

Title 16 – Chapter 13

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BOARD OF APPEALS

16-13-1 ESTABLISHMENT.

A Board of Appeals is established for the purposes of hearing appeals from actions of the Zoning Administrator or the Town Board and applications for variances from and exceptions to provisions of this Ordinance, and deciding the same.

16-13-2 MEMBERSHIP.

The Board of Appeals shall consist of 5 members and two alternates appointed by the Town Chairman, subject to confirmation by the Town Board, Wisconsin Statutes Sec. 62.23(7)(e)(2). All members must reside within the Town of Oshkosh. Board of appeals members shall serve staggered 3-year terms. The members of the Board shall serve at such compensation to be fixed by ordinance or, in the absence of such ordinance, shall be reimbursed their actual and reasonable expenses. They shall be removable by the Town Chairman for cause upon written charges and after public hearing. The Town Chairman shall designate one member chairman. The Board may employ a secretary.

Vacancies shall be filled for the un-expired terms of members whose terms become vacant. The Town Chairman may appoint one alternate member, who shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent.

16-13-3 ORGANIZATION.

The Board of Appeals shall adopt rules in accordance with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman and at such other times as the board may determine. The chairman, or acting chairman if there be one, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall

be open to the public and a record of all proceedings shall be kept, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and other official actions. All records immediately shall be filed in the office of the Board and shall be public.

16-13-4 APPEALS.

Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town of Oshkosh affected by any decision of any administrative officer of the Town. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken forthwith shall transmit to the Board all the papers constituting the record upon which the action was taken from which appeal is made.

16-13-5 AUTOMATIC STAY.

An appeal shall stay all legal proceedings in furtherance of the action from which appeal is made, unless the officer from whom the appeal is taken certifies to the Board that by reason of facts stated in the Certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court of record on application, with notice to the officer from whom appeal is made, and on due cause shown.

16-13-6 HEARINGS.

The Board shall fix a reasonable time for the hearing of appeals or other matters referred to it. Public notice shall be given of all hearings. Due notice of a hearing also shall be given to the parties in interest. Upon the hearing any party may appear in person or by agent or attorney. The Board shall decide each matter within a reasonable time after its hearing.

16-13-7 POWERS.

The Board shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.
- (b) To hear and decide special exceptions to the terms of this Ordinance and to grant such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provision of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and

welfare secured, and substantial justice done. Use variances shall not be granted by the Board of Appeals.

- (c) To hear and decide applications for interpretations of zoning regulations and zoning districts boundaries established under this Ordinance.
- (d) To hear and decide applications for substitution of more restrictive non-conforming uses for existing non-conforming uses where no structural alterations are to be made.
- (e) To hear and decide applications for unclassified and unspecified uses; provided, however, that such uses shall be similar in character to the principal uses permitted in the district and the Town of Oshkosh Planning and Zoning Committee shall have made a review and recommendation on the application.
- (f) To hear and decide applications for temporary uses which do not involve the erection of a substantial structure and are compatible with neighboring uses; provided, however, that the Town of Oshkosh Planning and Zoning Committee shall have made a review and recommendation on the application; and further provided that a temporary use permit shall be revocable, subject to conditions established by the Board, and shall be issued for a period not in excess of one year.
- (g) In exercising its powers the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have the powers of the officer from whom appeal is taken, and may issue or direct the issue of permits.

16-13-8 DECISIONS.

The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of any applicant, or to effect any variation in this Ordinance. The grounds of every such determination shall be stated in writing. Variances, substitutions and use permits shall expire within 18 months of their grant unless substantial work under them has been commended. A decision shall be made within 30 days after the final hearing on the matter of the hearing.

16-13-9 APPEAL OF DECISIONS.

Any person aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer of the Town of Oshkosh may present to a Court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board of Appeals.

16-13-10 ADOPTION OF ORDINANCE

This ordinance shall take effect the day after its publication pursuant as required by law. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.