

TITLE 2 - GOVERNMENT AND ADMINISTRATION

Chapter 5 - Boards and Commissions

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2.5.1 Plan Commission.

2.5.1.01 Authority; Establishment

The Town Board of the Town of Grafton, having been authorized by an Annual Town Meeting under Sec. 60.10(2)(c), Wis. Stats., to exercise village powers pursuant to Sec. 60.62, Wis. Stats., hereby establishes a seven (7) member Plan Commission under Sec. 62.23(1)(a), Wis. Stats.

2.5.1.02 Membership

The Plan Commission shall consist of one (1) member of the Town Board, who shall be the Town Board Chairperson who shall also be the Chairperson and presiding officer of the Town Plan Commission, and six (6) citizen members, who are not otherwise Town officials, who shall be persons of recognized experience and qualifications. An alternate citizen member may be appointed and shall act only when a regular citizen member is absent or refuses to vote because of a conflict of interest.

2.5.1.03 Zoning Administrator/Building Inspector

The Zoning Administrator, who is also the Building Inspector, shall attend all Plan Commission meetings for the purpose of providing technical assistance when requested by the Commission.

2.5.1.04 Appointments

- (A) The Town Board Chairperson shall appoint the citizen members of the Plan Commission, including any alternate member during the month of April to fill any expiring term.
- (B) All appointments are subject to the approval of the Town Board. In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Board Chairperson shall be made after the election and qualification of the Town Board members elected.
- (C) Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under Secs. 19.01 and 60.31, Wis. Stats.

2.5.1.05 Terms of Office

(A) Plan Commission Chairperson

The term of office of the Plan Commission Chairperson, who is also the Town Board Chairperson, shall be for a period-of two (2) years, as allowed under sec. 62.23(1)(a), Wis. Stats., concurrent with his or her term on the Town Board.

(B) Citizen Commission Members

The term of office for citizen Commission members shall be for staggered three year periods, ending on April 30, or until a successor is appointed and qualified, except as follows:

- (1) If the initial appointments to the Plan Commission are made during the month of April, the citizen members shall be appointed for staggered terms as follows:

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- (a) two persons for a term that expires in one (1) year;
 - (b) two persons for a term that expires in two years; and
 - (c) two persons for a term that expires in three years.
- (2) If the initial appointments are made after the month of April, the first citizens appointed to the Plan Commission shall be appointed for staggered terms as follows:
- (a) two persons for a term that expires one (1) year from the previous April 30;
 - (b) two persons for a term that expires two years from the previous April 30; and
 - (c) two persons for a term that expires three years from the previous April 30.

2.5.1.06 Vacancies

A person who is appointed to fill a vacancy on the Plan Commission shall serve for the remainder of the term.

2.5.1.07 Compensation; Expenses

- (A) The Town Board of the Town of Grafton shall set a per diem allowance in an amount to be set annually by the Town Board per meeting for citizen members of the Plan Commission, as allowed under sec. 66.0501(2), Wis. Stats.
- (B) In addition, the Town Board may reimburse reasonable costs and expenses as allowed under sec. 60.321, Wis. Stats.
- (C) No per diem allowance shall be allowed for the Town Board Chairperson.

2.5.1.08 Experts & Staff

- (A) The Plan Commission may, under Sec. 62.23(1), Wis. Stats., recommend to the Town Board the employment of experts and staff, and may review and recommend to the approval authority proposed payments under any contract with an expert.
- (B) The Plan Commission may also request assistance from other Town officers, departments, commissions and boards.

2.5.1.09 Rules; Records

The Plan Commission, under sec. 62.23(2), Wis. Stats., may adopt rules for the transaction of its business, subject to Town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under Secs. 19.21-19.39, Wis. Stats.

- (A) For the purposes of conducting Plan Commission business, a quorum of four members of the Commission shall be required; the approval of an action shall be by a majority vote except as otherwise required by law.

