

Article VII - Board of Appeals

Section

7.01 Establishment:

- A. Pursuant to the provisions of 62.23(7)(e), Wisconsin Statutes, there is hereby established a Board of Appeals for the Village of Dorchester for the purpose of hearing appeals and applications and granting variances and exceptions to the provisions of this Ordinance in harmony with the purpose and intent of this Ordinance.

7.02 Membership:

- A. The Board of Appeals shall consist of five (5) members appointed by the Village President and approved by the Village Board.
- B. Terms shall be for staggered three-year periods, except that of those first appointed, one shall serve for one year, two for two years, and two for three years.
- C. Two alternate members may be appointed by the Village President for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of conflict of interest. Annually, the Village President shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act with full power only when a member of the Board of Appeals refuses to vote because of conflict of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Board of Appeals refuses or is absent.
- D. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

7.03 General Rules:

- A. The members of the Board of Appeals shall serve without compensation.
- B. Members shall be removable by the Village President for cause upon written charges and after public hearing.
- C. The Village President shall designate one of the members as Chairman and the Board of Appeals may designate such other officers and employ such employees as it feels necessary with the approval of the Village Board.
- D. The Board of Appeals shall adopt rules governing its procedure consistent with the terms of this Chapter.
- E. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

7.03 General Rules cont'd

- F. The Board of Appeals 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 action, all of which shall be immediately filed in the Office of the Village Clerk and shall be a public record.

7.04 Powers: The Board of Appeals shall have the following powers:

- A. Errors: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator.
- B. Variances: To hear and authorize appeals for variances where owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. Such variance shall not be contrary to the public interest and shall be so conditioned that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured.
- C. Interpretations: To hear and decide applications for interpretations of the zoning regulations and the location of the boundaries of the zoning districts.
- D. Permits: The Board may reverse, affirm wholly or partly, or modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made.
- E. Assistance: The Board may request assistance from other Village officers, departments, commissions, and boards.
- F. Oaths: The Chairman may administer oaths and compel the attendance of witnesses.

7.05 Appeals and Applications:

- A. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the Village affected by the decision of the Zoning Administrator. Such appeals shall be filed in the Office of the Village Clerk within ninety (90) days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee of the structure or land to be affected at any time and shall be filed in the Office of the Village Clerk. Such appeals and applications shall include the following:
 1. Name and address of the appellant or applicant and all abutting and opposite property owners of record.

7.05 Appeals and Applications cont'd

2. Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and approved by the Zoning Administrator showing the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; floodplain boundaries; and existing and proposed street, side, and rear yards.
3. Additional information as may be required by the Village Planning Commission or Zoning Administrator.
4. All applications shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative processing.

7.06 Hearings:

- A. The Board of Appeals shall fix a reasonable time and place for the hearing, publish a Class 2 notice under Chapter 985, Wisconsin Statutes, and shall give due notice to the parties of interest, the Zoning Administrator, and the Village Planning Commission. At the hearing the appellant or applicant may appear in person, by agent, or by attorney.

7.07 Findings:

- A. No variance to the provisions of this Ordinance shall be granted by the Board of Appeals unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings:
 1. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
 2. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
 3. Economic Hardship and Self-Imposed Hardship not Grounds for Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

7.07 Findings cont'd

4. Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
5. Absence of Detriment: That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

7.08 Decision:

- A. Action Upon Receipt of Appeal: Upon receipt of an appeal, the Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken and the appeal application.
- B. Hearing Within 45 Days of Filing: Each appeal shall be heard within forty-five (45) days from the time of filing and public notice of such hearing shall be given as provided by Section 7.06.
- C. Decision Within 30 Days of Hearing: The Board of Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator as provided for in E. below.
- D. Decisions of the Board: The concurring vote of four (4) members of the Board of Appeals 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 affect any variation therefrom.
- E. Form of Decision: The final disposition of an appeal or requested variance shall be in the form of a written decision or order stated in the minutes. Such decision shall state the reasons for the Board's determination and its findings of fact and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal or grant or deny the application for a variance.
- F. Conditions: The Board of Appeals may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this Chapter, as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare.

7.09 Review by Court of Record:

- A. Any person or persons aggrieved by any decision of the Board of Appeals or any taxpayers or any officer, department, board or bureau of the municipality, may appeal from a decision of the Board of Appeals within thirty (30) days after the filing of the decision in the Office of the Board of Appeals in the manner provided in 62.23(7)(e), Wisconsin Statutes.