

CHAPTER 1004

BOARD OF ZONING ADJUSTMENT

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1004.010 Members, Terms, Qualifications—Removal.—There shall be a County Board of Zoning Adjustment of three (3) resident freeholders appointed by the County Executive, subject to confirmation by the Council. Of those members appointed first after the adoption of the Charter, one shall be appointed for a one-year term, one for a two-year term, and one for a three-year term, but thereafter they shall be appointed for three-year terms, except those appointed to fill a vacancy occurring during the term of a member. None of the members shall hold any other public office. At least two (2) of the members shall reside in the part of the County outside incorporated areas. Members may be removed for cause by the Executive of St. Louis County, Missouri, upon written charges and after public hearings. The Board shall elect its own Chairman and Vice-chairman who shall serve one year.

(O. No. 15, § 24.01)

1004.020 Rules of Procedure.—The Board is hereby empowered to adopt and, from time to time, amend or supplement rules of procedure not inconsistent with the provisions of this chapter.

(O. No. 15, § 24.02)

1004.030 Subpoenas—Administration of Oaths.—The Board is hereby authorized to compel the attendance of witnesses at hearings or

meetings, and the Chairman or other officers of said Board may administer oaths.

(O. No. 15, § 24.03)

1004.040 Minutes.—The Board shall keep minutes of its proceedings, meetings and hearings.

(O. No. 15, § 24.04)

1004.050 Action by Order.—All actions or decisions of the Board shall be taken by order, in which two (2) members must concur. Each order shall contain a statement of the grounds and any findings forming the basis of such action or decision, and the full text of the order and record of members' votes shall be incorporated in the minutes of said Board.

(O. No. 15, § 24.05)

1004.060 Director of Public Works and Planning Director—Duties.—For assistance in reaching decisions relative to any appeal or other matter under consideration, the Director of Public Works and the Planning Director shall furnish technical service, advice, data or factual evidence, requested by the Board.

(O. No. 15, § 24.06)

1004.070 Jurisdiction and Powers.—The Board of Zoning Adjustment is hereby authorized to:

(1) Hear and decide appeals where it is alleged there is an error in law in any order, requirement, decision or determination made by the Public Works Director or Zoning Enforcement Officer in the enforcement of the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council.

(2) Interpret the provisions of the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council in such a way as to carry out the intent and purpose of the plan as shown upon the map fixing the several districts accompanying and made a part of the St. Louis County Zoning Code or any zoning ordinance which may be passed or enacted by the St. Louis County Council where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.

(3) Permit the erection and use of a building or the use of premises for public utility purposes.

(4) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or public enemy to the extent of more than sixty (60) percent of its reasonable value where the Board finds some compelling public necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.

(5) Permit a variation in the yard requirements of any zoning district or the building or setback lines for major highways as provided by law where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare. Variations from front yard setback requirements for signs in any zoning district and side and rear yard setback requirements for signs where the adjoining affected properties are zoned C commercial or M industrial district shall also be permitted in accord with the above criteria.

(6) Permit a variation in the sign requirements of any zoning district for business signs

only of up to one hundred (100) percent increase in sign area and up to fifty (50) percent increase in height and width where petitioner files a plot plan and scaled layout design in duplicate and demonstrates that otherwise there would be a hardship to the public seeking his particular commodity or service and where petitioner demonstrates that the increased sign area, height, and width would not be injurious to the neighborhood or otherwise detrimental to the public welfare. When a petition for a variance to the sign requirements has been filed with the Board of Zoning Adjustment said Board shall refer the matter to the Planning Department for a review and report thereon containing conditions which the Department recommends that the Board place upon the sign variance if granted. In making its decision the Board must be satisfied that the granting of such variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty which is unique to petitioner in his use, so great as to warrant a variation from the sign regulations as established by the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council and at the same time place conditions upon said variance if necessary so that the surrounding property will be properly protected.

(7) Permit a variation in the sign requirements of business signs used in connection with places of public assembly having a seating capacity of at least two hundred (200) persons. Said variation shall not exceed four (4) times the area allowed by the applicable zoning ordinance pertaining to sign size nor two (2) times the height allowed by the applicable zoning ordinance pertaining to sign height. Not more than fifty (50) percent of the sign area allowed by said variation shall contain the name of the place of public assembly. If more than one sign is erected, the area between said signs shall not be included for purposes of computing sign size or sign height. In order to obtain a variance under this section the petitioner shall file a plat plan and scaled layout design in duplicate with the Board of Zoning Adjustment. The petition shall show that without said variance,

there would exist a hardship to the public seeking petitioner's particular commodity or service. The petitioner shall also show that the increased sign size or height would not be injurious to the neighborhood or otherwise detrimental to the public welfare. When a petition for a variance to the sign requirements has been filed with the Board of Zoning Adjustment, said Board shall refer the matter to the Planning Department for a review and report thereon. Said report shall contain conditions which the Department recommends that the Board place upon the sign variance if the granting of such a variance will not merely serve as a convenience to the applicant, but will eliminate some demonstrable and unusual hardship or difficulty which is unique to petitioner in his use, so great as to warrant a variance from the sign regulations as established by the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council. Said report shall also place conditions upon said variance if necessary so that the surrounding property will be properly protected.