2.5.1.10 Chairperson & Officers

(A) Chairperson.

The Plan Commission Chairperson shall be the Town Chairperson and shall serve the term provided in Sections 2.5.1.02 and 2.5.1.05 of this ordinance. The Chairperson shall, subject to Town ordinances and Commission rules:

- (1) Provide leadership to the Commission;
- (2) Set Commission meeting and hearing dates;
- (3) Provide notice of Commission meetings and hearings and set their agendas, personally or by his or her designee;
- (4) Preside at Commission meetings and hearings; and
- (5) Ensure that all laws are followed.

(B) Secretary.

The Town Clerk shall serve as the Secretary of the Plan Commission, and shall be responsible for the taking and keeping of the minutes of the proceedings and the records of all actions taken by the Town Plan Commission, which minutes and records shall be filed and kept in the office of the Town Clerk of the Town of Grafton as public records.

2.5.1.11 General & Miscellaneous Powers

The Town Plan Commission shall have the following powers:

- (A) To authorize the issuance of conditional use permits pursuant to the provisions of the Zoning Ordinance of the Town of Grafton.
- (B) To recommend the issuance of moving permits pursuant to the provisions of the Town of Grafton Ordinance regulating the moving of buildings.
- (C) To review and make recommendations on all proposed changes and amendments to the Zoning Ordinance of the Town of Grafton pursuant to the provisions of the Zoning Ordinance for the Town of Grafton.
- (D) For itself, its members, employees or agents, in the performance of their duties, to enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued authority.
- (E) To exercise all of the powers, duties and functions prescribed in sec. 62.23, Wis. Stats., and any amendments thereto.

2.5.1.12 Appeals

Appeals to the Zoning Board of Appeals shall be pursuant to sec. 62.23(7)(e), Wis. Stats.

(A) Review of Town Plan Commission Decisions

- (1) Any person aggrieved by any decision of the Town Plan Commission may present to the Zoning Board of Appeals a petition stating that such decision is illegal and specifying the grounds for the illegality.

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- (2) Such petition shall be presented to the Zoning Board of Appeals within thirty (30) days after the filing of the decision of the Town Plan Commission in the office of the Town Clerk.
- (3) The Zoning Board of Appeal's decision shall be final except as provided in the next paragraph.
- (4) Any person aggrieved by a decision of the Zoning Board of Appeals on a matter appealed from the Town Plan Commission may petition the appropriate court of record by a verified petition stating that such decision is illegal and specifying the grounds of the illegality.
- (5) Such petition shall be filed within thirty (30) days of the filing of the Zoning Board of Appeals decision in the office of the Town Clerk.

2.5.1.13 Referrals to the Plan Commission

- (A) Pursuant to Sec. 62.23(5), Wis. Stats., the Town Board of the Town of Grafton shall refer the following to the Town Plan Commission for report:
 - (1) The location and architectural design of any public building.
 - (2) The location of any publicly placed statue or other memorial.
 - (3) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any:
 - (a) street, alley or other Public Way;
 - (b) park or playground;
 - (c) airport;
 - (d) area for parking vehicles; or
 - (e) other memorial or public grounds.
 - (4) The location, extension, abandonment or authorization for any publicly or privately owned public utility.
 - (5) All plats under the Town's jurisdiction under Chapter 236, Wis. Stats., including divisions under a Town subdivision or other land division ordinance adopted under Sec. 236.45, Wis. Stats.
 - (6) The location, character and extent or acquisition, leasing or sale of lands for:
 - (a) public or semi-public housing;
 - (b) slum clearance;
 - (c) relief of congestion; or
 - (d) vacation camps for children.
 - (7) The amendment or repeal of any ordinance adopted pursuant to Sec. 62.23(5), Wis. Stats.
- (B) The following referrals required under sections of the Wisconsin Statutes other than Sec. 62.23(5), Wis. Stats., shall also be referred to the Plan Commission for report:
 - (1) An application for initial licensure of a child welfare agency or group home under Sec. 48.68(3), Wis. Stats.
 - (2) An application for initial licensure of a community-based residential facility under Sec. 50.03(4)(a)3., Wis. Stats.

