



**Board of Adjustments
Regular Meeting Agenda**

September 29, 2025
5:30 PM
6738 Dixon Street
Milton, FL 32570

- 1. Call Meeting to Order**
- 2. Invocation & Pledge of Allegiance**
- 3. Approval of Minutes**
 - Item # 2025-3620
 - Approval of Minutes from August 25, 2025, meeting
- 4. Citizen Comments**
- 5. New Business**
 - Item # 2025-3621
 - Election of New Chairman and Vice Chairman
 - Item # 2025-3622
 - Board of Adjustments Training
- 6. Old Business**
- 7. Planning Department Update**
- 8. Adjournment**

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the City at least 48 hours before the meeting by contacting City Hall, 6738 Dixon Street, Milton, or by calling 983-5410.

"If any person decides to appeal any decision made by the board, agency, or commission, with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." FS 286.0105



Agenda Item # 2025-3620

Approval of Minutes from August 25, 2025, meeting

MEETING DATE

September 29, 2025

PREPARED BY

BACKGROUND

SUMMARY

RECOMMENDATION

ATTACHMENTS

1. BOA August 25, 2025 minutes

BOARD OF ADJUSTMENT

August 25, 2025

The Board of Adjustment met on Monday, August 25, 2025, at 5:30 p.m. in Conference Room A at City Hall.

PRESENT: Jay Camp
Dennis Rogers
Karra Graber
Howard Steele
Kristopher Long

Ian Rehrig, Current Planner
Melissa Short, Administrative Assistant

OTHERS: James Avery, Ross Binkley, and Councilman Larry Mckee

Jay Camp called the meeting to order at 5:31 p.m. Kristopher Long made a motion to approve the minutes from July 30, 2025, meeting, seconded by Dennis Rogers; approved 5-0.

NEW BUSINESS:

Variance – Jack’s

Ian Rehrig presented the case before the board regarding Jack’s Variance. The City of Milton received a variance request submitted by Ross Binkley, authorized agent for the property owner of a vacant parcel located at 6600 Block of Caroline Street, Milton, FL 32570. The subject property is identified as Parcel ID #03-1N-28-0000-01400-0000 and is situated on the south side of Caroline Street, between Chavers Street and Stewart Street. The property is zoned C-2 (General Commercial Zoning District).

The applicant is requesting a variance to exceed the maximum front building setback allowed within the C-2 zoning district. According to Table 6.3.1 of the City of Milton’s Unified Development Code, the maximum permitted front building setback for non-residential uses in the C-2 Zoning District is 55 feet. The applicant is requesting approval to increase the front building setback to 90.75 feet.

James Avery, developer, provided information about Jack’s Restaurant and spoke in favor of the variance request. Ross Binkley, engineer, provided the board with the drawings of the plans and explained that the shape of the property is the reason for the variance request.

Staff has reviewed the request and supports the approval for the variance. Dennis Rogers made a motion to approve the variance application as presented, seconded by Kristopher Long; approved 5-0.

There being no further items to discuss, the meeting was adjourned at 5:51 p.m.



Agenda Item # 2025-3621

Election of New Chairman and Vice Chairman

MEETING DATE

September 29, 2025

PREPARED BY

BACKGROUND

SUMMARY

RECOMMENDATION

ATTACHMENTS

None



Agenda Item # 2025-3622

Board of Adjustments Training

MEETING DATE

September 29, 2025

PREPARED BY

BACKGROUND

SUMMARY

RECOMMENDATION

ATTACHMENTS

1. Article 3.2, 3.3, 3.4, and 3.5

ARTICLE 3. CODE ADMINISTRATION AND ENFORCEMENT

3.1 PURPOSE

The purpose of this article is to establish the designated individuals, departments, boards, and other bodies responsible for the administration of this Unified Development Code.

