

CITY OF LYNNWOOD
ORDINANCE NO. 857

AN ORDINANCE AFFECTING ZONING REGULATIONS OF THE LYNNWOOD MUNICIPAL CODE BY REPEALING, REVISING, AMENDING AND CLARIFYING CERTAIN PHRASES CONCERNING THE BOARD OF ADJUSTMENT.

THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

SECTION 1. That Sections 20.08.010, 20.08.020, 20.08.030 and 20.08.040 of the Lynnwood Municipal Code, which read as follows:

"20.08.010 Appointment and term. The board of adjustment shall consist of seven members, appointed by the mayor for a term of three years or for the remainder of an unexpired three year term which is vacant, except that for the new positions which are created, appointments shall be for terms of such length that hereafter, the terms of office for at least two members and not more than three members shall expire on November 10 of each year. The board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules for the conduct of its affairs. The board shall serve without compensation.

20.08.020 Powers and duties. The board of adjustment shall have all the powers and duties prescribed by law and by this title, which are more particularly specified as follows:

- (a) Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this title, including determination of the exact location of any district boundary if there is uncertainty with respect thereto;
- (b) To consider applications for variances from the standards of this title in accordance with Section 20.08.030.

20.08.030 Authority to grant variances--Conditions. Variances shall be used to vary or adapt the strict application of any of the requirements of this title in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved but in no other case. In granting any variance, the board of adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this title shall be granted by the board of adjustment unless it finds one or more of the following:

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- (a) That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that the circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of the reasonable use of such land or building;
- (b) That, for reasons fully set forth in the findings, 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;
- (c) That the granting of the variance will be in harmony with the general purpose and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

20.08.040 Procedure. The board of adjustment shall act in strict accordance with the procedure specified by law and by this title. All appeals and applications made to the board shall be in writing, on forms prescribed by the board and shall be accompanied by twenty-five dollars to cover the costs of processing, which fee shall be deposited to the general funds of the city. Every appeal or application shall refer to the specific provision of this title involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. At least fifteen days before the date of the hearing required by law on an application or appeal to the board of adjustment, the secretary of the board shall transmit to the planning commission a copy of the application or appeal, together with a copy of the notice of the aforesaid hearing and shall request that the planning commission shall submit to the board of adjustment its advisory opinion on the application or appeal, and the planning commission shall submit a report or such advisory opinion prior to the date of the hearing. Every decision of the board of adjustment shall be by resolution, each of which shall contain a full record of the findings of the board in the particular case. Each such resolution shall be filed

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in the office of the city clerk, together with all documents pertaining thereto. The board of adjustment shall notify the city council and the planning commission of each variance granted and each interpretation under the provisions of this title. In case of rejection by the board of adjustment on any application processed, a six month waiting period will be necessary before reapplication."

ARE HEREBY REPEALED, REVISED AND AMENDED TO READ AS FOLLOWS:

20.08.010 Appointment and term. The board of adjustment shall consist of seven members, appointed by the mayor and confirmed by the city council, for a term of three years or for the remainder of an unexpired three year term which is vacant, except that for the new positions which are created, appointments shall be for terms of such length that hereafter, the terms of office for at least two members and not more than three members shall expire on January 1 of each year. No member of the board of adjustment shall be a member of the planning commission or the city council. Annually the board shall elect a chairman from its membership and shall appoint a secretary. The board shall limit the tenure of the chairman to two (2) consecutive years. The board shall prescribe rules for the conduct of its affairs. The board shall serve without compensation.

20.08.020 Powers and duties. The board of adjustment, subject to conditions, safeguards, and procedures provided by this title, and in accordance with Section 20.08.030, shall be empowered to hear and decide:

1. Appeals from orders, recommendations, permits, decisions, or determinations made by a city official in the administration or enforcement of the provisions of this chapter or any ordinances adopted pursuant to it, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
2. Applications for variances from the zoning regulations of the size and location of buildings and structures in relation to the lot, including height, minimum lot area, minimum dimensions of yards or setbacks, and lot coverage.
3. Such other quasi-judicial and administrative determinations as may be delegated by ordinance, including but not limited to variances pertaining to the location, size or dimensional standards of secondary structures and improvements such as fences, signs, parking lots and landscaping.

20.08.030 Authority to grant variances--conditions. No variance shall be granted unless the board of adjustment finds:

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- (a) The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located, and
- (b) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated, and that such variance is necessary.
 - (1) Because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located, or
 - (2) Because for reasons set forth in the findings, the variance if approved would contribute significantly to the improvement of environmental conditions, either existing or potentially arising from the proposed improvement.

20.08.040 Procedure. The board of adjustment shall act in strict accordance with the procedure specified by law and by this title. All appeals and applications made to the board shall be in writing, on forms prescribed by the board and shall be accompanied by twenty-five dollars to cover the costs of processing, which fee shall be deposited to the general funds of the city. Every appeal or application shall refer to the specific provision of this title involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Prior to the date of the hearing on an application or appeal to the board of adjustment, the membership of the planning commission shall be given an opportunity to comment on the application as it relates to the comprehensive plan and such other items on which the planning commission has responsibility. Every decision of the board of adjustment shall be by resolution, each of which shall contain a full record of the findings of the board in the particular case. Each such resolution shall be filed in the office of the city clerk, together with all documents pertaining thereto. The board of adjustment shall notify the city council and the planning commission of each variance granted and each interpretation under the provisions of this title. In case of rejection by the board of adjustment on any application processed, a six month waiting period will be necessary before reapplication.

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SECTION 2. That Chapter 20.08 of the Lynnwood Municipal Code is hereby amended by adding a new section to read as follows:

20.08.070 Appeal from a decision of the board of adjustment. The action of the board of adjustment shall be final and conclusive, unless, within ten days from the date of the action, the original applicant or an adverse party makes application to the superior court for a writ of certiorari, a writ of prohibition, or a writ of mandamus.

SECTION 3. This ordinance shall take effect five (5) days after its passage, approval and publication.

PASSED this 28th day of June, 1976,
and signed in authentication of its passage this 28th day of
June, 1976.



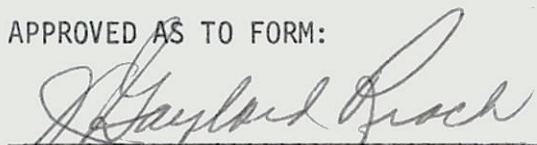
M. J. HRDLICKA, MAYOR

ATTEST:



R. W. NOACK, CITY CLERK

APPROVED AS TO FORM:



J. GAYLORD RIACH, CITY ATTORNEY

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Code Amendment (Board of Adjustment Procedures)

