

AN ORDINANCE AMENDING SECTION 10 OF THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SUNSET HILLS, MISSOURI RELATING TO DUTIES OF THE BOARD OF ADJUSTMENT, APPEALS, AND VARIANCES.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SUNSET HILLS, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 10.1.2 Powers and duties, of the Unified Development Ordinance is hereby amended by adding [text] and deleting [text] the following text to read as follows:

10.1.2- Powers and duties.

- a) The Board of Adjustment shall have the following powers and duties:
 - 1) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.
 - 2) To hear and decide appeals in the manner prescribed in Section ~~9~~10.2 where it is alleged there is error in any order, requirement, decision, or determination made by the City Engineer in the administration and enforcement of this Ordinance.
 - 3) To vary or modify in the manner prescribed in Section ~~9~~10.3 of this Section the application of any of the provisions of this Ordinance where there are practical difficulties ~~or unnecessary hardships~~ in the way of carrying out the strict letter of this Ordinance, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- b) The Board of Adjustment shall not hear or issue variances for a use that is not a permitted use of land under this Ordinance in the district in which the subject property is located nor permit a variation, wavier, or modification that does not substantially comply with this Ordinance's terms and accord with its spirit and purpose.

Section 2. Section 10.3.1 – Application for a variance, of the Unified Development Ordinance is hereby amended by adding [text] and deleting [text] the following text to read as follows:

10.3.1 – Application for a variance. An application for variance shall be filed with the City Engineer, who shall forward the application to the Board of Adjustment. The application shall contain the following information as well as such additional information as the Board of Adjustment may deem ~~be~~ necessary for the Board of Adjustment to make findings and render a decision on the requested variance:

- 1) The particular requirements of this Ordinance that prevent the proposed construction or

application being approved;

- 2) The unique characteristics of the subject property, which prevent compliance with the requirements of this Ordinance;
- 3) The practical difficulty ~~or particular hardship~~ which would result if the particular requirements of this Ordinance were applied to the subject property; and
- 4) The reduction or modification of the minimum requirements of this Ordinance that would be necessary to permit the proposed construction or application from being approved.

The burden of proof shall rest with the applicant to clearly establish that the criteria required findings for granting a variance, as established in Section 910.3.2, are satisfied.

Section 3. Section 10.3.2 – Findings, of the Unified Development Ordinance, is hereby repealed in its entirety and a new Section 10.3.2 – Findings is hereby enacted to read as follows:

10.3.2 – Findings. The Board of Adjustment may grant variances from the strict application of this Ordinance as are in harmony with its general purpose and intent and whenever a property owner shows that a strict application of the terms of this Ordinance will impose upon him practical difficulties. 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 difficulty so great as to warrant such a variation, and at the same time properly protect the surrounding property and public welfare. In considering whether applicant has met its burden to establish practical difficulties, the Board of Adjustment *may* consider how substantial the variation is in relation to the requirement, whether the variation will change the character of the area or be detrimental to the surrounding properties, whether there is any alternative method or options besides the variation, and whether the practical difficult is peculiar to the subject property in contrast to properties in the same district. An alleged practical difficulty inflicted by the property owner shall not be deemed a practical difficulty.

Section 4. This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and its approval by the Mayor.

PASSED this _____ day of _____, 2023

MAYOR

APPROVED this _____ day of _____, 2023

MAYOR

ATTEST:

CITY CLERK/CITY ADMINISTRATOR