3.2 DUTIES OF VARIOUS INDIVIDUALS, BOARDS, AND AGENCIES IN ADMINISTRATION OF THIS UNIFIED DEVELOPMENT CODE

A. City Manager.

- (1) The City Manager or his designee shall be responsible for receiving requests for concurrency determinations, informing applicants of the required information, and issuing a concurrency certificate.
- (2) The City Manager shall act as chairman of the technical review committee (TRC), setting meetings and distributing applications for major development proposals to committee members for review.
- (3) The City Manager may approve exemptions from the requirements of these regulations as deemed appropriate in emergency situations, as provided for in subsection 3.6(F).
- (4) The City Manager or his designee shall review stormwater management plans for conformance with the requirements of these regulations contained in Article 13, Stormwater Management.

B. Planning and Development Department. The Planning and Development Department shall be responsible for the administration and application of this Unified Development Code as set forth herein. The Planning and Development Department responsibilities include the following:

- (1) Determine whether a proposed development activity is consistent with the future land use map contained in the adopted comprehensive plan;
- (2) Receive applications for development approval and determine whether the development activity is a minor or major development;
- (3) Review applications for minor development and approval for permit issuance;
- (4) Refer applications which require additional review by the Historic Preservation Board or other body to the applicable board for review and action. The Planning and Development Department shall have the authority to approve minor development activities within the Community Redevelopment Areas. In addition, the Planning and Development Department shall have the authority to approve minor development activity, including signage which complies with the historic preservation guidelines in Section 11.4 of these regulations. The Planning and Development Department shall also have the authority to approve minor development activity which involve contributing structures; provided the alteration or renovation of the regulated historic structure is limited to repainting the exterior surface using the approved historic paint color chart, addition of new fencing in compliance with the City of Milton Historic District Pattern Book, or replacement of windows, doors, roof, awnings with matching historic materials and style; provided all other city regulations are met;
- (5) The planning and development director acts as the redevelopment director for the Community Redevelopment Areas;
- (6) Receive requests for special exceptions and variances and refer these to the Board of Adjustment;

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- (7) Receive requests for amendments to this Unified Development Code or the comprehensive plan and refer these to the Planning Board;
 - (8) Upon development order approval by the Technical Review Committee or City Council, the zoning coordinator shall coordinate the review of the construction plans and specifications for conformance to the public works manual and the Florida Life Safety Code; and
 - (9) Upon determination of compliance with the public works manual and receipt of approval by the city's Florida Life Safety Code Officer, the Planning and Development Department shall authorize the issuance of a building permit.

9 C. **Administrative Adjustment.**

- (1) **Applicability.** Due to the individual characteristics of a given development, the strict application of all provisions of the Code may not be appropriate in all situations. Therefore, limited administrative adjustments to the provisions of this Code by the Planning Director may be permitted, in order to allow a measure of flexibility.
 - a. Administrative adjustments shall apply only to limited circumstances and shall not apply in widespread fashion (e.g., to multiple subdivision lots or to other multiple applications on a site).
 - b. The adjustment must be consistent with the purpose, design guidelines, scale, and character of the underlying zoning district.
 - c. The adjustment must be consistent with city land use policies, including but not limited to those in the comprehensive plan.
 - d. The adjustment must not adversely impact adjacent and nearby property owners and public services, or public safety, including but not limited to necessary rights-of-way, easements, dedicated tracts, and emergency access points.
 - e. The adjustment shall meet any additional approval criteria in support of public health, safety, and welfare, as may be specified by the Planning Director, based on his or her professional judgment.
 - f. The adjustment might provide flexibility for a site with natural or physical features, such as Heritage trees, vegetation, flood courses, or other features that might be adversely affected, or have adverse effects, if standards are inflexible.
 - g. Administrative adjustments to this Unified Development Code shall only occur in conjunction with the approved Criteria for Waiver or Reduction in Standards as indicated in Subsection (5) below.
 - h. In order to encourage higher density residential development in the downtown area, the developer of any apartment, townhouse or condominium complex may be permitted to increase its height and density in accordance with Subsection 4.2(K)(5).
- (2) **Maximum Authorized Adjustments.** Developments receiving an administrative adjustment on any applicable provision of this Code shall fully comply with all other relevant requirements of this Code.
 - a. Any adjustment greater than the amount permitted in this subsection shall be addressed through the variance and/or special exception provisions of this Code as may be applicable to the development.
 - b. Multiple administrative adjustments may be considered for a single development proposal, but each adjustment must be evaluated independently and meet all necessary criteria.
 - c. Nonconforming or unpermitted use of neighboring lands, structures, or buildings in the same district shall not be considered grounds for an administrative adjustment.