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- (3) Proposed designation of a street, road or public way, or any part thereof, wholly within the jurisdiction of the Town, as a pedestrian mall under Sec. 66.0905, Wis. Stats.
- (4) Matters relating to the establishment or termination of an architectural conservancy district under Sec. 66.1007, Wis. Stats.
- (5) Matters relating to the establishment of a reinvestment neighborhood required to be referred under Sec. 66.1107, Wis. Stats.
- (6) Matters relating to the establishment or termination of a business improvement district required to be referred under Sec. 66.1109, Wis. Stats.
- (7) A proposed housing project under Sec. 66.1211(3), Wis. Stats. referred under Subch. XIII of Ch. 66, Wis. Stats.
- (8) The adoption or amendment of a Town subdivision or other land division ordinance under sec. 236.45(4), Wis. Stats.
- (9) Any other matter required by the Wisconsin Statutes, as amended, to be referred to the Plan Commission.
- (10) Any other matter required by any Town ordinance or Town Board resolution or motion to be referred to the Plan Commission.

(C) Referral period.

No final action may be taken by the Town Board or any other officer or body with final authority on a matter referred to the Plan Commission until the Commission has made its report, or thirty (30) days, or such longer period as stipulated by the Town Board, has passed since referral. The thirty (30) day period for referrals required by the Wisconsin Statutes may be shortened only if so authorized by statute. The thirty (30) day referral period, for matters subject to required or discretionary referral under the Town's ordinances, but not required to be referred under the Wisconsin Statutes, may be made subject by the Town Board to a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.

2.5.2 Joint ExtraTerritorial Zoning Committees.

These are commonly known as Joint Extra Territorial Zoning Cooperation committees (JETZCO) and are activated whenever an adjoining city or village exercises its extritorial zoning authority as permitted by sec. 62.23(7a)(c), Wis. Stats.

The entire plan commission shall participate with the joint committee in the preparation of the plan and regulations, or amendments thereto. Only the members of the joint committee shall vote on matters relating to the extraterritorial plan and regulations, or amendments thereto. A separate vote shall be taken on the plan and regulations for each town and the town members of the joint committee shall vote only on matters affecting the particular town which they represent. The governing body shall not adopt the proposed plan and regulations, or amendments thereto, unless the proposed plan and regulations, or amendments thereto, receive a favorable vote of a majority of the 6 members of the joint committee. Such vote shall be deemed action taken by the entire plan commission.

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2.5.2.01 Purpose

Sec. 62.23(7a)(d), Wis. Stats. provides that: “The joint committee shall formulate tentative recommendations for the district plan and regulations and shall hold a public hearing thereon. Notice of a hearing shall be given by publication in a newspaper having general circulation in the area to be zoned, as a class 2 notice, under Chapter 985, Wis. Stats., during the preceding 30 days, and by mailing the notice to the Town Clerk of the town for which the plan and regulations are proposed. The notice shall contain the layout of tentative districts either by maps or words of description, and may contain the street names and house lot numbers for purposes of identification if the joint committee or the governing body so determines. At a public hearing an opportunity to be heard shall be afforded to representatives of the town board of the town and to any person in the town for which the plan and regulations are proposed.”

2.5.2.02 Membership

The 3 town members shall be nominated by the Town Chairperson and confirmed by the Town Board for 3 year terms and shall be residents of the town and persons of recognized experience and qualifications. Town board members are eligible to serve.

2.5.3 Open Space Preservation Program.

This ordinance is adopted under the authority granted by Chapters 60, 61, 66 and 700 of the Wisconsin Statutes and the amendments thereto.

2.5.3.01 Purpose

The purpose of this ordinance is establish a mechanism by which the Town may appropriate money in the form of monetary donations or grants and/or accept possessory or nonpossessory interests in real property to preserve open space areas and conserve the natural resources of the Town of Grafton.

