

E. The council may appoint a board of zoning appeals and in the regulations and restrictions adopted pursuant to the authority of this Charter may provide that the board of zoning appeals may, in appropriate cases and subject to appropriate conditions and safeguards, vary in the application of the terms of the ordinance in harmony with its general purpose and intent and in accordance with general purpose and intent and in accordance with general or specific rules therein contained.

The board of zoning appeals shall consist of five members, each to be appointed for a term of five years and removable for cause by the appointing authority, upon written charges and after public hearing. Vacancies shall be filled by the council for the unexpired term of any member whose term becomes vacant after the effective date of this Charter. Members of the board of zoning appeals in office on the effective date of this Charter shall continue to hold office until expiration of their present terms. Members may be reappointed to succeed themselves. Members shall hold no other public office in the town except that one member may be a member of the planning commission. The board shall select a chairman, a vice-chairman, and a secretary and shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Charter.

Appeals to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the town affected by any decision of the zoning administrator in accordance with the provisions of the zoning ordinance.

F. The board of zoning appeals shall have the following powers:

1. 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 Charter or any ordinance adopted pursuant thereto;
2. To hear and decide uses permissible on appeals and other special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance; and
3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of the ordinance will result in exceptional and peculiar hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

G. In exercising the powers conferred upon it the board may 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 should be made and to that end shall have all the powers of the administrative officer charged by the ordinance with enforcement. The concurring affirmative vote of three members of

the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative officer or to decide in favor of the applicant in any matter over which it has jurisdiction. The board shall act by formal resolution which shall set forth the reason for its decision and the vote of each member participating therein which shall be spread upon its records and shall be open to public inspection. The board may, upon the affirmative vote of three members, reconsider any decision made and, upon such reconsideration, render a decision by formal resolution. Every decision of the board shall be based upon a finding of fact which may be based on sworn testimony, which finding of fact shall be reduced to writing and preserved among its records.

H. Any person or persons, jointly or severally, aggrieved by a decision of the board of zoning appeals, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal in whole or in part, specifying grounds of the illegality. The procedure for such judicial review shall be in accordance with the provisions of the zoning ordinance.

I. Whenever any building or structure is erected, constructed, reconstructed, altered, repaired, or converted, or whenever any land, building, or structure is used in violation of any ordinance adopted in accordance with subsection B of § 5.7, the town may institute and prosecute appropriate action or proceedings to prevent such unlawful act and to restrain, correct, or abate such violation or to prevent any unlawful act, conduct, or use of such property.