

Zoning Board of Appeals

- Authorized in Section 6-29-780 “As part of the administrative mechanism designed to enforce the zoning ordinance...”
- A quasi-judicial body.
- Not less than three, nor more than nine members.
- Has the power to:
 - To hear and decide administrative appeals
 - To hear and decided variances
 - To permit special exception uses
 - To remand items back to the administrative official

Administrative Appeal

- When an applicant alleges an “error in order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance.”
- Both sides explain their position on the issue.
- ZBA determines who is correct.

Variance

- Relief from strict application of the zoning ordinance.
- The ZBA must make and explain in writing the following findings:
 - (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
 - (b) these conditions do not generally apply to other property in the vicinity;
 - (c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

Variance

(d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

(i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

(ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare;

Special Exception

- Must be listed in the zoning ordinance.
- Usually there are conditions that have to be met.
- Typically one condition is the use must be compatible with the surrounding development.

Appeal of ZBA Decision

- Filed in Circuit Court
- Option for Pre-litigation mediation

Board of Architectural Review

- Authorized in Section 6-29-870.
- Can be design standards or historic standards.
- Not more than ten members.
- Can have professional seats such as contractor, architect, engineer or historian.
- Administer the specific design standards identified in the zoning ordinance.
- Also consider appeals of decisions from the zoning administrator related to design standards.

Appeal of DRB Decision

- Filed in Circuit Court
- Option for Pre-litigation mediation