2.5.3.02 Definitions

(A) Board.

The Town of Grafton Board of Supervisors.

(B) Conservation Easement.

A holder’s nonpossessory interest in real property within the Town of Grafton imposing any limitation or affirmative obligation the purpose of which includes protecting viable farm operations, farmland, and other natural, scenic and open lands to maintain the rural character of the Town of Grafton; permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and wood lots; creating and preserving “buffer zones” around significant environmental areas and agricultural areas; restricting land divisions; retaining or protecting natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; maintaining or enhancing air or water quality; and preserving the historical, architectural, archaeological or cultural aspects of real property.

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- (C) Commission.
The Town of Grafton Open Space Commission.
- (D) Conservation Interest.
An interest in a conservation easement, a third-party right of enforcement in a conservation easement, or fee-title interest in real property.
- (E) Nonprofit Conservation Organization.
A nonprofit corporation, a charitable trust or other nonprofit association whose purposes include the acquisition of property for conservation purposes and that is described in Section 501(c)(3) of the Internal Revenue Code and is exempt from federal income tax under Section 501(a) of the Internal Revenue Code.

2.5.3.03 Open Space Commission

- (A) Creation.
There is hereby created the Town of Grafton Open Space Commission (hereafter the “Commission”).
- (B) Duties.
The Commission shall be responsible for making recommendations to the Board and the general supervision of the Open Space Preservation Program as set forth in this Ordinance, including the following:
 - (1) The Commission shall maintain contact with public and private agencies to maximize the resources available to and in the town and coordinate the efforts to preserve the rural and open spaces of the town.
 - (2) The Commission shall determine the interest of owners of land within the town, at least annually, to donate or sell possessory or nonpossessory interests, including development rights, mining rights, easements, etc., in real property for the purpose of the Open Space Preservation Program.
 - (3) The Commission may recommend selection criteria and may recommend the acquisition of interests in specific parcels of real property to be acquired by the town for open space preservation purposes.
 - (4) The Commission may recommend changes to the Open Space Preservation Program and suggestions as to how an Open Space Preservation Fund acquisition program may be integrated with the Town of Grafton's Land Use Plan and other local and regional land use plans.
 - (5) The Commission may conduct public meetings or public hearings as it deems necessary or convenient to accomplish its goals.
 - (6) The Commission shall, prior to making any recommendations to the Board, arrange for a commercially reasonable due diligence investigation of potential risks associated with the property to be conducted which includes, but is not limited to, risks of environmental contamination.
- (C) Membership.
The Commission shall consist of eight (8) members consisting of the following:

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- (1) The Commission Chairperson and six (6) members nominated by the Town Chairperson and confirmed by majority vote of the Town Board, appointed for staggered terms expiring on June 1 following the third anniversary (3rd) of their appointment, subject to the following:
 - (a) The Commission Chairperson and six (6) members shall be electors of the Town and, to the extent practicable, include persons with backgrounds and experience in agriculture, finance, conservation or planning.
 - (b) Notwithstanding the foregoing,
 - 1. Two (2) of the initial members appointed shall be designated to serve for terms expiring on June 1 following the first anniversary of their appointment and
 - 2. Two (2) of the initial members shall be designated to serve for terms expiring on June 1 following the second anniversary of their appointment.
 - (c) The eighth member (8th), who may, or may not, be an elector of the Town, shall be a representative from the Washington-Ozaukee Land Trust to be approved by the Board, after consideration of the recommendation of the governing body of the Washington-Ozaukee Land Trust, to serve a three (3) year term without the right to vote, expiring after the third (3rd) anniversary of the appointment.
- (2) The Commission shall have the following officers:
 - (a) The Chairperson shall preside at all meetings of the Commission. In his or her absence, the Commission shall designate a member to serve as presiding officer of its meeting.
 - (b) A Secretary shall be elected by a majority vote of the Commission at the first meeting of the Commission following June 1 of each year to serve for a term expiring on June 1 of the following year. The Secretary shall maintain records of the Commission's work, including minutes of all meetings of the Commission.
 - (c) The Commission may establish any additional officers it determines necessary or convenient to the operation of the Commission.
- (3) The Commission may adopt rules of procedure governing its deliberations. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order Newly Revised.

