

**ARTICLE 7**

**BOARD OF APPEALS**

**SECTION 7.1 -- BOARD OF APPEALS ESTABLISHED**

There is hereby established a Board of Appeals which, unless specifically appointed, is the Village Council. In the event a Board of Appeals is appointed it shall consist of five (5) members with terms set by the Village Council. The Board of Appeals shall perform its duties and exercise its powers as provided in Act 207 of the Public Acts of 1921, as amended, in such a way that the objectives of this Ordinance shall be observed, the public health, safety, and welfare secured, and substantial justice done.

**SECTION 7.2 -- DUTIES OF THE BOARD OF APPEALS**

The Board of Appeals shall hear and decide only such matters as the Board of Appeals is specifically authorized to pass on as provided in this Ordinance. The Board of Appeals shall not have the power to alter or change the zoning district's classification or any property; nor to make changes in the terms of this Ordinance; but does have the power to authorize a variance as defined in this Ordinance, to act on those matters where this Ordinance may require an interpretation, and to issue a temporary use permit when authorized by this Ordinance.

**SECTION 7.3 -- VARIANCE**

1. The Board of Appeals may authorize upon an appeal, a variance from the strict applications of the provisions of this Ordinance where by reason of exceptional narrowness, shallowness, shape, or contours of a specified tract of land at the time of enactment of this Ordinance or by reason of exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property. No variance shall be granted to permit the establishment within a district of any use which is excluded or for which a conditional use permit is required.
2. A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until:
  - A. A written application for a variance is submitted, demonstrating the following:
    - 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
    - 2) That literal interpretation of the provisions of this Ordinance would deprive the applicant rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance.
    - 3) That the special conditions and circumstances do not result from the actions of the applicant.

- 4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
  - 5) That no nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- B. The Board of Appeals shall determine that the requirements of the Ordinance have been met by the applicant for a variance.
  - C. The Board of Appeals shall determine that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - D. The Board of Appeals shall determine that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
  - F. Each variance granted under the provisions of this Ordinance shall become null and void unless:
    - 1) The construction authorized by such variance or permit has been commenced within one hundred eighty (180) days after the granting of such variance and pursued diligently to completion; or
    - 2) The occupancy of land or buildings authorized by such variance has taken place within one hundred eighty (180) days after the granting of such variance.
  - G. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

#### **SECTION 7.4 -- INTERPRETATION OF ZONING ORDINANCE**

The Board of Appeals shall hear and decide appeals where it is alleged by the applicant there is an error in any order, requirement, permit, decision, or refusal made by the Planning Commission, the Zoning Administrator, or any other administrative official in carrying out or enforcing any provisions of this Ordinance including interpretations of the Zoning Map.

**SECTION 7.5 -- APPEALS TO THE BOARD OF APPEALS**

**SECTION 7.5.1 -- APPEALS, HOW TAKEN**

Appeals from the ruling or interpretation concerning the enforcement of the provisions of this Ordinance may be made to the Board of Appeals within such time as shall be prescribed by the Board of Appeals by general rule, by the filing with the Village Clerk. This officer shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.

**SECTION 7.5.2 -- WHO MAY APPEAL**

Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of the Township, Village, County, or State.

**SECTION 7.5.3 -- FEE FOR APPEAL**

A fee prescribed by the Village Council shall be paid to the Board of Appeals at the time of filing the notice of appeal which the Board of Appeals shall pay over, within thirty (30) days after deciding any appeal, to the General Fund of the Village of Grass Lake.

**SECTION 7.5.4 -- EFFECT OF APPEAL; RESTRAINING ORDER**

An appeal stays all proceedings in furtherance of the action appealed unless the Village Clerk certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application of notice to the Village Clerk and due cause is shown.

**SECTION 7.5.5 -- NOTICE OF HEARING**

The Board of Appeals shall fix a reasonable time for the hearing of the application or appeal and give notice in accordance with Section 6.8. (Amended, effective May 20, 2009.)

**SECTION 7.5.6 -- REPRESENTATION OF HEARING**

Upon the hearing, any party or parties may appear in person or by agent or by attorney.

**SECTION 7.5.7 -- DECISIONS OF THE BOARD OF APPEALS TO THE CIRCUIT COURT**

The Board of Appeals shall decide upon all matters within a reasonable time and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the

premises and to that end shall be in form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case. Any person having an interest affected by such resolution shall have the right of appeal to the Circuit Court.