

CHAPTER 16 Land Use

- b. To adopt any rules necessary to transact the business of the Board of Adjustment or to expedite its functions or powers so long as they are not inconsistent with the provisions of this Chapter.
 - c. In the case of properties subject to a public hearing, to publish or cause to be published notice of said hearing or to cause the property to be posted as set forth in Section 16-3-30 of this Chapter.
- (3) Powers. The Board of Adjustment shall have the following powers:
- a. Appeals from decisions of administrative officials. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Chapter.
 - b. Interpretation. To hear and decide requests for interpretation of this Chapter, including any uncertainty as to boundary location or meaning of wording so long as this interpretation is not contrary to the purpose and intent of this Chapter.
 - c. Variances. Exceptions or variances may be granted when the Board of Adjustment finds that **all** of the following conditions exist:
 - 1. **That peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of this Chapter are strictly enforced.**
 - 2. **That the circumstances creating the hardship were created through no fault of the appellant.**
 - 3. **That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or any other extraordinary and exceptional situation or condition which does not occur generally in other properties in the same district.**
 - 4. **That the variance will not substantially or permanently injure the appropriate use of adjacent conforming properties in the same district.**
 - 5. **That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, or curtail desirable light, air and open space in the neighborhood, or change the character of the neighborhood.**
 - 6. **That the variance will not alter the essential character of the district in which the property for which the exception is sought is located.**
 - 7. **That the variance will not weaken the general purposes of this Chapter or the regulations established herein for the specific district.**
 - 8. **That the variance will be in harmony with the spirit and purposes of this Chapter.**
 - 9. **That the variance will not adversely affect the public health, safety or welfare.**
 - d. Under no circumstance shall a variance be granted on the sole basis of personal convenience, profit or special privilege to the applicant.
- (4) Procedure. The Board of Adjustment shall act in strict accordance with all of the applicable laws of the State and this Chapter.
- a. Appeals to the Board of Adjustment must be made within thirty (30) days after the occurrence of the grievance or decision that is the subject of the appeal.
 - b. An appeal stays all proceedings in furtherance of the action appealed. However, if it is the opinion of the officer whose decision is appealed that a stay would cause imminent peril to life or property, proceedings shall not be stayed unless by a restraining order which may be

- SUPPLEMENT HISTORY TABLE

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granted by the Board of Adjustment or by a court of record of competent jurisdiction, on notice to the officer from whom the appeal is taken and on due cause shown.

- c. All appeals shall be in writing and in such form as shall be prescribed by the Board of Adjustment and shall include the following information:
 - 1. What provision of this Chapter is involved;
 - 2. What relief from this Chapter is being sought;
 - 3. The grounds upon which such appeal is being sought; and
 - 4. A site plan illustrating the manner in which the appeal or variance, if granted, would affect the subject property and adjacent uses.
- d. The Board of Adjustment shall conduct a public hearing upon all appeals, notice of which shall be given as set forth in Section 16-3-30 of this Chapter.
- e. All applicable fees shall be as set forth in the Fee Schedule, attached as Appendix 16-C to this Code. Any fees must be received prior to the setting of a hearing date on the petition.
- f. At the hearing, any party may appear in person, by agent or by attorney.
- g. The applicant shall have the burden of demonstrating that the applicable standards of Subparagraph (3)c above have been met.

(5) Decisions.

- a. Variances shall be granted only with respect to specific plans. Unless otherwise specified by the Board of Adjustment, a variance may be transferred to successive owners prior to construction if no changes are made to the approved plan and shall run with the land after the construction of any authorized structure or structures and only for the life of such structures.
- b. The Board of Adjustment may condition the granting of a variance on the issuance of a building permit within a specific time period and may require the applicant to pursue completion of the construction with due diligence. If such conditions are not satisfied, the variance shall become null and void.
- c. In order to ensure that the protection of the public good and the intent and purpose of this Chapter is preserved, the Board of Adjustment may impose any other condition upon the grant of a variance.

- (6) Appeals from Board of Adjustment. Any appeal from a decision of the Board of Adjustment may be made to a court of competent jurisdiction within thirty (30) days, as provided by law.

(Ord. 789-08 §1)

Sec. 16-2-50. Annexations.

- (a) Annexation generally. In addition to all other applicable requirements of this Code, including but not limited to the water rights conveyance requirements of Sections 13-2-20 and 13-2-40 of this Code regarding withdrawal of nontributary groundwater, all annexations to the City are governed by and must meet the requirements of the Municipal Annexation Act of 1965, Part 1, Article 12, Title 31, C.R.S.
- (b) Annexation maps and petitions.
 - (1) Maps. In addition to all other applicable requirements of law, all maps associated with annexation of land to the City shall contain a reference to Section 13-2-40 of this Code.