

**ARTICLE 21.00
ZONING BOARD OF ADJUSTMENT**

21.01 ESTABLISHMENT. The Minnehaha County Planning Commission shall act as the Zoning Board of Adjustment. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances, and hear appeals to the terms of these regulations in harmony with the general purpose and intent and in accordance with general and specific rules herein contained.

21.02 OPERATIONAL PROCEDURE.

- (A). The Board shall meet at the regularly scheduled meetings of the Planning Commission. All meetings of the Board shall be open to the public and all business coming before the Board shall be transacted at such meetings.
- (B). The Board shall keep minutes of its proceedings, records of examinations and other official actions, all of which shall be filed in the Office of Planning and Zoning and shall be a public record.

21.03 APPEALS. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Planning Director in the enforcement of these regulations.

21.04 VARIANCES. The Zoning Board of Adjustment shall not vary the regulations unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:

- (A). The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- (B). The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification or other property substantially similar in use.
- (C). The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.
- (D). The proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property; increase the congestion in the public streets; increase the danger of fire; endanger the public safety; or

diminish or impair property values within the area.

- (E). That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (F). That the variance, if authorized, will represent the minimum variance that will afford reasonable relief and will represent the least modification desirable of the zoning regulations.
- (G). The Board shall hear and make determinations on variance to exceed the height limits as established by these regulations.
- (H). The Board of Adjustment, under its authority to grant variances may impose reasonable conditions on the grant, and one accepting those conditions is bound by them.

21.05 APPLICATION TO COUNTY FOR VARIANCE. Any person, firm or corporation desiring a variance or wishing to appeal a decision of the Planning Director or authorized representatives shall make application for such request to the Office of Planning and Zoning. Such application shall be provided by the Office and be completed in full by the applicant.

21.06 FEES. Upon the filing of any application for a variance or appeal by the Board, the applicant shall pay to Minnehaha County the appropriate fee as designated in Article 24.00. These fees shall be utilized to help defray necessary administrative costs of processing the application as required.

21.07 HEARING. Upon the filing of an application, the Office of Planning and Zoning shall set a date for public hearing, at which time and place the Zoning Board of Adjustment shall meet to consider the request for variance or appeal.

- (A). SIGNS. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on the property at least five days prior to the scheduled hearing.
- (B). DECISION. All requests under this article shall be acted upon at a meeting of the Planning Commission. A favorable vote by a majority of the members of the Board shall be required to approve each request.

21.08 APPEALS FROM DECISION OF BOARD. Appeals may be taken to the Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of

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the County, aggrieved by any decision of the Board of Adjustment, in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.

21.09 LIMITATIONS. Any order of the Board of Adjustment granting a variance may be declared invalid by the Board of Adjustment unless substantially completed within two years from the date of such order. The Planning Director shall notify the property owner of record upon invalidation of a variance.