2.5.3.04 Expenditures

- (A) The Town Board is authorized to appropriate money to acquire possessory and nonpossessory interests in real property or for payment to bona fide

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nonprofit organizations for conservation of natural resources within the Town or beneficial to the Town. No payment may be made to a nonprofit organization unless the organization submits and the Town Board approves a detailed plan of the work to be done. The plan shall include the name of the owner of any property on which work is to be performed. The Town Board may also attach such other and further conditions and restrictions on the payment as the Board considers necessary and appropriate to protect the Town's interests.

- (B) Expenditures utilized by the Town shall not consist of property tax assessment dollars unless approved by the electorate in the form of a binding referendum. Expenditures for this program shall be derived solely from sources such as donations, matching funds from grants, sponsors and segregated non-property tax Town funds.
 - (1) Conservation Easement Purchases. The Board may, subject to Sec. 2.5.3.04(B)(3) below, expend funds for the costs associated with the purchase or acceptance of a “holder's” interest or a “third-party enforcement right” in a conservation easement, as those terms are defined in Sec. 700.40(1), Wis. Stats..
 - (2) Land Purchases. The Board may, subject to Sec. 2.5.3.04(B)(3) below, expend funds for the purchase of land for the purpose of open space preservation. Such real property, unless it is real property donated to and required to be held by the town for a special purpose, may be sold, traded or otherwise disposed of by the town for the purpose of the Open Space Preservation Program.
 - (3) Action by Board. The Town Board shall refer to the Commission, for its consideration and recommendation before final action is taken by the Board, the expenditure of funds under 2.5.3.04(B)(1) above and 2.5.3.04(B)(2) above. Unless the recommendation is made within 30 days, or such longer period as may set by the Town Board, the Board may take final action without it.
 - (4) Voluntary Conveyances. The Town Board may acquire conservation interests only from willing owners and may not exercise its power of eminent domain to acquire such interests.
 - (5) Indirect Costs. In addition to the purchase price thereof, the Town Board may expend funds for the payment of indirect costs associated with carrying out the purposes of this ordinance including, but not limited to, the costs of administration and acquisition of the interest, survey costs, title evidence, attorney's fees, appraiser's fees, environmental assessments, transfer taxes and recording fees.

2.5.3.05 Procedure For Acquisition of Conservation Interests

- (1) The Town Board may conduct public meetings and/or public hearings as necessary and convenient for consideration of Open Space Preservation Program expenditures.
- (2) Prior to purchasing any conservation interest, the Town Board shall cause to be conducted an appraisal prepared by a qualified

appraiser setting forth the fair market value of the interest proposed to be purchased, as well as a commercially reasonable due diligence investigation of all potential risks associated with the property which includes, but is not limited to, risks of environmental contamination.

2.5.3.06 Alienation of Acquired Interests

Except as provided under Sec. 60.10(2)(g), Wis. Stats., unless the intention to reconvey a conservation interest is expressly provided for in the Board's authorization to acquire such interest, no conservation interest acquired by the town under the provisions of this Ordinance shall thereafter be alienated or disposed of, unless all of the following conditions have been met:

- (1) The Board or the Commission has conducted a public hearing for the purpose of considering the proposed alienation;
- (2) The Board has referred to the Commission, for its consideration and recommendation before final action is taken by the Board, the proposed alienation. Unless such recommendation is made within 30 days, or such longer period as may be set by the Board, the Board may take final action without it;
- (3) An advisory referendum on the proposed alienation is approved by a majority of the electors of the town voting on the measure.
- (4) A resolution in support of the proposed alienation is adopted by an affirmative vote of two-thirds of the members of the Town Board; and
- (5) A resolution in support of the proposed alienation is adopted by a majority of the members of the governing body of any public agency or nonprofit conservation organization, which jointly undertook the acquisition of the conservation interest proposed to be alienated.
- (6) All proceeds resulting from any effected alienation shall be returned to the Open Space Preservation Program Fund.

