



## **CHAPTER 12: LAND USE REGULATIONS**

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See Ord. #07-1983 Adopted August 8, 1983      See Ord. #04-2009 Adopted Mar. 23, 2009  
See Ord. #31-2009 Adopted Sept. 14, 2009      See Ord. #40-2009 Adopted Oct. 26, 2009  
See Ord. #03-2011 Adopted March 15, 2011

## **CHAPTER 12: LAND USE REGULATIONS**

### **ARTICLE 3: ZONING BOARD OF ADJUSTMENT**

#### 12-3-1 Board of Adjustment Created

Pursuant to the authority conferred by (C.R.S. 31-23-307) there is hereby created a Zoning Board of Adjustment for the Town of Grand Lake.

#### 12-3-2 Members of the Board

The Zoning Board of Adjustment shall consist of Seven (7) members appointed by the Board of Trustees and each member shall serve for a term of Three (3) Years, or until his successor takes office.

#### 12-3-3 Qualifications of Board Members

All members of the Zoning Board of Adjustment shall serve as such without compensation and shall be bona fide residents of the Town of Grand Lake, and if any member ceases to reside in the Town of Grand Lake, his membership shall immediately terminate.

#### 12-3-4 Organization and Rules

(A) The Zoning Board of Adjustment shall elect its Chairman from among its members and create and fill such other of its offices as it may determine. The term of the Chairman shall be One (1) Year, with eligibility for re-election. The Board shall hold at least one regular meeting in each month and such meetings may be held consecutively on the same date. The Board shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be of public record.

1. All members of the Board of Adjustment shall be presented with all meeting materials prior to the meeting, and when practical, all members shall be present at meetings.
2. Only five members of the Board of Adjustment shall vote. The concurring vote of four (4) voting members shall constitute the granting of variance.
  - (a) The five (5) voting members shall consist of the Chairman and four (4) members selected, on the record, in the meeting. Members not declared voting members shall not participate in discussion or voting in the meeting.

#### 12-3-5 Powers and Duties of Board

- (A) The Board of Adjustment shall have all of the following powers and duties, all of which shall be exercised subject to the laws of the State of Colorado.
1. To hear and decide appeals taken by any person aggrieved by:



- (a) the decision of any administrative officer based upon or made in the course of the administration or enforcement of the provisions of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations as they relate to 12-3-5(A)3.
2. Appeals to the Board of Adjustment may be taken by any officer, board, or bureau of the Town affected by the granting or refusal of a Building Permit or by any other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations as they relate to Sub-section (c) below.
  - (a) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse a decision made by an administrative officer or agency.
3. To authorize, upon appeal in specific cases, variances to the:
  - (a) Minimum area of lot.
  - (b) Minimum lot frontage.
  - (c) Minimum front yard/setback.
  - (d) Minimum side yard/setback.
  - (e) Minimum rear yard/setback.
  - (f) Maximum height of buildings.
  - (g) Minimum floor area.
4. Variances may only be granted if all of the following conditions are found to exist:
  - (a) by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations; and
  - (b) literal interpretation of the provisions of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations; and
  - (c) the special conditions and circumstances do not result from the actions of the applicant; and
  - (d) granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district; and
  - (e) the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations.



5. No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
6. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations in the district involved, or any use expressly or by implication prohibited by the terms of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations in said district.

#### 12-3-6 Procedure

- (A) Any person adversely affected by any interpretation, requirement or regulations of Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations as they relate to 12-3-5(A)2 may file an application for a variance with Town Staff on a furnished form specifying the grounds of appeal and after paying the appropriate fee.
  1. Town Staff shall not process this variance request unless the applicant (its constituents or members) are current with the Town and all Town enterprises for all fees, assessments, charges, taxes, or amount due of any type.
- (B) The Board of Adjustment shall hold a public hearing on all applications and appeals with the following special conditions required:
  1. The Public Hearing shall be held **within sixty (60)** days of receipt of application or within a time frame agreed upon by both the applicant and the Town.
  2. A notice of said hearing shall be published once in the legal newspaper of the Town at least fifteen (15) days prior to the hearing date.
  3. A written notice of said hearing shall be mailed by certified mail at least fifteen (15) days prior to the hearing date to the owners of property within two hundred feet (200') of the property in question.
  4. Preparation of and payment for all notices shall be the responsibility of the Town Staff.
  5. Before any variance is granted, 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 hardships involved.
  6. The Board of Adjustment may approve a portion of the variance request but shall not grant a variance for greater than the noticed request.
  7. Town Staff shall send notification to the legal property owner of the findings of the Board of Adjustment.
- (C) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations. 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 Municipal Code 12-2-8 to 12-2-24 and 12-2-29 (if applicable) Zoning Regulations.
- (D) Unless otherwise stated in the Board of Adjustment minutes, all variance permits must



be utilized within nine (9) months from the time such variance is granted by the Board, after which time, if the variance permit has not been utilized, it shall become null and void.

- (E) The variance granted shall be so noted in the Town Official Records.
- (F) Variances that are utilized shall be valid for the life of the building. If greater than fifty percent (50%) of the building is destroyed, the variance may not be transferred to the reconstructed building.
- (G) Any decision made by the Board of Adjustment shall be subject to review under the guidelines established in the (C.R.S. 31-23-307).

#### 12-3-7 Additional Provisions

- (A) The variance granted shall be so noted in the Town Official Records.
- (B) Unless otherwise stated in the Board of Adjustment minutes, all variance permits must be utilized within nine (9) months from the time such variance is granted by the Board, after which time, if the variance permit has not been utilized, it shall become null and void.
- (C) Variances that are utilized shall be valid for the life of the building. If greater than fifty percent (50%) of the building is destroyed, the variance may not be transferred to the reconstructed building.

#### 12-3-8 Additional Provisions of Denied Variance Requests

- (A) Substantial alterations to an application may be permitted to reapply at any time after the Hearing.
- (B) Applications deemed substantially the same may not be permitted to reapply within one year of the Hearing of the Board of Adjustment.