

ARTICLE IX
BOARD OF ZONING APPEALS

901. Creation and Appointment. A Board of Zoning Appeals is hereby established in accordance with Section 13-7-106, Tennessee Code Annotated. The board shall consist of five members and two associate members that can serve in the absence of a regular member. Initial terms shall be for one, two, three, four, and five years respectively; thereafter, terms shall be for five years and vacancies filled for the unexpired term only. Board members shall be appointed by the Board of County Commissioners. No person holding any public office or position in county government shall be eligible for membership on the board.
- 901.2. Membership. Board members shall each serve for a five-year term, or until their successors are appointed. Board members may be removed from office by the Board of County Commissioners for continued absence or other just causes. Any member being so removed shall be provided, upon request, a public hearing on the removal decision before the Board of County Commissioners. Vacancies shall be filled for unexpired terms in the manner herein provided for initial appointments. Board members shall annually elect a chair and vice-chair from among their membership.
- 901.3. Conflict of Interest. A board member with either a direct or indirect interest in property affected by the consideration of the board shall be disqualified from any participation in the proceedings on that matter. No Board member shall take any official action, including participating in and voting upon, any matter in which the Board member, or a member of his immediate family, or an organization, with which the Board member is associated, has a substantial financial interest. Nor shall any member use his position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the Board member, or a member of his immediate family, or an organization with which the Board member is associated. Any issue of financial interest shall be brought to the attention of the Chair prior to the hearing of the appeal in question. In the event a Board member has an issue of a possible conflict, the Chair shall be asked to make a determination. If the Chair has an issue of a possible conflict, it shall be referred to the Vice-Chair, or to the Board if no Vice-Chair has been approved.
902. Procedure. The Board of Zoning Appeals shall meet at the call of the chairman, and at such other times as the Board of Zoning Appeals may determine, at a fixed time and place. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning 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 other official actions, all of which shall be promptly filed in the office of the County Clerk and shall be a public record. The Board of Zoning Appeals shall take all evidence necessary to justify or explain its action; it shall make findings of fact and shall make all determinations based on the law and the standards for determination of variances.
903. Powers.
- 903.1 The Board of Zoning Appeals shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official.
- 903.2 Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this resolution, the Board of Zoning Appeals shall have the power, in passing upon appeals, to authorize such variance from the terms of this Resolution as will not be contrary to the public interest in confirming with the standards set forth in Section 905 of this article;
- 903.3 The Board of Zoning Appeals shall determine the appropriateness of proposed changes to nonconforming uses or structures.

- 903.4 To call on any department for assistance in its duties; and it shall be the duty of such department to render all such assistance as may reasonably be required.
- 903.5 To compel attendance of witnesses at hearings and to administer oaths.
- 903.6 To hold at least one (1) scheduled meeting per month and give notice of such meeting as required by law.
904. Variances. The purpose of the variance is to modify the strict application of the specific requirements of this resolution in the case of exceptionally irregular, narrow, shall, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property as the Zoning Resolution intended.
905. Standards for Variances. In accordance with Tennessee Code Annotated Section 13-7-109, the Board of Zoning Appeals shall not grant a variance without an affirmative finding of fact on each of the following standards based on evidence presented by the applicant:
- 905.1. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography, or sitting) fully described in the findings of the Board of Zoning Appeals, do not apply generally in the district.
- 905.2. The alleged difficulty or hardship has not been created by the actions of the applicant or any previous actions of any person having an interest in the property after the adoption of the Washington County Zoning Resolution.
- 905.3. The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.
- 905.4. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
- 905.5. That the literal enforcement of the Zoning Resolution will result in unnecessary hardship.
- 905.6. Financial gain is not the primary basis for granting the variance. Attempts to improve business profits do not constitute adequate hardship to grant a variance.
- 905.7. The granting of any variance is in harmony with the general purposes and intent of this resolution and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development. That by granting the permit, substantial justice will be done.
- 905.8. For reasons fully set forth in the findings of the Board of Zoning Appeals, the aforesaid circumstances or conditions are such that the strict application of the provisions of this resolution would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land.
- 905.9. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.
906. Special Conditions. In granting a variance, special exception permit, or change to a nonconforming use or structure, the Board of Zoning Appeals may impose conditions, restrictions or time limits considered necessary to protect surrounding properties and better carry out the general intent of the Zoning Resolution.

907. Cases before the Board of Zoning Appeals. Every appeal or application shall be made to the Board of Zoning Appeals on a form approved by the Board of County Commissioners, which may be secured at the office of the Planning director. The procedure for appeals shall be as follows:
- 907.1. A written appeal shall be filed with the Board of Zoning Appeals through the office of the Planning director by the party aggrieved by any order or decision of the Planning director or Designee or Planning director. Said appeal shall be accompanied by accurate plans and specifications of the proposed work showing also the plot of land to be built upon, together with the placement of proposed building(s) and all other existing or proposed structures. No appeal shall be accepted without payment of any variance fee required by the Board of County Commissioners.
- 907.2. Every appeal shall be taken within sixty days from the date of the action causing such appeal.
- 907.3. A fee, to be established by the Board of County Commissioners, due and payable at the time of appeal, shall be paid to the office of the Planning director, as agent for the Board of Zoning Appeals, to cover the cost of notices and other expenses incidental to the hearing.
- 907.4. At the public hearing of the case before the Board of Zoning Appeals, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in opposition shall follow.
- 907.5. Upon receipt in proper form of any such appeal or application, the Board of Zoning Appeals shall post such appeal or application, together with maps and the accompanying data in its office for public inspection, for a period of not less than one week, and shall hold a public hearing thereon. The Board of Zoning Appeals may also adopt regulations requiring notice by personal service or registered mail by the Planning director to property owners within any reasonable radius of the property effected that the Board of Zoning Appeals may determine.
908. Findings of Fact. Any Board of Zoning Appeals decision on a variance shall indicate the section of the Zoning Resolution under which the variance or exception is being considered and include substantive findings of fact relating to the specified review standards. In the approval of a variance or exception, findings shall specifically identify the unique characteristics of the property and the precise nature of the hardship. In the denial of a variance or exception request, findings shall specifically identify the standards that were not met.
909. Board of Zoning Appeals Rules. The Board of Zoning Appeals may adopt rules to govern the organization, procedure, and jurisdiction of the Board of Zoning Appeals, which rules shall not be inconsistent with Tennessee Code Annotated and the Zoning Resolution.
910. Court Review. Any person, firm or corporation aggrieved by any decision of the Board of Zoning Appeals may petition to a court of competent jurisdiction in accordance with the laws of the state of Tennessee.