2.5.3.07 Conflict of Interest

No person may participate in any deliberation of the Commission or of the Board in the consideration or determination of any expenditure under this ordinance in which the person, a member of the person's family, or an organization with whom the person is affiliated has a financial interest.

2.5.3.08 Amendment or Repeal

This ordinance may be amended or repealed only by affirmative vote of the Board following a public hearing.

2.5.4 Zoning Board of Appeals

2.5.4.01 Establishment

There is hereby established a Zoning Board of Appeals for the Town of Grafton for the purpose of hearing appeals and applications, and granting variances and exceptions to the provisions of this Zoning Ordinance.

2.5.4.02 Membership

The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Board Chairperson and confirmed by the Town Board. See Sec. 62.23(7)(e)2, Wis. Stats.

- (A) Terms shall be for staggered three-year periods ending in May of the third year or until their successors have been nominated and confirmed.
- (B) The Chairperson shall be designated by the Town Board Chairperson.
- (C) An Alternate Member may be appointed by the Town Board Chairperson for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of conflict of interest.
- (D) One Member shall be a Town Plan Commissioner.
- (E) Secretary shall be the Town Clerk.
- (F) Building Inspector shall attend meetings for the purpose of providing technical assistance when requested by the Board.
- (G) Official Oaths shall be taken by all members in accordance with Sec. 19.01, Wis. Stat. within 10 days of receiving notice of their appointment.
- (H) Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

2.5.4.03 Organization

The Zoning Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Ordinance.

- (A) Meetings shall be held at the call of the Chairperson and shall be open to the public.
- (B) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be a public record.
- (C) The Concurring Vote of four (4) members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a substituted use.

2.5.4.04 Powers

The Zoning Board of Appeals shall have the following powers:

- (A) Errors.
To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Inspector.
- (B) Variances.

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To hear and grant appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured.

- (C) Interpretations.
To hear and decide application for interpretations of the zoning regulations and the boundaries of the Zoning Districts after the Town Plan Commission has made a review and recommendation.
- (D) Substitutions.
To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Town Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
- (E) Permits.
The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit.
- (F) Assistance.
The Board may request assistance from other Town officers, departments, commissions, and boards.
- (G) Oaths.
The Chairperson may administer oaths and compel the attendance of witnesses.

2.5.4.05 Appeal and Applications

Appeals from the decision of the Building Inspector concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the secretary within 30 days after the date of written notice of the decision or order of the Building Inspector. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and applications shall include the following:

- (A) Name and Address of the appellant or applicant and all abutting and opposite property owners of the record.
- (B) Plat of Survey prepared by a registered land surveyor, or a location sketch drawn to scale, showing all of the information required for a Zoning Permit.
- (C) Additional Information required by the Town Plan Commission, Town Engineer, Zoning Board of Appeals, or Building Inspector.

2.5.4.06 Hearings

The Zoning Board of Appeals shall fix a reasonable time and place for the required public hearing, and shall give notice as specified in Section 9.1.11 of this Ordinance. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.

2.5.4.07 Findings

No variance to the provisions of this Ordinance shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

- (A) Preservation of Intent.
No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
- (B) Exceptional Circumstances.
There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
- (C) Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.
No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- (D) Preservation of Property Rights.
The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- (E) Absence of Detriment.
No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

2.5.4.08 Decision

The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, and Town Plan Commission.

- (A) Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- (B) Variances, Substitutions, or Use Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
- (C) Review By Court of Record.
Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.

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