**Chapter 26**

**PLANNING AND ZONING**

**ARTICLE I**

**PLANNING AND ZONING COMMISSION**

**BOARD OF ADJUSTMENT**

**DIVISION 1. PLANNING AND ZONING COMMISSION**

**Sec. 26-1. Established; Composition; Duties.**

There is hereby established a Planning and Zoning Commission for the City as provided by Section 89.010 to 89.140, Revised Statutes of Missouri.

 The Commission shall consist of nine (9) members, including the Mayor, an Alderman, and the Building Commissioner.

 The Board of Aldermen may request and shall receive from the Commission recommendations on specific problems or questions concerning planning and zoning within a reasonable period of time. (Ord. 392A; Ord. 713; Ord. 827, §1; Ord. 899, §1)

**Sec. 26-2. Recommendation as to District Boundaries.**

 It shall be the duty of the Commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein. It shall be the duty of the Commission to study and investigate all proposed changes or amendments to the basic zoning ordinance of the Board of Aldermen as provided herein.

 The Commission shall make a preliminary report and hold a public hearing when necessary before submitting its final report and the Board of Aldermen shall not hold its public hearing or take action until it has received the final report of the Commission. (Ord. 827, §1)

**Sec. 26-3. Qualifications and Appointment of Members.**

The citizen members of the Commission shall be appointed by the Mayor with the advice and consent of the Board of Aldermen. All members of the Commission shall serve without compensation. The term of each of the citizen members shall be for four (4) years. Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid.

 The Board of Aldermen may remove any member for cause stated in writing and after a public hearing. Such removal shall require approval by a majority of all members elected to the Board of Aldermen. (Ord. 827, §1)

**CROSS REFERENCES:**

**Buildings, Ch. 5; Seismic design, §5-26; Flood control, Ch. 12; Parks and Recreation, Ch. 20; Streets and Sidewalks, Ch. 22; Subdivision, Art. III of this Chapter; Utilities, Ch. 25; Zoning, Art. II of this Chapter.**

**STATE LAW REFERENCE:**

**1. Zoning all cities, towns and villages, see RSMo. §§89.010 to 89.144.**

**2. Planning, all municipalities, see RSMo. § 89.070 & § 89.320.**

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**Sec. 26-4. Commission Officers; Rules, Records.**

The Commission shall elect a chairman, a vice-chairman, and secretary from among the appointed members of the Commission. The terms of each officer shall be one (1) year with eligibility for re-election.

 The chairman shall have no vote, unless there is a tie vote on any matter considered by the Commission.

 A quorum shall require five (5) members of the Commission. All motions or questions being voted upon by the Commission shall require an affirmative vote by a majority of the voting members present. Members may abstain from voting by casting their vote as "present" and that said vote shall not be tallied as a negative or an affirmative vote.

 The Commission shall hold regular meetings and special meetings as it may provide by rule and shall adopt rules for the transaction of business and keep a record of its proceedings. These records shall be open to the public for inspection.

 The Commission shall appoint the employees and staff necessary for its work, and may contract with city planners and other professional persons for the services it requires.

 The expenditures of the Commission, exclusive of grants and gifts, shall be within the amounts appropriated for such purpose by the Board of Aldermen.

 The Commission may appoint committees or subcommittees for study and recommendations to be presented to the Commission. (Ord. 827, §1)

**Sec. 26-5. Comprehensive Plan.**

The Commission shall assist the Board of Aldermen in making and adopting a comprehensive plan for the physical development of the City.