(3) *Review Procedure.* The Planning Director shall evaluate and approve any administrative adjustment according to the review criteria below and shall approve, approve with conditions, or deny the adjustment. At his or her discretion, the Director may refer an administrative adjustment to the Board of Adjustment or the Historic Preservation Board, as may be appropriate. In such cases, the applicant shall follow standard processes in this Code for obtaining a variance, waiver, change in zoning, etc. Certain situations involving structure height, setbacks, and others, may require approval by the Public Works Department and/or Fire and Life Safety.

(4) *Review Criteria.* All administrative adjustments shall meet the following criteria:

- a. The administrative adjustment will be consistent with the purposes and intent of this Unified Development Code.
- b. The administrative adjustment shall not result in activities not permitted within the applicable zoning district and/or activities inconsistent with the Comprehensive Plan.
- c. Special conditions or circumstances exist.
- d. The adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations.
- e. No standard or regulation established by the State of Florida shall be violated as a result of an administrative adjustment.
- f. No required separation of uses, such as the distance between a school or church and an alcoholic beverage establishment, shall be varied as a result of an administrative adjustment.
- g. Administrative Adjustments to Zoning Standards (attached by the Planning and Development Department to the Development Application as "Administrative Adjustment") shall be limited to the following:
 - i. Reducing minimum Front, Side, and Rear Setbacks by up to 10 percent.
 - ii. Reducing or waiving the required compatibility Front Setback;
 - iii. Increasing maximum Building Height permitted by the property development standards of the zoning district by up to 10 percent;
 - iv. Increasing maximum ISR by up to 10 percent;
 - v. Reducing Lot Area and Lot Width by up to 5 percent;
 - vi. Loading Space and Parking requirements by up to ten percent except that Parking requirements for Manufacturing, Warehousing, Wholesale or Business Services, large item community retail, all remodeling/expansion projects, and all redevelopment of existing Sites with new construction may be reduced by up to 15 percent in mixed-use and commercial zoning districts;
 - vii. Increasing the maximum projection of structural elements into Front, Rear or Side Setbacks by up to 5 percent, provided there is no reduction in the corresponding Setback requirement;
 - viii. Reducing the required screening and or buffer yards specified in this Code when the Building is located adjacent to a, public or private park or open space reserve area or when existing topography or vegetation provide a natural screen; or when the adjacent residential property is developed with an Institutional or Multi-Family Use and the location of improvements on one or both properties provides adequate Screening;

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- ix. Reducing the minimum allowed distance required between on-site ground, monument or pole signs by up to 10 percent;
 - x. Increasing the maximum allowed height and/or allowed square footage of on-site ground, monument or pole signs by up to 10 percent;
 - xi. Increasing the maximum allowed height and/or allowed square footage of individual building or wall signs or of the total allowed building sign coverage by up to 10 percent;
 - xii. Allowing structurally altered legal non-conforming on-site pole, ground or monument signs to be structurally altered at their existing base or pole structure location provided that the extent of non-conforming sign height or sign size is reduced; and
 - xiii. Landscape and Open Space requirements as per Article 12, may be reduced provided at least two or more, dependent upon percentage of reduction, of the Criteria for Waiver, identified in subsection 3.2(C)(5) have been met.
 - xiv. Due to the complex nature and varying degrees of development within the City there may exist certain situations, not indicated here, that may apply to the Administrative Adjustment criteria found here. The Planning Director shall have the ability to determine applicability on a case by case basis.

