



**BOARD OF ADJUSTMENT MEETING  
AT 7:30 P.M. ON JULY 21, 2021  
VALLEY PARK CITY HALL, 320 BENTON  
STREET, VALLEY PARK, MISSOURI 63088**

**\*\*\*\* AGENDA\*\*\*\***

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. NEW BUSINESS**
  - a. Appointments and Election pursuant to Article XIII. Board of Zoning Adjustment
  - b. Policies and Procedures
- 4. ADJOURNMENT**

City of Valley Park, MO  
Friday, July 16, 2021

## Chapter 405. Zoning Regulations

### ARTICLE XIII. Board of Zoning Adjustment

#### Section 405.990. Establishment.

[Ord. No. 1914 §1(405.790), 5-6-2013]

A Board of Adjustment is hereby established in accordance with Chapter 89, RSMo., regarding the zoning of Cities.

#### Section 405.1000. Membership.

[Ord. No. 1914 §1(405.800), 5-6-2013]

The Board of Adjustment shall consist of five (5) members who shall be residents of the City. The membership of the first (1st) Board of Adjustment appointed shall serve respectively, one (1) for one (1) year, one (1) for two (2) years, and one (1) for five (5) years. Thereafter, members shall be appointed for terms of five (5) years each. Three (3) alternate members may be appointed to serve in the absence of or the disqualification of the regular members. All members and alternates shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board of Adjustment shall elect its own Chairman who shall serve for one (1) year.

#### Section 405.1010. Meeting and Voting.

[Ord. No. 1914 §1(405.810), 5-6-2013]

The Board of Adjustment shall adopt rules in accordance with the provisions of this Chapter. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. Such Chairman, or in his/her absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment 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 shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board of Adjustment for that purpose.

#### Section 405.1020. Powers and Duties.

[Ord. No. 1914 §1(405.820), 5-6-2013]

A. The Board of Adjustment shall have the following powers and duties:

1. *Appeals.* To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Commissioner in the

enforcement of these regulations.

- a. Appeals to the Board of Adjustment may be taken by the person aggrieved, any neighborhood organization as defined in Section 32.105, RSMo. representing such person, or by an officer, department, or bureau of the government affected by any decision of the Building Commissioner. Such appeal shall be filed with the Building Commissioner and the Board of Adjustment within a reasonable time, as shall be prescribed. The Building Commissioner shall forthwith transmit to the Secretary of the Board of Adjustment all papers constituting the record upon which the action appealed from is taken.
  - b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Commissioner certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment, or by a court of record on application or notice to the Building Commissioner on good cause shown.
2. In exercising the above mentioned powers such Board may, in conformity with the provisions of this Chapter, 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 officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.
  3. *Variances.* To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.
    - a. The applicant must show that this property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the district zoning regulations, or where by reason or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the practical use of his/her property in the manner similar to that of other property in the zoning district where it is located.
    - b. A request for a variance may be granted upon a finding of the Board of Adjustment that all of the following conditions have been met. The Board of Adjustment shall make a determination on each condition, and the finding shall be entered in the record.
      - (1) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
      - (2) Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter.
      - (3) The special conditions and circumstances do not result from the actions of the applicant.
      - (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings in the same

district.

- (5) In granting a variance, the Board of Adjustment may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

B. *Other Matters.* To hear and decide all matters referred to it or upon which it is required to pass under this Chapter.

## Section 405.1030. Review Considerations.

[Ord. No. 1914 §1(405.830), 5-6-2013]

- A. In determining whether the evidence presented supports all of the conclusions required by Section **405.1020** the Board of Adjustment shall consider the extent to which the evidence demonstrates that:
1. The particular physical surroundings, shape or topographical conditions of the property involved would result in a severe practical difficulty or extreme hardship upon or for the owner, lessee, or occupant, if the provisions of this Chapter were literally enforced;
  2. The request for a variation is not based exclusively upon the desire of the owner, lessee, occupant or applicant to secure a greater financial return from the property;
  3. The granting of the variation will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located; and
  4. The proposed variation will not impair an adequate supply of light to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

## Section 405.1040. Application for Board of Adjustment Review.

[Ord. No. 1914 §1(405.840), 5-6-2013]

- A. *Procedure.* The procedure for requesting a hearing before the Board of Adjustment shall be as follows:
1. All applications to the Board of Adjustment shall be in writing on forms provided by the Board of Adjustment and filed with the City Clerk.
  2. The Board of Adjustment shall fix a reasonable time for the hearing of an application and notice of the time, place and subject to each hearing shall be published in the newspaper of general circulation of the area (as designated by the Board of Aldermen) at least fifteen (15) days prior to the date fixed for the public hearing. The Secretary shall submit a list of those persons receiving said notice to the Board of Adjustment at the public hearing.
  3. An application shall be accompanied by a filing fee in an amount established by the Board of Aldermen. A separate filing fee shall be required for each request.
- B. *Additional Requirements.* In addition to the above requirements, certain applications require additional information as follows:
1. *Appeals.*

- a. An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the appropriate administrative officer or board.
- b. A copy of the order, requirement, decision or determination of the appropriate administrative officer or board which the applicant believes to be in error shall be submitted.
- c. A clear and accurate, written description of the proposed use, work or action to which the appeal is involved and a statement justifying the applicant's position.
- d. Where necessary, a plot plan, drawn to scale, in duplicate showing existing conditions and proposed plans for the area in question shall be submitted.

## 2. *Variances.*

- a. The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the four (4) conditions as set out in Section 405.1020(A) (3)(b) of this Article.
- b. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board of Adjustment in consideration of the application shall be included.

## Section 405.1050. Period of Validity.

[Ord. No. 1914 §1(405.850), 5-6-2013]

- A. Unless as otherwise specified by the Board of Adjustment in their approval for an application, no variance granted by the Board of Adjustment shall be valid for a period longer than ninety (90) days from the date upon which the variance is granted, unless within such period:
  1. A building permit is obtained and the construction or alteration of the structure is commenced and pursued diligently toward completion; or
  2. A certificate of occupancy is obtained and a use or occupancy commenced. The Board of Adjustment may grant extensions not exceeding one hundred eighty (180) days each, upon written application, without notice or hearing.

## Section 405.1060. Approvals, Required Vote.

[Ord. No. 1914 §1(405.860), 5-6-2013]

A concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in this Chapter.

## Section 405.1070. Performance.

[Ord. No. 1914 §1(405.870), 5-6-2013]

- A. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the Board of Adjustment shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property.
- B. The Board of Adjustment may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Community Development Director and shall be enforceable by or payable to the City of Valley Park in the sum equal to the cost of constructing the required improvements. This bond money must be deposited in the City's special Bond Fund before any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations.
- C. In lieu of the performance bond requirement, the Board of Adjustment may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board of Adjustment may declare the granting of the application null and void after reconsideration.

## Section 405.1080. Appeal of Board of Adjustment Decision.

[Ord. No. 1914 §1(405.880), 5-6-2013]

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, any neighborhood organization as defined in Section 32.105, RSMo. representing such person, or any officer, department or board of the municipality may present to the Circuit Court of the County a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality in accordance with appropriate State Statute.