 The comprehensive plan, with the accompanying maps, plats, charts and descriptive and explanatory materials, shall show the Commission's recommendations for the physical development of the City and may include, among other things, the general location, character and extent of streets and other public ways, grounds, places and spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned, the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, or change of use of any of the foregoing; the general character, extent and layout of the re-planning of blighted districts and slum areas. The Commission may also prepare such comprehensive plan to show regulation of height, area, bulk, location and use of private, non-profit and public structures and premises, and of population density, but the adoption, enforcement, and administration of the zoning plan as contained in the comprehensive plan shall conform to the provisions of Sections 89.010 to 89.140 of the Revised Statutes of Missouri and the ordinances of the City. (Ord. 827, §1)

**Sec. 26-6. Preparation of Comprehensive Plan.**

In the preparation of the comprehensive plan for the City, the Commission shall make careful and comprehensive studies and surveys of the existing conditions and probable future growth of the City. The plan shall be made with the general purpose of guiding and accomplishing a coordinated

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development of the City which will, in accordance with existing and future needs, best promote the general welfare, as well as efficiency and economy of the City in the process of development. The Commission shall be responsible for the periodic review of the comprehensive plan. (Ord. 827, §1)

**Sec. 26-7. Commission Procedure Prior to Adoption of the Plan.**

Prior to the adoption of the comprehensive plan by the Board of Aldermen, the Commission shall hold at least one public hearing thereon. The Commission shall hold such public hearing prior to any amendment or extension of such plan as adopted by the Board of Aldermen. Notice of such public hearing shall be published in a newspaper of general circulation in the City at least fifteen (15) days in advance. Such notice shall indicate the time, place, and date of such hearing. The hearing may be adjourned from time to time. The adoption of the plan by the Commission requires a majority vote of the full membership of the Commission. The resolution shall refer expressly to the maps, descriptive matter, and other matters intended by the Commission to form the whole or part of the plan and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the secretary of the Commission, identified properly by file number, and a copy of the plan or part thereof shall be certified to the Board of Aldermen and the municipal clerk, and a copy shall be recorded in the office of the county recorder of deeds. (Ord. 827, §1)

**Sec. 26-8. Recommendations; Powers.**

In general, the Commission shall have the power necessary to enable it to perform its functions and promote municipal planning.

 The Commission may make reports and recommendations relating to the comprehensive plan of the City and the development of the City to public officials and agencies, public utility companies, civic, educational, and other organizations and citizens.

 It may recommend to the executive or legislative officials of the City such programs for public improvements and the financing thereof as it deems appropriate.

 All public officials shall, upon request, furnish to the Commission, within a reasonable time, all available information it requires for its work.

 The Commission, its members and employees, in the performance of its functions, may enter upon any land to make examinations and surveys with permission of owner/occupant.

 The Commission shall have and perform all of the functions of Planning and Zoning Commissions as provided for in Sections 89.010 to 89.140 of the Revised Statutes of Missouri. (Ord. 827, §1)

**Sec. 26-9. Approval of Improvements.**

Whenever the Board of Aldermen adopts the comprehensive plan of the City, no street or other public facilities, and no public utility, whether publicly or privately owned, and the location, extent, and character thereof having been included in the comprehensive plan, shall be constructed or authorized in the City until the location, extent, and character thereof has been submitted to and approved by the Commission. In case of disapproval, the Commission shall communicate the reasons for such disapproval to Board of Aldermen. The Board of Aldermen may overrule the action of the Commission by a majority vote of the elected members of the Board of Aldermen. Upon the overruling, the Board of Aldermen or the appropriate board or officer may proceed, except that if the

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public facility or utility is one the authorization or financing of which does not fall within the province of the Board of Aldermen, then the submission to the Commission shall be by the board having jurisdiction, and the Planning and Zoning Commission's disapproval may be overruled by that board by a vote of not less than a majority of its entire membership. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use; acquisition of land for sale or lease of any street or other public facility is subject to similar submission and approval, and the failure to approve may be similarly overruled. The failure of the Commission to act within sixty (60) days after the date of official submission to it shall be deemed approval. (Ord. 827, §1)

**Sec. 26-10. Annexation.**

All annexation proposals shall first be submitted to the Commission for its study and report to the Board of Aldermen. Such report shall consist of recommendations concerning the needs of the municipality for such annexation and the ability of the City to provide normal municipal services to such area within a reasonable time. The Commission shall make such report to the Board of Aldermen within a reasonable time after receiving such proposal. Nothing herein shall prevent the Board of Aldermen from acting upon such proposals either with or without the recommendations of the Commission. (Ord. 827, §1)

**Sec. 26-11. Regulations Governing Subdivision of Land, Contents - Public Hearing.**

The Planning and Zoning Commission shall recommend and the Board of Aldermen may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats may provide requirements for the coordinated development of the municipality; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the City plan or official map of the municipality; for adequate open spaces for traffic, recreation, light, and air; and for a distribution of population and traffic.

