

**ORDINANCE NO. 2009-3**

**AN ORDINANCE PROVIDING FOR A ZONING BOARD OF APPEALS  
FOR THE PURPOSE OF REVIEWING  
ZONING APPEALS/VARIANCES**

Planning & Community Development

Zoning Board of Appeals

Appeals/Zoning Variances

Zoning variances are intended to provide administrative relief from a zoning provision that causes practical difficulty or unnecessary hardship for a property owner, due to unique circumstances of the property. In other words, a zoning variance is official permission to "violate" a specific ordinance requirement when certain findings have been made. Only the Zoning Board of Appeals can grant variances. The "Zoning Enabling Acts" required that a Zoning Board of Appeals be established to consider requests for variances. (The Zoning Board of Appeals consists of three appointed members of the Planning and Zoning Council.)

There are four types of variances: area/dimension (non-use) variances; use variances; administrative reviews; and interpretation variances.

*Area/Dimension (Non-Use) Variances*

This is the most common variance request. A non-use variance addresses issues such as the height of a building, setback of a building, and area of a sign.

*Use Variance*

A use variance permits a use of land that is not otherwise permitted in that zoning district. This, effectively, rezones the parcel without legislative (City Council) action. Use variances are considered inappropriate except when the property CANNOT be reasonably used as it is presently zoned and other attempts to obtain local approval (e.g., through rezoning) have been denied.

*Administrative Review*

The Zoning Board of Appeals can hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision or refusal made by an official, board or commission in carrying out or enforcing any provisions of the Zoning Ordinance. Such appeals must be filed within thirty (30) days of the date of the order, decision, refusal or requirement being appealed.

*Interpretation*

The Zoning Board of Appeals has the authority to hear and decide requests for interpretation of the Zoning Ordinance text, including the zoning map.

### Time Required

The average time required to complete a Zoning Board of Appeals request is less than 30 days.

The applicant should consult the Planning and Zoning Council for advice regarding the zoning appeal request.

### Procedure

#### *Petitioner*

- Submits appropriate application and any accompanying documentation as required above to the City Planning Department along with a \$125.00 filing fee. Check must be made payable to The City of Maywood Park. The application and any accompanying documentation should be received at least three (3) weeks before the next scheduled Zoning Board of Appeals meeting in order to have the appeal heard at that meeting.

#### *Zoning Board of Appeals*

- Convenes as needed.
- Places a notice of the public hearing in the City of Maywood Park Bulletin at least ten (10) days prior to the date of the hearing.
- Except for an Ordinance interpretation, all property owners and occupants of all single- and multi-family dwellings within three hundred (300) feet of the site are notified of the public hearing by First-Class Mail at least ten (10) days prior to the date of the hearing.
- Reviews applicant and public testimony.
- Provides their decision to applicant within ten days of hearing and prepares a report outlining decision for the City Council.

#### *Appeals via City Council*

- Receives the staff report from Zoning Board of Appeals.

The Council usually makes its determination based on Zoning Board recommendation and any additional new information from applicant or public. However, additional information may be needed before a decision can be made. In this instance, the Council shall make its decision within a reasonable amount of time.

A copy of the Council decision shall be mailed to the applicant.

Persons objecting to the decision may appeal to the City of Maywood Park Municipal Court.

The City Council hereby declares an emergency, declaring that this Ordinance is immediately necessary to secure the continued general public health and general welfare of the citizens of the City of Maywood Park, and that this Ordinance is immediately necessary to conserve, stabilize, and protect property within the incorporated area of the City of Maywood Park. The Ordinance shall take effect and be in force immediately.

PASSED AND APPROVED by the City Council of the City of Maywood Park on the 18<sup>th</sup> day of August, 2009.

/s/ Mark Hardie  
MARK HARDIE, Mayor

ATTEST:

/s/ Julie D. Risley  
JULIE D. RISLEY, City Recorder/Treasurer