

Sec. 16-39. - Board of zoning adjustment.

(a)Established. A board of zoning adjustment is hereby established which shall consist of five members to be appointed by the town council and shall herein be referred to as the ZBA. Members of the board of zoning adjustment shall serve for overlapping terms of not less than three years or more than five years or thereafter until their successors are appointed. Terms shall be staggered so that no more than two members' terms expire in any one year. Any vacancy occurring during the unexpired term of office of any member shall be filled by the town council for the remainder of the term, with such vacancy to be filled within 30 days of its occurrence.

(b)Organization. The organization and procedures under which the ZBA operates, its arrangement of meetings, adoption of rules, and its method of handling appeals, variances or any other related matters shall be in conformity with the provisions the Community Planning Act (F.S. § 163.2511 et seq.).

(c)Appeals to the ZBA. Where there are practical difficulties or unnecessary hardships in carrying out the strict intent of this chapter, appeals to the ZBA may be taken by any person aggrieved, or by any department or the governing body of the town affected by any decisions of the administrative official.

(d)Duties. The duties of the board of zoning adjustment include the following:

(1)To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the administrative official in the enforcement of this chapter.

(2)To authorize upon appeal variances in specific cases from the terms of this chapter. Such variances shall be found to be in conformity with the public interest and allowed where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

(3)To authorize such special exceptions as are specifically assigned to the ZBA for its review under the terms of this chapter.

(e)Authority. In exercising the aforementioned powers, the ZBA by the concurring vote of four members 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 ought to be made, and to that end, shall have all the powers of the official from whom the appeal is taken.

(f)Variances. In considering all proposed variations to this chapter the ZBA shall, before making any finding in a specific case, first determine that the proposed variation will not constitute any change in the districts shown on the zoning map, and will not impair an adequate supply of light and air to adjacent property, or materially increase the congestion in public streets, or endanger the public safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals or general welfare of the town.

(g)Appeal of ZBA decision. Any person or persons, jointly or severally, aggrieved by any decision of the ZBA, any taxpayer, any officer, or department of the town may present to a court of competent jurisdiction in the county a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the ZBA; otherwise the decision of the ZBA will be final.

(h)Hearing. The board of zoning adjustment shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give notice to the parties and decide the same within a reasonable time. At the hearing, any party may appear in person or be represented by agent or attorney.

(Land Development Code 1995, div. 6.04)

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