 The regulations may include requirements as to the extent and the manner in which the streets of the subdivision or any designated portions thereto shall be graded and improved as well as including requirements as to the extent and manner of the installation of all utility facilities, and compliance with all of these requirements is a condition precedent to the approval of the plat. No plat of a subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the Commission to the Board of Aldermen and the Board of Aldermen has approved the plat as provided by law. The regulations or practices of the Board of Aldermen may provide for the tentative approval of the plat previous to the improvements and installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completions of the work and installations previous to the final approval of a plat, the Board of Aldermen may accept a bond in the amount and with surety and conditions satisfactory to it, providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the Board of Aldermen and expressed in the bond; and the Board of Aldermen may enforce the bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installation previous to the final approval of a plat, for an assessment or other method whereby the Board of Aldermen is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the City plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

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 Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing shall be held by the Commission and the Board of Aldermen. (Ord. 827, §1)

**Sec. 26-12. Commission to Approve Plats, When - Effects.**

Within sixty (60) days after the submission of a plat to the Commission, the Commission shall approve or disapprove the plat; otherwise the plat is deemed approved by the Commission, except that the Commission, with the consent of the applicant for the approval, may extend the sixty (60) day period. The reason(s) for disapproval of any plat by the Commission shall be made a matter of record.

 The approval of a plat by the Commission does not constitute or effect an acceptance by the municipality or public of the dedication to public use of any street or other ground shown upon the plat. (Ord. 827, §1)

**Sec. 26-13. Approval of Plats Required for Recording.**

No county recorder shall receive for filing or recording any subdivision plat required to be approved by a Board of Aldermen or Planning and Zoning Commission unless the plat has endorsed upon it the approval of the Board of Aldermen under the hand of the clerk and the seal of the City, or by the secretary of the Commission. (Ord. 827, §1)

**Sec. 26-14. Use of Unapproved Plat in Sale of Land - Penalty –Injunction of Transfer.**

No owners, or agent of the owner, of any land located within the platting jurisdiction of the City, knowingly or with intent to defraud; may transfer, sell, agree to sell, or negotiate to sell that land by reference to or by other use of a plat of any purported subdivision of the land before the plat has been approved by the Board of Aldermen or the Commission and recorded in the office of the appropriate county recorder. Any person violating the provisions of this Section shall forfeit and pay to the municipality a penalty not to exceed three hundred dollars for each lot transferred or sold or agreed or negotiated to be sold, and the description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from this penalty. A municipality may enjoin or vacate the transfer or sale or agreement by legal action and may recover the penalty in such action. (Ord. 827, §1)

**Sec. 26-15. Public Improvements, How Approved after Adoption of Major Street Plan.**

Upon the adoption of a major street plan or major thoroughfare and subdivision regulations, the municipality shall not accept, lay out, open, improve, grade, pave or light any street, lay or authorize the laying of water mains, sewers, connections or other utilities in any street within the municipality unless the street has received the legal status of a public street prior to the adoption of a City plan; or unless the street corresponds in its location and lines with a street shown on a subdivision plat approved by the Board of Aldermen or the Commission or on a street plan made by and adopted by the Commission. The Board of Aldermen may locate and construct or may accept any other street if the ordinance or other measure for the locations and construction or for the acceptance is first submitted to the Commission for its approval and approved by the Commission or, is disapproved by the Commission, is passed by the affirmative vote of not less than a majority of the entire membership of the Board of Aldermen.

