
§ 156.137 BOARD OF ADJUSTMENT.

- (A) *Established.* A Board of Adjustment (hereafter in this section, the "Board") is established in accordance with the provisions of Tex. Local Gov't. Code § 211.008, regarding the zoning of cities and with the powers and duties as provided in said code.
- (B) *Rules and regulations.* The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and such minutes shall be immediately filed in the office of the Board and shall be a public record. The Board of Adjustment shall act by resolution in which four members must concur. The Board may adopt rules in accordance and consistent with this chapter as necessary and required. A copy of any such rules shall be furnished to any person requesting same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.
- (C) *Powers and duties of the Board.*
- (1) *Appeals based on error.* The Board shall have the power 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 Tex. Local Gov't. Code Ch. 211 or this chapter.
 - (2) *Special exceptions.* The Board shall have the power to hear and decide special exceptions to the terms of this chapter when this chapter requires the Board to do so. Such special exception shall be as follows: authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- (D) *Variances.* The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, 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, including the following:
- (1) *Yard and fence setbacks.* Permit a variance in the setback requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that, such variance will not significantly affect any adjoining property or the general welfare; and
 - (2) *Structures.* Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variance 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 a variance as established by this chapter, and at the same time, the surrounding property will be properly protected; provided that, the Board shall not in any event permit a use on any property that is not permitted within the zoning category for which such property is zoned.
- (E) *Procedures for requesting a variance.*
- (1) A request for a variance shall be made in writing and include information to support the request for a variance. Such information may include, but is not limited to, plat plans, site and building plans, contour maps and location of existing flora. The request shall clearly state the unusual conditions or circumstances which, in the applicant's opinion, justifies a variance.

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- (2) The request for a variance, and a variance request fee in accordance with the Master Rate Schedule as adopted by resolution of the City of Woodcreek, will be mailed to the City of Woodcreek, 41 Champion Circle, Woodcreek, Texas 78676.
 - (3) The City will be responsible for notifying all property owners within 200 feet of the property for which the variance is requested of variance request and the time and location of the Board of Adjustment meeting at which time the request for variance will be acted upon. The notification will include a complete description of requested variance.
 - (4) The request for variance will be approved or denied within 45 days from the date the request is received.
- (F) *Appeals.*
- (1) *Procedure.*
 - (a) In the event that any person has been detrimentally aggrieved by a decision of an administrative officer, relative to the enforcement of Tex. Local Gov't. Code Ch. 211 and or this chapter, such person may submit an appeal in accordance with the rules of the Board within ten days of the decision. Additionally, any officer, department, board or bureau of the City may appeal a decision relative to the enforcement of Tex. Local Gov't. Code Ch. 211 and or this chapter.
 - (b) The appellant must file a written appeal certifying the grounds for the appeal, and it shall be filed with the Board and with the administrative officer. The administrative officer shall forthwith transmit to the Board all documents which are pertinent to the appeal.
 - (2) *Stay of proceedings.* Such appeal shall stay all further action relative to the appealed decision by the administrative officer. If the administrative officer deems that continuing the stay would cause imminent peril to life or property, he or she must certify the facts relating to his or her opinion in a written certificate to the Board. In the event that due cause is shown and after notice to the administrative official, the stay may be continued only by a restraining order granted by the Board or by a court of record on application.
 - (3) *Hearing of the appeal.* The Board shall set a reasonable time for the hearing of the appeal and shall provide notice to the parties of interest, who may appear at the hearing in person or by representation of an attorney or agent.
 - (4) *Decision by Board.* The Board shall decide appeals within a reasonable time. Any party to the appeal may appear in person or by agent or attorney at any hearing. The Board may, upon the concurring vote of four members, reverse or affirm, in whole or in part, or modify the administrative official's order, requirement or decision, and make the correct order, requirement, decision or determination on the matter appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to be made, and to that end, shall have all powers of the officer or department from whom the appeal is taken.
- (G) *Changes.* The Board shall have no authority to change any provision of this chapter and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.
- (Ord. 00-65N, 6-1-2005; Ord. 14-198, 7-9-2014; Ord. 19-255, 3-13-2019; Ord. 19-256, 3-13-2019)