(5) *Criteria for Waiver or Reduction in Standards.* All Administrative Adjustments resulting in a reduction in Zoning Standards as defined in this Unified Development Code shall be accompanied by one or more of the following as to be determined by the Planning Director given the circumstances of each individual development:

- a. Public Access to the Waterfront through deeded easement;
- b. The installation or improvement of pedestrian and/or bicycle-oriented features not limited to sidewalks, raised walkways, and bridges;
- c. The inclusion, in the development, of individual balconies with predominant waterfront views;
- d. The installation/construction of Public Entertainment and/or Recreational Features;
- e. The construction or provision of screening of land use transitions and On-site Public Parking facilities;
- f. Increased and creative landscaping and public open-space facilities and features;
- g. "Landmark" quality building design to be determined by the Planning Director;
- h. Underground and/or effective screening of utilities and service areas;
- i. The redevelopment and/or reuse of an existing structure;
- j. Improved and/or increased access and mobility of on-site pedestrian, bicycle, and vehicular traffic and accessibility features;
- k. The installation and/or incorporation in the development of approved permeable pavement systems;
- l. Innovative and proven energy conservation measures;
- m. The development of a Mixed-Use structure or complex with 10,000 or more square feet of floor space;
- n. The on-site construction of a privacy fence, decorative sound wall, and/or "berming" or mounding, and

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- o. Other site improvements, which have not been mentioned here, provided it is in keeping with the purpose and intent of the Zoning District in which the development is occurring and this Unified Development Code.

D. Florida Life Safety Code officer.

- (1) The Florida Life Safety Code officer for the city reviews all site plans and construction plans and specifications, other than single-family residential, for conformance with the Florida Life Safety Code and the Florida Fire Prevention Code.
- (2) Prior to authorizing the issuance of a building permit for development activity other than single-family residential, the Planning and Development Department shall require evidence to be provided by the Florida Life Safety Code officer indicating conformance with the Florida Life Safety Code and Florida Fire Prevention Code.

E. Technical review committee (TRC).

- (1) The technical review committee (TRC) is composed of city staff knowledgeable in the areas of land development, building, zoning, public works and/or planning, and is appointed by the City Manager. The City Manager shall act as chairman of the technical review committee.
- (2) The technical review committee is responsible for development review and development order approval for all major development activity, except major subdivision platting and planned development projects (PDPs). Development order approval is issued based upon a determination by the TRC that the proposed development activity conforms to the requirements of this Unified Development Code.
- (3) The technical review committee acts in an advisory role for development activity which requires review by the planning board and approval by city council, such as major subdivision plats and PDPs, and may be called upon to confer with the board of adjustment regarding requests for special exceptions and variances.
- (4) All minutes of the technical review committee meetings shall be filed with the Planning and Development Department.

F. Community Improvement Board.

- (1) The Community Improvement Board (CIB) provides recommendations to the City's Community Redevelopment Agencies and City Council on matters pertaining to economic development investments and activities primarily in the lands along the riverfront. Its primary responsibility is to review and evaluate all funding requests and development proposals. Nothing however prohibits their ability to evaluate other community and economic development activities in other areas if requested by Council. Further, the CIB shall evaluate pertinent projects to determine the potential impacts on the community's character and unique history.
- (2) *Duties.*
 - a. The Board shall act in an advisory capacity to the City Council in matters related to economic development and business activities in development and periodic updates of the city's economic development strategic plan. The Board shall also perform other duties as requested by the City Council or as considered advisable by the Committee and approved by the City Council, and shall act in an advisory capacity to the City Council in matters related to economic development and business activities in development and periodic updates of the city's comprehensive plan.
 - b. Make recommendations on ordinances, policies, short-term action plans, and resources allocated to business and economic development activities and programs of the city as requested by the City Council.