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 In the event a development is being considered which encompasses the area of a major thoroughfare, shown as part of the comprehensive plan, a public hearing shall be held to determine the exact location and the method of financing the proposed route. It is the intent of the Board of Aldermen to participate in part of, or all of, the construction cost of these major thoroughfares. However, the amount of participation will be based on the availability of other roads which may serve the proposed development and the impact this major route will have, not only on the proposed development, but the impact to the community's transportation system. (Ord. 827, §1)

**Sec. 26-16. No Building Permitted on Streets not Conforming to Major Street Plan.**

After the adoption of a major street plan, no building permit shall be issued for and no building shall be erected on any lot within the territorial jurisdiction of the Commission unless the street giving access to the lot upon which the building is proposed to be placed conforms to the requirements of Section 26-15. (Ord. 827, §1)

**Sec. 26-17. Limitations on Rezoning Requests.**

 No application for rezoning with respect to, or that includes, any tract or portion of land, for which rezoning was previously denied, shall be accepted by the Planning Commission or Board of Aldermen within (12) twelve months of the date of the final denial by the Board of Aldermen of such previous request. The Board of Aldermen may waive this provision, in the event of substantially changed conditions, when an applicant submits in writing to the Board of Aldermen why a waiver is requested and the grounds therefore. (Ord. 827, §1)

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**DIVISION 2. BOARD OF ADJUSTMENT**

# Sec. 26-18. Board of Adjustment - Composition.

The Board of Adjustment shall consist of five members, who shall be City residents. The members of the Board of Adjustment shall be appointed for staggered terms of five (5) years each and shall serve without compensation. No member shall serve more than two (2) consecutive terms and shall not be a current member of the Planning and Zoning Commission. All members shall be removable for cause by the appointing authority upon written charges and after public hearings. The Board shall elect its own chairman who shall hold office for one year. The Building Commissioner, or his designee, shall be an ex-officio member of the Board of Adjustment without voting power. The Building Commissioner, as an ex-officio member, shall act as secretary and shall maintain a separate file for each application for appeal, special exception and variance received and shall record therein the names and addresses of all persons, and further keep a record of all notices published as required herein. (Ord. 393, §15; Ord. 705; Ord. 714; Ord. 827, §1)

**Sec. 26-19. Procedures.**

Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board may determine. All meetings of the Board of Adjustment shall be open to the public except as provided by law. The Board 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 shall keep records of its examinations and other official actions. Every decision of the Board of Adjustment shall be in writing and shall contain a full record of the findings of the Board in each case, all of which shall be immediately filed in the office of the Board and shall be a public record.

The secretary of the Board of Adjustment shall notify in writing the Board of Aldermen and Zoning and Planning and Zoning Commission of each decision, interpretation, appeal, special exception and variance considered under the provisions of this Article. (Ord. 827, §1)

**Sec. 26-20. Powers.**

The Board of Adjustment shall:

 (a) 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 Article and may also decide any questions involving the interpretation of any of the provisions of this Article, including the location of any district boundaries, if there is uncertainty with respect thereto.

 (b) In appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this Article in harmony with its general purpose and intent and in accordance with the general and specific rules herein contained.

 (c) Authorize, upon appeal, in specific cases such variance from the terms of this Article as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions hereof will result in unnecessary hardship, and so that the spirit of this Article shall be observed and substantial justice done. (Ord. 827, §1)

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**Sec. 26-21. Appeals.**

Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the City of Potosi affected by any decision of an administrative officer. Such appeal shall be taken within fifteen (15) days time after an administrative officer has rendered the decision. Such appeal shall be taken by filing with the officer from whom the appeal is taken and with the secretary of the Board of Adjustment a notice of appeal specifying the reasons. The officer from whom the appeal is taken shall send to the secretary of the Board all the papers constituting the record relating to the appealed action. The applicant for an appeal, however, shall bear the burden of producing evidence establishing the grounds of the appeal. In exercising the powers herein granted, the Board may, in conformity with the provisions of this Article reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members shall be necessary for an appeal to be approved by the Board of Adjustment. (Ord. 827, §1)

