

**Job Title:** Board of Adjustments

**Department:** Volunteer Commission Appointed by the Board of Supervisors

For a Term of 5 Years

**Date:** June 6, 2016

**Re:** Board of Adjustment Over View of Duties

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**55.35 BOARD OF ADJUSTMENT; APPOINTMENT AND TERMS; MEETINGS.** A Board of Adjustment is hereby created. Such Board of Adjustment shall consist of five (5) members appointed by the Board of Supervisors for staggered terms of five (5) years and vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board of Supervisors shall have power to remove any member of the Board of Adjustment for cause upon written charges and after public hearing. The Board of Adjustment shall organize and adopt rules in accordance with provisions of the Zoning Ordinance and the Code of Iowa. All meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such time and place within the County as the Board of Adjustment may determine. Such Chairperson, or in the Chairperson's absence, the acting chairperson, 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 complete records of its hearings and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement or decision of the Board of Adjustment shall immediately be filed in the office of the Board of Adjustment and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.

**55.37 POWERS AND DUTIES OF BOARD OF ADJUSTMENT.** The Board of Adjustment shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the Zoning Ordinance or of any supplement or amendment.
2. To hear and permit special exceptions to the terms of the Zoning Ordinance upon which the Board of Adjustment is required to pass under the Zoning Ordinance.
3. To authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship, and so that the spirit of the Zoning Ordinance shall be observed and substantial justice done.

**55.38 SPECIAL USE PERMITS.** The Board of Adjustment shall review, before issuing any special use permit, before issuing any special use permit, the conformity of the proposed building or use with the standards of the Comprehensive Plan and recognized principals of land use planning. The Board of Adjustment may approve the special use permit as submitted, or before approval, may require that the applicant modify, alter, adjust, or amend the proposal as the Board of Adjustment deems necessary to preserve the intent and purpose of this Chapter in order to promote the health, safety and general welfare of the community.

**55.39 VARIANCES. THE BOARD OF ADJUSTMENTS WILL APPLY THE FOLLOWING RULES:**

1. No variation in the application of the provisions of the Zoning Ordinance shall be made unless and until the Board of Adjustment shall be satisfied that granting the variation will not:
  - A. Merely serve as a convenience to the applicant and is not necessary to alleviate demonstrable hardship or difficulty so great as to warrant the variation.
  - B. Impair the general purpose and intent of the regulations and provisions contained in the Zoning Ordinance.
  - C. Impair an adequate supply of light and air to adjacent properties.
  - D. Increase the hazard from fire and other danger to said property.
  - E. Diminish the value of land and buildings in the County.
  - F. Increase congestion and traffic hazards on public roads.
  - G. Otherwise impair the public health, safety, and general welfare of the inhabitants of the County.
2. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Zoning Ordinance and punishable under Section 55.41 of this chapter.
3. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any requirement, decision, order, or determination of the Zoning Administrator or to decide in favor of the applicant in regard to any matter upon which the Board is authorized by the Zoning Ordinance to render a decision.
4. It is not the intention to grant to the Board of Adjustment the power or authority to alter or change the Zoning Ordinance or the District Maps. Such power and authority rests solely with the Board of Supervisors, in the manner provided in Section 55.47.

**55.40 DECISIONS OF THE BOARD OF ADJUSTMENT.**

1. In exercising the above mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determinations as it believes proper, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under the Zoning Ordinance, provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution, immediately following the Board's final decision, shall be filed in the office of the Board, and shall be open to public inspection.
2. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.
3. Any taxpayer, or any officer, department, board or bureau of Marion County, or any person or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.
4. Whenever any application for a special use permit, variance, or appeal of any order, requirement, decision, or determination made by the Zoning Administrator shall have been denied by the Board of Adjustment, then no new application covering the same matter shall be filed with, or considered by the Board of Adjustment unless new evidence has been introduced until one (1) year shall have elapsed from the date of filing of the first application.