this ordinance. It is further provided that this provision shall not permit the board of adjustment to permit a use of land not authorized by the provisions of this ordinance for a specific zoning district or to increase the height or volume of a building or structure or to increase the density of development beyond that permitted by this ordinance for any particular zoning district. Before granting a variance, there must be a finding by the board of adjustment that all of the following conditions exist:

- A) That if the owner complied with the provisions of this ordinance, the owner would not be able to make any reasonable use of the property which is permitted in the district in which the property is located.
- B) That the difficulties or hardships are peculiar to the property in question in contrast with those of other properties in the same district.
- C) That the hardship was not the result of the applicant's own action and is not merely financial or pecuniary.
- D) That the issuance of a variance will not be detrimental to the public welfare or health or injurious to other property.

Kirkwood

Division 10, Section 2-589.9 Powers and duties.

- a) The Board of Adjustment shall have the following roles and powers as it relates to Chapter 25 (Zoning and Subdivision Code) of the City of Kirkwood Municipal Code of Ordinances:
- 1) Hear, review, and decide on appeals in which it is alleged there is an error in any order, requirement, decision, or determination made by the Building Commissioner, Director of Public Services, or an administrative official in the enforcement of the Zoning Enabling Act, Sections 89.010 through 89.140 (1992), RSMo., as amended, or Chapter 25 of the Municipal Code of Ordinances;
 - 2) Hear, review, and decide all matters referred to it or upon which it is required to pass under the Zoning and Subdivision Code;
 - 3) Hear, review, and decide on variance requests pursuant to the provisions of the Zoning and Subdivision Code;
 - 4) Permit the extension of a district where the boundary line of a district divides a lot of record in single ownership;
 - 5) Grant an extension of time for the reconstruction of a nonconforming building which has been damaged by fire, explosion, floods, wind or other acts of God, or the public enemy, or by any other cause unrelated or unattributable to the owner as authorized under Chapter 25, Article XII, of the Municipal Code of Ordinances; and
 - 6) Interpret the provision of the Zoning and Subdivision Code where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map shall be on file in the office of City Clerk and available for review and inspection.

CRESTWOOD

Article 1, Section 26.3D6

- b) Variances: to authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulties or unnecessary hardship, provided that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.
 - 1) The applicant must show that this property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of this specific piece of property at the time of the effective date of the district zoning regulations, or where by reason or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the practical use of his property in the manner similar to that of other property in the zoning district where it is located.
 - 2) Conditions for variance:
 - a) A request for a variance may be granted upon a finding of the Board of Adjustment that all of the following conditions have been met. The Board of Adjustment shall make a determination on each condition, and the finding shall be entered in the record.
 - i) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or applicant.
 - ii) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - iii) That the special conditions and circumstances do not result from the actions of the applicant.
 - iv) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same district.
 - b) In granting a variance, the Board of Adjustment may impose such conditions, safeguards, and restrictions upon the premises benefited by

the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

Where this chapter provides more specific criteria for a particular type of variance, for instance, a variance from stream buffer or floodplain development requirements, the more specific criteria shall govern.

- 3) Other matters: to hear and decide all matters referred to it or upon which it is required to pass under this chapter.
7. Review and considerations. In determining whether the evidence presented supports all of the conclusions required by § 26-3D6b, above, the Board of Adjustment shall consider the extent to which the evidence demonstrates that:
- a) The particular physical surroundings, shape, or topographical conditions of the property involved would result in a severe practical difficulty or extreme hardship upon or for the owner, lessee, or occupant, if the provisions of this chapter were literally enforced;
 - b) The request for a variation is not based exclusively upon the desire of the owner, lessee, occupant, or applicant to secure a greater financial return from the property;
 - c) The granting of the variation will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located; and
 - d) The proposed variation will not impair an adequate supply of light to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

FENTON

Chapter 405, Section 130A

The Board of Adjustment shall have the following powers:

- 1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Director or other administrative official in the enforcement of this Code or Sections 89.010 to 89.410, RSMo.;
- 2) To hear and decide all matters referred to it or upon which it is required to pass under such ordinance;
- 3) In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of Buildings or Structures, or the use of land, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Section 405.140

Appeals To The Board Of Adjustment.

In exercising the above powers, the Board of Adjustment may, in conformity with the provisions of this Code, reverse or affirm, wholly or partly, 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. In considering all appeals, the Board of Adjustment shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the Official Zone District Map and will not impair an adequate supply of light and air to adjacent property, increase congestion in Streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of the City. Upon such finding, the Board of Adjustment shall also consider whether the Applicant has met his burden of showing a practical difficulty or undue hardship as applicable to such variance request or satisfied his burden as to an appeal. Every change granted or denied by the Board of Adjustment shall be accompanied by a written finding of fact based on sworn testimony and evidence specifying the reason for granting or denying the variation. Staff is hereby authorized to transcribe the Board of Adjustment's findings and decision in written form and the Chairman is hereby authorized to execute such decision upon a finding that such accurately represents the Board of Adjustment's decision. Upon execution of such decision, such decision shall be

deemed filed in the office of the Board of Adjustment. The decision of the Board of Adjustment shall be made a part of any building permit in which variation is allowed.

Des Peres

Chapter 2, Article 4, Section 2-149

- a) The board of adjustment shall have the following powers:
 - 1) To hear and decide all matters referred to it or upon which it is required to pass under this article or other provisions of the city's Zoning and Planning Code.
 - 2) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this article or other provisions of the city's Zoning and Planning Code.
 - 3) To hear and decide appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

Ladue

Zoning Ordinance, Section 10H9

Whenever a property owner shows that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures or the use of land will impose upon him practical difficulties or unnecessary hardship, to permit such variations of the strict application of the terms of this ordinance as are in harmony with its general purpose and intent. But any such variation may be granted only when the Board is satisfied that it 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 such variation, and at the same time properly protect the surrounding property. In no case, however, shall the Board permit a use which is not a permitted use of land under this ordinance in the district in which the land involved is located, and in no case shall the Board permit a variation, waiver or modification of a requirement of this ordinance which does not substantially comply with its terms and accord with its spirit and purpose. A self-inflicted hardship shall not be deemed a practical difficulty or an unnecessary hardship. [Ord. 1379, Ord. 1595, Ord. 1774]