- c. Have such other advisory duties granted by the City Council consistent with the business and economic development needs of the city. Identify actions to promote the economic health of the business community while preserving our unique characteristics as a welcoming riverfront community.
- d. Promote the hospitality and tourism industry in Milton; and fostering businesses that serve and enjoy the loyalty of the Milton community.
- e. Identify programs, policies, and activities that can help the business community recover from any economic downturn.
- f. Pursue new and diversified businesses leveraging our expertise, including the use of a special zones, to address issues of concern.

(3) **Membership.** The board consists of 7 members. The members shall serve 2-year terms at the pleasure of City Council and without compensation. If any member fails to attend, without cause, 50% of all meetings held during any calendar year from the date of appointment by City Council, the member's seat shall be declared vacant. The members shall be composed of individuals reflecting experience or interest in the following fields of expertise:

- a. Financial services (banking, investment, and insurance).
- b. Technology and communications.
- c. Professional services (lawyers, engineers, scientific, and architects).
- d. Arts, culture, and recreation.
- e. Construction and real estate.
- f. Tourism to include Eco-tourism and lodging.
- g. Marketing and public relations.
- h. Historic Preservation.
- i. Small business and retail centers.

(4) **Qualifications.** No more than three members from any area of expertise shall be appointed and serve on the board at one time. Members must reside or engage in commercial activity within the city limits of the City of Milton.

G. Planning board.

- (1) The city planning board is hereby designated as the local planning agency. The planning board as established under part II, section 2-521 of the City of Milton Code of Ordinances, shall be responsible for review and recommendations regarding the development, updating and amendment of the comprehensive plan and this Unified Development Code. All plan amendments and revised regulations shall require planning board review and recommendation prior to council approval.
- (2) All major subdivision plats and planned development projects shall require review and recommendation by the city planning board prior to action by the city council.
- (3) All minutes of the planning board meetings shall be filed with the Planning and Development Department.

H. City council. The city council is responsible for approving planned development projects and preliminary and final plats for major subdivisions. The city council also acts as the Community Redevelopment Agency (CRA) for the Community Redevelopment Areas. Any major development activity will require CRA approval of the

required land use certificate for development in the community redevelopment areas. Upon approval of the land use certificate by the CRA, the development approval authority may approve the development order.

I. Historic preservation board.

- (1) The historic preservation board, as established in Article 11.4, shall issue a certificate of appropriateness for renovations or alterations to regulated historic structures within the historic district as set forth in Article 11.4(B).
- (2) The development approval authority shall require evidence of a certificate of appropriateness prior to authorizing development order of building permit approvals for historic structures as defined in Article 11.4.
- (3) All minutes of the historic preservation board shall be filed with the Planning and Development Department.

J. Board of adjustment.

- (1) *Established; composition; term; removal.* A board of adjustment is hereby established which shall consist of seven members to be appointed by the city council, each for staggered terms of three years. Members of the board of adjustment may be removed from office by the city council in regular council action. Vacancies shall be filled by the city council for the unexpired term of the member affected.
- (2) *Proceedings; meetings.* The board of adjustment shall adopt rules necessary to conduct its affairs and in keeping with the provisions of these regulations. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths, and compel the attendance of witnesses. All meetings shall be open to the public. The board of adjustment 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, all of which shall be a public record and be immediately filed in the office of the Planning and Development Department.
- (3) *Powers and duties.* The board of adjustment shall have the following powers and duties:
 - a. *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any board, department or committee in the administration and application of these regulations. Decisions rendered by city council shall not be appealed to the board of adjustment;
 - b. *Special exceptions.* To hear and decide only such special exceptions as the board of adjustment is specifically authorized to consider by the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under these regulations or to deny special exceptions when not in harmony with the purpose and intent of these regulations. (Refer to subsection 3.3);
 - c. *Variiances.* To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship. (Refer to subsection 3.4); and
 - d. *Powers of Planning and Development Department on appeals.* In exercising the powers mentioned in 3.2(B) and 3.2(C), the board of adjustment may, so long as such an action is in conformity with the terms of these regulations, 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 the

power of the Planning and Development Department from whom the appeal is taken. (Refer to subsection 3.5).

