

Chapter 17.80 - BOARD OF ADJUSTMENT

Sections:

17.80.010 - Organization.

A board of adjustment is established, the members of which shall be appointed by the board of trustees and shall contain one member from the planning commission and one member from the board of trustees. "Board" as used in this chapter, means the board of adjustment. The board shall consist of five members. Until otherwise provided, the members of the board shall serve without compensation. Each member shall serve for a period of three years, except that of the first appointed board, one member shall serve for one year and one member for two years. Any member of the board may be removed for cause by the board of trustees upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments. Associate members of the board may be appointed for short periods to take the place of any member who may be temporarily unable to act owing to absence from the Town, illness or interest in the case before the board or any other cause. The members of the board of adjustment shall select their own chairperson. The services of any Town employee shall be available to the board. The board shall adopt such rules and regulations necessary to carry into effect the provisions of this title, specifically including attendance requirements and a method of terminating a member for nonattendance. Meetings shall be held at such times as may be necessary and shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every question.

(Ord. 13-97 (part); prior code § 13.20.010)

17.80.020 - Powers and duties.

The board of adjustment shall have the following powers and duties, all of which shall be exercised, subject to the laws of the state and subject to appropriate conditions and safeguards, in harmony with the purpose and intent of this title, the policies of the board of trustees, and in accordance with the public interest and the most appropriate development of the neighborhood:

- A. To hear and decide appeals from, and review any order, requirement, decision or determination made by an administrative official charged with enforcement of the regulations established by this title;
- B. Where by reason of exceptional shape or topography of a lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of the property from a strict enforcement of this title the board may authorize, upon appeal in specific cases, exceptions to the:
 1. Minimum area of lot,
 2. Minimum width of lot,
 3. Maximum height of buildings,
 4. Minimum front yard,
 5. Minimum side yard,
 6. Minimum rear yard,

7. Minimum off-street parking requirements,
8. Minimum landscape requirements.

(Ord. 13-97 (part): prior code § 13.20.020)

17.80.030 - Procedure for applications for board of adjustment request.

- A. Applications shall be upon the forms provided by the planning department and must include, among other requirements, a statement of practical difficulty or unnecessary hardship, an improvement survey and a description of present and intended uses thereon.
- B. The board of adjustment shall hold a public hearing on all applications and appeals. The applicant shall comply with the notice requirements of Chapter 17.88.
- C. Before any exception or variance is granted or denied, the board of adjustment shall include a written finding in its minutes as part of the record in each case, stating specifically the exceptional conditions, the practical difficulties or unnecessary hardship involved and why there is or is not any adverse effect on public health, safety and welfare.
- D. Unless otherwise stated in the board of adjustment resolution, the applicant shall have six months to apply for a building permit in accordance with his or her variance and all new construction shall be completed within one year from the time such building permit is issued.

(Ord. 13-97 (part): prior code § 13.20.030)

17.56.070 - Variances.

The applicant for a sign permit may apply to the Board of Adjustment for a variance in the technical requirements of this chapter in accordance with the provisions of Section 17.80.030 'Procedure for applications of Board of Adjustment request'.

- A. Approval Criteria. Before acting on a variance request, the Board of Adjustment shall consider the following factors:
1. The relationship of the requested variance to existing and potential uses and structures in the vicinity;
 2. The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity;
 3. Such other factors and criteria as the Board of Adjustment deems applicable to the requested variance. No sign shall be permitted to be erected contrary to the size, location and appearance provisions of this chapter unless a variance is approved by the Planning Department in conformance with the following criteria:
There is something unique about the building or site configuration that would cause the signage permitted by this article to be ineffective in identifying a use or structure that would otherwise be entitled to a sign. The variance shall not be based on, or relate to, the sign copy.
- B. Findings Required. The Board of Adjustment shall make the following findings before granting a variance:
1. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity;
 2. That the variance is warranted for both of the following reasons:
 - a. The strict or literal interpretation and enforcement of the regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this chapter;
 - b. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the vicinity.
- C. Conditional Granting. The granting of a variance may be conditioned on action by the applicant.

(Ord. No. 11-2011, 6-6-2011; Ord. No. 08-2015, 3-2-2015)

15.16.160 - Variance procedure.

A. Appeal Board.

1. The Town Board shall hear and decide appeals from a decision of the floodplain administrator and requests for variances from the requirements of the chapter.
2. The Town Board may review any requirements, decisions, or determinations made by the floodplain administrator in the enforcement or administration of this chapter.
3. The decision of the Town Board may be appealed pursuant to Rule 106 of the Colorado Rules of Civil Procedure. The cost of preparing a transcript of the record by a certified court reporter, or other qualified individual, shall be paid by the applicant at the time such transcript is requested.
4. In passing upon such applications, the Town Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of the section, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternate locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of use, and sediment transport of the flood waters and the effects of wave action, if applicable, and expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Upon consideration of the factors of subsection (A)(4) of this section and purposes of the section, the Town Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.
6. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for Variances.

1. Development permits may be issued by the regional floodplain administrator for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or part of the local Historic Preservation

District or a locally designated historic landmark, without regard to the procedures set forth in the remainder of this section. Infill of vacant lots within the Historic Preservation District may be issued variances provided that the provisions of this section are met.

2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance Will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public as identified in subsection (A)(4) of this section, or conflict with existing local laws or ordinances.
5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 27-2002 § 1 (part))