**Sec. 26-22. Appeals to Stay Proceedings.**

A properly filed notice of appeal shall stay all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his 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 of Adjustment or by a proper court order. (Ord. 827, §1)

**Sec. 26-23. Notice and Deposits.**

Notice of appeals shall be submitted not less than twenty eight (28) days prior to a regularly scheduled Board meeting. The applicant shall be notified in writing by registered mail of the date, time and location of the hearing. Upon filing a notice of appeal with the secretary of the Board of Adjustment, and before such appeal shall be construed as having been perfected, the applicant shall deposit the sum of ten dollars ($10.00) with the City clerk to cover the cost of mailing and posting notices. (Ord. 827, §1)

**Sec. 26-24. Limitation on Re-filing.**

 No appeal, request or application to the Board of Adjustment shall be allowed with respect to the same parcel of land, building, or structure prior to the expiration of six (6) months from the date of the ruling of the Board of Adjustment unless a substantial change of circumstances or conditions can be demonstrated by the applicant. (Ord. 827, §1)

**Sec. 26-25. Exceptions and Variances.**

A "special exception" is a permission given by the Board properly authorized by this Article in specific cases for an applicant to use his property in a manner contrary to the provisions of this Article provided such use serves the general welfare and preserves the community interest. A "variance" is an authorization by the Board granting relief and doing substantial justice in the use of the applicant's property by a property owner where, owing to special conditions a literal enforcement of the provisions of the Article will result in unnecessary hardship. The Board of Adjustment may designate conditions on granting special exceptions or variances that secure the public interest and intent of this Article. (Ord. 827, §1) *(Revised 3/03)*

**Sec. 26-26. Notices of Hearings.**

Applications for special exceptions and variances shall be submitted on forms provided for this purpose not less than twenty-eight (28) days prior to a regularly scheduled Board meeting. Once the application has been determined to be complete, the Board of Adjustment shall hold a public hearing and written notice of all such public hearings shall be sent by the secretary of the Board to the applicant and all other persons deemed by the Board to be affected. Notices shall also be posted in three conspicuous places in the vicinity of the real estate to be affected, such notice to be posted not less than ten days before the date set for public hearing. Such notices shall state the time and place of such public hearing. Provided, however, all provisions contained herein with respect to the mailing and posting of notices of hearing shall be deemed sufficient upon substantial compliance with this Section, which is to be construed as directory and not mandatory. (Ord. 827, §1)

**Sec. 26-27. Hearings.**

Any interested party may appear at the hearing in person or by agent or by attorney. The burden of proof shall be on the applicant to establish the facts necessary which the Board of Adjustment must find before granting any special exception or variance as herein contained. The Board of Adjustment may impose such conditions and restrictions as may be necessary to comply with the standards set out in this Article to reduce, minimize, or mitigate the effect of such special exception or variance upon the property in the neighborhood, and to better carry out the intent of this Article. The concurring vote of four members of the Board shall be necessary to decide in favor to affect any variance of this Article or to grant any special exception. No request or application to the Board of Adjustment shall be allowed on the same piece of property prior to the expiration of six (6) months from a ruling of the Board of Adjustment on any request or application to such body unless other property abutting or adjoining such property shall have within such period been altered or changed by a ruling of the Board of Adjustment, in which case such change of circumstances shall permit the allowance of an application, but such hearing shall be considered on its merits as in all other cases. (Ord. 827, §1)