- e. *Voting.* The concurring vote of four members of the board shall be necessary to:
 - i. Reverse any order, requirement, decisions, or determination of the Planning and Development Department, technical review committee, or other administrative official; or
 - ii. Decide in favor of the applicant on any matters upon which it is required to decide in the application of these regulations.

K. **Designees.**

Table 3.2.1. Summary of Approval Authority

Development Type/Aspect	Approval Authority
Minor Development Activity:	
a) Review for UDC conformance	Planning and development dept.
b) City development permit	Planning and development dept.
c) Building permit	Santa Rosa County building dept.
d) Special exception	Board of adjustment
e) Variance	Board of adjustment
f) Appeal	Board of adjustment
Major Development Activity:	
a) Review for UDC conformance	Planning and development dept.
b) Development permit	Technical review committee (TRC)
c) Building permit	Santa Rosa County building dept.
d) Special exception	Board of adjustment
e) Variance	Board of adjustment
f) Appeal	Board of adjustment
Major Subdivisions and Planned Development Projects:	
a) Review for UDC conformance	Planning and Development Dept. and TRC
b) Recommendation to city council	Planning board
c) Development order	City council
d) Building permit	Santa Rosa County Building Dept.
e) Special exception	City council
f) Variance	City council
g) Appeal	City council

3.3 Special exceptions.

A. **Requirements and procedures.** A special exception and/or special use shall not be granted by the board of adjustment unless and until the following requirements and procedures are met:

- (1) *Application.* A written application for a special exception is submitted indicating the section of these regulations under which the special exception is sought and stating the grounds on which it is required.

No application may be filed by the same applicant for the same special exception for a period of six months, unless there is a substantial change of facts or circumstances;

- (2) *Notice; posting; fees.* Notice shall be given at least 15 days in advance of the public hearing. The owner of the property for which the special exception is sought or his or her agent and the owners of abutting property shall be notified by mail. Notice of such hearing shall be posted in a conspicuous spot on the property for which the special exception is sought, at the city hall and in one other public place at least 15 days prior to the public hearing. The required fees as set forth in subsection 3.6(l) shall be deposited with the city clerk to cover the cost of posting notices and notification by mail;
- (3) *Hearing.* A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- (4) *Board action; factors.* The board of adjustment shall make a finding that it is empowered under the section of these regulations described in the application to grant the special exception and; provided that the granting of the special exception will not adversely affect the public interest the board of adjustment shall confer with the appropriate representatives of boards and/or committees having the development review responsibility or specific knowledge regarding the special exception;
- (5) *Findings.* Before any special exception shall be issued, the board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - a. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and to convenience, traffic flow and control, and access in case of fire or catastrophe;
 - b. Off-street parking and loading areas where required, with particular attention to the items in subsection (5)a, of this section and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
 - c. Refuse and service areas, with particular reference to the items in subsections (5)a. and (5)b. of this section;
 - d. Utilities, with reference to the location, availability and compatibility;
 - e. Screening and buffering with reference to type, dimensions, and character;
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
 - g. Required yards and other open space;
 - h. General compatibility with adjacent properties and other property in the district; and
- (6) *Restrictions.* Any restrictions imposed as a condition of granting the special exception, such as limitations on size or square footage, including future expansions, shall be specified at the time the special exception is granted.

