

§ 485-29. Zoning Board of Appeals.

- A. Establishment. There shall be a Zoning Board of Appeals consisting of five members appointed by the Mayor, subject to confirmation by the Common Council, for terms of three years, except that of those members first appointed one shall serve for one year, two for two years and two for three years. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Mayor shall appoint, for staggered terms of three years, two alternate members of such Board, in addition to the five members above provided for. Annually, the Mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Board so refuses or is absent. The above provisions with regard to removal and the filling of vacancies shall apply to such alternates.
- B. General rules.
- (1) The members of the Zoning Board of Appeals shall serve at such compensation as is fixed by ordinance.
 - (2) Members shall be removable by the Mayor for cause upon written charges and after public hearing.
 - (3) The Mayor shall designate one of the members Chairperson, and the Zoning Board of Appeals may designate such other officers and employ such employees as it feels necessary.
 - (4) The Zoning Board of Appeals shall adopt rules governing its procedure consistent with the terms of this chapter.
- C. Meetings. Meetings of the Board shall be held at the call of the Chairperson and at other times as the Board may determine. Such Chairperson, or in his absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. 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 action, all of which shall be immediately filed in the office of the Board and shall be a public record.
- D. Powers. The Zoning Board of Appeals shall have the following powers as defined by statute:
- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
 - (2) To hear and decide special exceptions to the terms of this chapter upon which such Board is required to pass under this chapter.

- (3) To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.
- E. Additional requirements. In making its determination, the Board shall consider whether the proposed exception or variance would result in the use being hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects and may impose such requirements and conditions with respect to location, construction, and maintenance and operation, in addition to any which may be stipulated in this chapter, as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare.
- F. Performance standards. In order to reach a fair and objective decision, the Board may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances or which have been developed by planning, manufacturing, health, architectural, and engineering research organizations.
- G. Enforcement of decisions. In exercising the above-mentioned powers, such Board may, in conformity with the provisions of this chapter, 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, and may issue or direct the issuance of a permit, provided that no such action shall have the effect of permitting in any district a use prohibited in that district; of rezoning; or granting a conditional use or special exception where such grant is not specifically assigned to the Board for determination under this chapter; or of permitting, without the approval of the Plan Commission, any building within the base setback area as hereinafter established by the provisions of this chapter.
- H. Required vote. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation therefrom. The grounds of every such determination shall be stated.
- I. Further appeal. Any person or persons aggrieved by any decision of the Zoning Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the City may appeal from a decision of the Zoning Board of Appeals within 30 days after the filing of the decision in the office of the Zoning Board of Appeals in the manner provided in § 62.23(7), Wis. Stats.