**Sec. 26-28. Duration.**

 Any special exceptions or variances authorized or granted by the Board of Adjustment either under the provisions of this Article or under the authority granted to the Board of Adjustment under the statute of the State of Missouri shall authorize the issuance of a building permit, or a certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action on the part of the Board of Adjustment, unless the Board of Adjustment in its minutes shall, at the same time, grant a longer period. If the building permit or certificate of occupancy shall have not been issued within said ninety (90) day period or such extended period as the Board may specifically grant, then the special exception or variance shall be deemed waived and all rights thereunder terminated. Such termination or waiver shall be without prejudice to a subsequent appeal to the Board in accordance with the rules and regulations herein contained. (Ord. 827, §1)

**Sec. 26-29. Special Exceptions.**

The prospective occupant or owner of the property shall make application for special exceptions according to the terms of this Article. A deposit of ten dollars ($10.00) shall accompany such application, to cover expenses of mailing and posting notices. The Board of Adjustment may, after public notice and hearing and subject to the conditions and safeguards herein contained, authorize special exceptions to this Article as follows:

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 (a) The Board of Adjustment may grant a special exception to allow a legal non-conforming use to be changed to any other use permitted in the zoning district in which the non-conforming use is allowed, provided the proposed use is not more intense than the existing use in terms of traffic generation and other impacts on surrounding property.

 (b) Permit the extension of an existing legal non-conforming use in a building upon a lot currently occupied as a legal non-conforming use.

 (c) Permit the use of property in the "R-1" and "R-2" Districts adjacent to the "R-3", "C" or "M" Districts, even if separated by an alley or by a street, for parking of passenger cars under such safeguards and conditions of the setback requirements of the more restricted property, and further provided that such parking area shall not extend a greater distance than five hundred (500) feet from the "R-3," "C" or "M" Districts and other conditions as needed to promote public safety.

 (d) Permit the use of property owned by a church for the parking of passenger cars in any district under such safeguards and conditions as are necessary to protect adjacent property. (Ord. 827, §1)

**Sec. 26-30. Variances.**

 The Board of Adjustment may grant an applicant a variance in the following instances:

 (a) A variance from the applicable bulk regulations for buildings and structures, including maximum height, lot coverage, and required yard areas.

 (b) A variance from the applicable minimum requirements for lot size, width, depth, or setback distances.

 (c) A variance from the applicable off-street parking requirements.

 (d) A variance from the applicable open space, landscaping and buffer area requirements.

 (e) A variance to permit the reconstruction of a non-conforming building which has been destroyed or damaged by fire or other casualty, or act of God or the public enemy, to the extent that the cost of restoration does not exceed seventy five (75) percent of completely reconstructing the building. (Ord. 827, §1)

**Sec. 26-31. Variance Standards.**

The Board of Adjustment shall not vary the regulations of this Article as authorized above unless and until it shall make findings based upon the particular evidence presented to it in each specific case that:

 (a) That there are special circumstances or conditions applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this Article shall create an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building, and;

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 (b) That the alleged hardship has not been created by any person presently having an interest in the property, and;

 (c) That the purpose of the variance is not based exclusively on a desire to enhance the value of the property, or increase the return or investment income and;

 (d) That the granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located, and;

 (e) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose, and will not alter the essential character of the neighborhood; and;

 (f) That the literal enforcement and strict application of the provisions of this Article will result in an unnecessary hardship inconsistent with the general provisions and intent of this Article and that in granting such variance the spirit of the Article will be preserved and substantial justice done. (Ord. 827, §1)

**Sec. 26-32. Use Variances.**

The Board of Adjustment may grant use variances where the strict enforcement of this Article may cause an unnecessary hardship resulting from the unique physical characteristics of a site for a proposed use. The Board of Adjustment shall also make a determination that granting the use variance is consistent with the intent of the Comprehensive Plan and that granting the variance will result in the achievement of substantial justice. Applications for a use variance shall contain a site plan showing all buildings, structures, setbacks, and other information as required by the Building Commissioner. (Ord. 827, §1)

**Sec. 26-33. Appeal from Ruling of Board of Adjustment.**

Appeals from rulings of the Board of Adjustment may be taken in the manner provided by statute. (Ord. 827, §1)

**Secs. 26-34 to 26-36. Reserved.**

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