

SECTION 306. APPEALS AND VARIANCES.

A. APPEALS TO THE BOARD OF ADJUSTMENT.

1. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or department of the City affected by any decision of the Zoning Administrator.
2. Applications for any matter to be considered by the Board shall be filed with the Zoning Administrator on forms furnished for the purpose within thirty (30) days after the action appealed from and shall specify the ground thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.
3. The appeal stays all proceedings in the matter appealed from, unless the Zoning Administrator certifies to the Board that, by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril; to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by a court of record on application and notice to the Zoning Administrator.
4. The Board shall hear the appeal within thirty (30) days and shall give notice of hearing by publication of a notice in the official newspaper of the City and by posting the property affected not less than fifteen (15) days prior to the hearing. The notice shall set forth the time and place of the hearing and include a general explanation of the matter to be considered.
5. The Board may reverse or affirm, wholly or partly, or modify the order, requirement or decision of the Zoning Administrator appealed from and make such order, requirement, decision or determination as necessary.
6. Any party may appear at the hearing in person or by agent or attorney. Parties shall have the right to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination of witnesses as may be required for a full and true disclosure of the facts. The Board shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence and in furtherance of this policy, may limit cross-examination.
7. Any aggrieved person may appeal to the Board of Adjustment for a Variance from the terms of the Zoning Ordinance only, if because of special circumstances applicable to the property, including its size, shape, topography, location or surroundings the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of same classification in the same

zoning district. Any Variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone which such property is located.

8. A Variance shall not be granted by the Board based on personal inconvenience and/or financial hardship or as the result of self-imposed actions by a property owner or appellant.
9. In granting a Variance, the Board may impose such conditions and safeguards as are appropriate to ensure that the purpose and intent of this Ordinance will be fulfilled. Failure to comply with such conditions and safeguards, when made part of the terms under which a Variance is granted shall be deemed a violation of this Ordinance.
10. No nonconforming use or violations of this Ordinance with respect to neighboring lands, structures or buildings, in the same zoning district and no permitted use of lands, structures or building in other zoning districts, shall be considered grounds for granting a Variance.
11. Every Variance granted shall be personal to the appellant therefor and shall be transferred and shall run with the land only after completion of any authorized structure or structures.
12. Nothing herein contained shall be construed to empower the Board to change the terms of this Ordinance, to authorize uses which violated any other City Ordinance, to affect changes in the Zoning Map, or to add to or change the uses permitted in any zoning district.

B. APPEAL FROM THE BOARD.

The decision of the Board shall be final, provided, however, that any person aggrieved by the decision of the Board, or a taxpayer, or a municipal officer may, at any time within thirty (30) days after the filing of the decision in the office of the Board, petition the court for special action review of the Board's decision. The filing of a petition for special action relief shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and for good cause shown, grant a restraining order and on final hearing may reverse or affirm, wholly or partly, or may modify the decision reviewed.

C. FEES.

1. Upon filing an application for appeal, the appellant shall pay a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the City Clerk. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is the City, County, State or Federal Government.

In the case of an appeal for a Variance to more than one provision of this Ordinance, the filing fee shall equal the total amount chargeable for all provisions as prescribed by the fee schedule.