For the purposes of this section only, the phrase "place of public assembly" shall be deemed to mean theaters, motion picture houses, sport arenas or stadiums, public meeting rooms, exhibition halls and similar establishments.

(8) Authorize upon appeal whenever a property owner can show that a strict application of the terms of the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council, relating to the use, construction or alteration of buildings or structures or the use of land, will impose upon him practical difficulties or particular hardships; such variations of the strict application of the terms of the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council as are in harmony with its general intent and purpose but only when the Board is satisfied that the granting of such variation 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 variation from the comprehensive plan as established by the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council, and at the same time the surrounding property will be properly protected.

(9) The Board may in conformity with the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council reverse, affirm or modify wholly or in part any decision upon which an appeal is made.

(O. No. 11252, 11-14-83)

1004.075 Community Identification Signs.
—Notwithstanding any provision of the zoning ordinance, the Board of Zoning Adjustment may authorize any agency or department of St. Louis County to erect a community identification sign not exceeding fifty (50) square feet in outline area per facing. No fee shall be required for such an application. The Board shall authorize such a sign only upon demonstration that the sign will benefit the community and that the owner of the property on which the sign is to be erected has consented to it.

(O. No. 9511, 12-7-79)

1004.080 Hearing Procedure.—The following procedures shall govern the hearings of the Board:

(1) Before making its decision on any appeal or other matter within the Board's purview, the Board shall hold a public hearing thereon. At least five (5) days' notice of the time and place of such hearing shall be sent by registered mail to the appellant. The Board may, in its discretion, send notices of hearing to other interested persons, organizations or agencies. Such notice shall contain the name of the appellant, the date, time, and place fixed for the hearing; and a brief statement of the error alleged by the appellant or of the variance or other question which is the subject of appeal.

(2) The Board shall require additional notice of hearing by one advertisement in a newspaper of general circulation in St. Louis County. Such advertisement shall appear not less than five (5) days prior to the date of public hearing and shall contain the same information as is required in written notices.

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(3) Hearings may be adjourned, from time to time, and if the time and place of the continued hearing be publicly announced at the time of the adjournment, no further notice of such continued hearing shall be required; otherwise, notice thereof shall be given, as in the case of the original hearing.

(O. No. 15, § 24.08)

1004.090 Limitation of Authority.—1. Nothing contained in these regulations shall be deemed to authorize the Board to reverse or modify any refusal of a permit or any other order, requirement, decision or determination which conforms to the provisions of the St. Louis County Zoning Code or any zoning ordinance passed or enacted by the St. Louis County Council and which, therefore, is not erroneous; nor to authorize the Board to validate, ratify, or legalize any violation of law or any of the regulations of the St. Louis County Zoning Code or any zoning ordinance which may be passed or enacted by the St. Louis County Council.

2. The Board shall not amend any of these regulations or the Zoning Map, nor shall such power or authority be vested in the Board.

3. A decision of the Board permitting the erection or alteration of a building shall be valid for a period of six (6) months, unless a building permit for such erection or alteration is obtained within this period and the erection or alteration is started and proceeds to completion in accordance with the terms of the decision. No decision of the Board permitting the use of a building or land shall be valid for a period longer than six (6) months, unless such use is established within said period; except that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within said period, and such erection or alteration is started and proceeds to completion in accordance with the terms of the decision.

(O. No. 15, § 24.09)

1004.100 Appeals to Board—Procedure.—The following procedures shall govern the appeals to the Board:

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(1) Appeals to the Board of Zoning Adjustment may be made by any person, board, association, corporation, or official allegedly aggrieved by the grant or refusal of a use and occupancy permit or by any other administrative decision based or claimed to be based, in whole or in part, upon any zoning regulations, or the zoning district map.

2. Any appeal relating to a variance shall be filed with the Board only after refusal of issuance of a building, use or occupancy permit by the Public Works Director or Zoning Enforcement Officer or after the issuance of a permit in cases where it is alleged that said permit has been issued erroneously.

(3) Appeals shall be filed with the Planning Director who shall be the Secretary to the Board.

(4) Before accepting for filing any appeal, the Planning Director shall collect the following fees and shall pay over said fees forthwith to the County Treasurer to the credit of the general revenue fund:

(a) For each appeal for an exception to a building and setback line for a major highway, a front yard line, a side yard line, or a rear yard line, a fee of twenty-five dollars (\$25.00).

(b) For each appeal for any variance or exception other than from a building and setback line, front, side or rear yard lines, a fee of fifty dollars (\$50.00).

(5) Appeals shall be submitted upon forms provided by the Board of Zoning Adjustment. It shall be the responsibility of the appellant to furnish such maps, data and information as may be prescribed for that purpose by the Board of Zoning Adjustment so as to assure the fullest practicable presentation of facts for the permanent record.

(6) Appeals filed in proper form shall be numbered serially, docketed and placed upon the calendar of the Board. The calendar of appeals to be heard at any meeting of the Board of Zoning Adjustment shall be posted conspicuously in the Courthouse for a period of five (5) days before such hearing date.

(O. No. 7630, 10-23-75)