

Sec. 14-60. - Construction board of adjustment and appeals.

- (a) *Appointment.* There is hereby established a board to be called the construction board of adjustment and appeals, which shall consist of five members and four alternates. The board shall be appointed by the board of commissioners and shall supersede any previous board of adjustment and appeals established by the board of commissioners.
- (b) *Membership.* The construction board of adjustment and appeals shall consist of five regular members and four alternates. Such board members should be composed of individuals with knowledge and experience in the technical codes adopted in section 14-36, such as design professionals, contractors, or building industry representatives. The board shall include one member and one alternate each having knowledge and experience in plumbing, electrical, heating and air conditioning, and general contracting. A board member shall not participate in a case in which he has a personal or financial interest. A board member shall meet the following requirements: be a resident of Effingham County; have a valid business license; and be licensed by the State of Georgia in the field in which said board member represents. The board shall elect a chairperson from among its members.
- (c) *Terms.* The initial terms of office of the board members shall be staggered. Three regular members and two alternates shall be appointed for four-year terms commencing on January 1, 2006 and expiring on December 31, 2009. Two regular members and two alternates shall be appointed for two-year terms commencing on January 1, 2006 and expiring on December 31, 2007. Thereafter, all appointments shall be for terms of four years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the board shall, at the discretion of the board of commissioners, render any such member subject to immediate removal from office.
- (d) *Quorum and voting.* A simple majority of the regular members of the board shall constitute a quorum. If one or more regular members are unable to attend a meeting, the alternate member having knowledge and experience in the absent member's area of knowledge and experience shall participate and vote. In varying any provision of this article, the affirmative votes of three members shall be required. In modifying a decision of the building official, the affirmative votes of three members shall be required. The board shall meet at least once quarterly.
- (e) *Secretary of board.* The building official shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member, and any failure of a member to vote.
- (f) *Powers.* The construction board of adjustments and appeals shall have the power to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes adopted in section 14-36.

- (g) *Appeals from decision of building official.* The owner of a building, structure, or service system, or his duly authorized agent, may appeal a decision of the building official to the construction board of adjustment and appeals whenever any one of the following conditions are claimed to exist:
- (1) The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure, or service system.
 - (2) The provisions of this article do not apply to this specific case.
 - (3) That an equally good or more desirable form of installation can be employed in any specific case.
 - (4) The true intent and meaning of this article or any of the regulations thereunder have been misconstrued or incorrectly interpreted.
- (h) *Variances.* The construction board of adjustments and appeals, when so appealed to and after a hearing, may vary the application of any provision of this article to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes adopted in section 14-36 or public interest, and also finds all of the following:
- (1) That special conditions and circumstances exist which are peculiar to the building, structure, or service system involved and which are not applicable to others.
 - (2) That the special conditions and circumstances do not result from the action or inaction of the applicant.
 - (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this article to other buildings, structures, or service systems.
 - (4) That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure, or service system.
 - (5) That the grant of the variance will be in harmony with the general intent and purpose of this article and will not be detrimental to the public health, safety, and general welfare.
- (i) *Conditions of the variance.* In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed, or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this article. Violation of the conditions of a variance shall be deemed a violation of this article.
- (j) *Notice of appeal.* Notice of appeal shall be made in writing and filed within 30 calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the building official.
- (k) *Unsafe or dangerous buildings or service systems.* In the case of a building, structure, or service system which, in the opinion of the building official, is unsafe,

unsanitary, or dangerous, the building official may, in his order, limit the time for such appeals to a shorter period.

- (l) *Rules and regulations.* The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this article. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after notice of appeal has been received.
- (m) *Decisions.* The construction board of adjustment and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this article, the building official shall immediately take action in accordance with such decision. Every decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing.
- (n) *Appeal to commissioners.* Any person who is aggrieved by a decision of the construction board may file a grievance with the board of commissioners within ten days of the date of decision in question. The board of commissioners shall review such decision, and in its discretion, may conduct a hearing under such rules as it may prescribe. The decision of the board of commissioners shall be final, subject only to such remedy as any party may have in law or equity.

(Ord. of 11-21-97; Ord. of 3-7-06, §§ 1—4)