3.4 VARIANCES

- A. **Requirements and procedures.** A variance from the terms of these regulations shall not be granted by the board of adjustment unless and until the following requirements or procedures are met:
 - (1) *Application; conditions.* A written application for a variance (hardship relief) is submitted to the Planning and Development Department demonstrating that a hardship exists based on one of the following conditions:

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- a. Special conditions and circumstances exist which are peculiar to the land, structure, or buildings involved and which are not applicable to other land, structure, or buildings in the same district;
 - b. Literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations;
 - c. The special conditions and circumstances do not result from the actions of the applicant; or
 - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures or buildings in the same district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

No application may be filed by the same applicant for the same variance for a period of six months, unless there is a substantial change in facts or circumstances.

- (2) *Notice; hearing.* Notice of public hearing shall be given in accordance with the provisions specified in section II-4, special exceptions, and a public hearing shall be held. Any party may appear in person, or by agent or by attorney;
- (3) *Findings.* The board of adjustment shall make a finding that the requirements regarding hardship relief have been met by the applicant for a variance, that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - a. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
- (4) *Conditions; safeguards; violation.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under section 3.6;
- (5) *Time limit.* The board of adjustment shall prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the prescribed time limit shall render the variance null and void; and
- (6) *Substantially similar use.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district; however, as provided for in these regulations, the board may make a substantially similar use determination upon request by the development approval authority.

3.5 APPEALS

A. To board of adjustment.

- (1) Appeals to the board of adjustment concerning the interpretation or administration of these regulations may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by any decision of the Planning and Development Department, technical review committee, or any administrative official or board. (Decisions rendered by the city council shall not be appealed to the board of adjustment.) Appeals shall be taken within a reasonable time period, not to exceed 30 days, by filing with the Planning and Development Department and with the board of

adjustment a notice of appeal specifying the grounds thereof. The Planning and Development Department shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

- (2) The board of adjustment shall fix a time, not to exceed 30 days from the date the appeal was filed, for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and render their decision at the hearing. At the hearing, any party may appear in person or by agent or attorney.
 - (3) An appeal stays all proceedings in furtherance of the action appealed from, unless the official from whom the appeal is taken, certifies to the board of adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. Such case proceedings shall not be stayed other than by a restraining order which may be granted by the board of adjustment or by an injunction granted by the circuit court on notice to the official from whom the appeal is taken and on due cause shown.
- B. **Judicial review.** Any taxpayer, or any officer, department, board or bureau of the governing body, or any person, jointly or severally, having standing to do so, may seek review of a final quasi-judicial decision of the board of adjustments by petition for writ of common-law certiorari to the circuit court in and for the county, pursuant to state law.
- C. **Historic preservation board.** Appeals to the city council, acting as the redevelopment agency, may be taken by any person aggrieved or by any officer or bureau of the city council affected by any decision of the historic preservation board. Appeals shall be taken within a reasonable time period, not to exceed 30 days, by filing with the Planning and Development Department and with the city council a notice of appeal specifying the grounds thereof. The Planning and Development Department shall forthwith transmit to the council all papers constituting the record upon which the action appealed was taken.

3.6 ENFORCEMENT AND PENALTIES

- A. **Administration and enforcement.** The Code Enforcement Officer, Planning and Development Director, his or her designee, and Certified Stormwater Inspectors for the city shall enforce these regulations. If he or she finds that any provisions of these regulations are being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order:
- (1) The discontinuance of the illegal use of the land, buildings, or structures;
 - (2) Removal of the illegal building or structures or of the illegal additions, alterations or structural changes;
 - (3) Discontinuance of any illegal work being done; or
 - (4) Take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.
- B. **Expiration of permit.**
- (1) *Time restrictions causing cancellation; notice.* Except as specifically provided elsewhere in this Unified Development Code, if the work described in any building permit or city development permit has not begun within six months from the date of issuance thereof, or if work ceases for a period of 12 months, said permit shall expire; it shall be canceled by the county building official or the city's Planning and Development Department as applicable, and written notice thereof shall be given to the persons affected.

Furthermore, except as specifically provided elsewhere in this Unified Development Code, if the work described in any building permit or city development permit has not been substantially completed