

ARTICLE 20

BOARD OF ZONING APPEALS

20.1 THE BOARD OF ZONING APPEALS ESTABLISHED

A Board of Zoning Appeals is hereby created by the Governing Body of the City as prescribed by law. Such Board shall consist of five members all of whom shall be taxpayers and residents of the City of Rossville. Members of the Board of Zoning Appeals shall be appointed by the Governing Body. Not less than one or more than two members of the Board shall be members of the Planning Commission. One member of said Board shall be appointed to serve for a period of one year, two for a period of two years, and two for a period of three years. Vacancies shall be filled by appointment for the unexpired term only. Members of the Board serve without compensation.

20.2 ORGANIZATION OF THE BOARD

The Board of Zoning Appeals shall organize by electing annually one of its members as Chairman. The Board of Zoning Appeals may also select from among their members a Vice-Chairman and such other officers as the Board of Zoning Appeals shall consider necessary. The Board of Zoning Appeals shall appoint a Secretary, who need not be a member of the Board of Zoning Appeals, to maintain its records and keep minutes of all proceedings before the Board of Zoning Appeals. The Governing Body of the City shall have the power to remove any member of the Board of Zoning Appeals for cause. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. 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, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Code Enforcement Administrator and shall be a public record. (Ref. Board of Zoning Appeals rules etc. K.S.A. 12-174).

20.3 POWERS AND JURISDICTION

The Board of Zoning Appeals shall have the following powers and jurisdictions:

1. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the Code Enforcement Administrator in the enforcement of this regulation.

2. To interpret the provisions of this Ordinance in such a way as to carry out the intent and purposes of the plan, as shown upon the map (fixing the several districts) accompanying and made a part of this Ordinance.
3. To permit the reconstruction of a nonconforming building which has been damaged by casualty, act of God, or the public enemy, to the extent or more than sixty (60) percent of the structural value of the building and the land upon which it is located, where the Board finds some compelling public necessity requiring continuance of the nonconforming use, and the primary purpose of continuing the nonconforming use is not to continue a monopoly. In the case of doubt, the fair market value shall be determined, as provided in Article 14.6, Section 5.
4. To permit a variation in the yard requirements of any district where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, or topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare of the neighborhood or where variations may be permitted which allow unusual arrangement on the lot and still clearly and unmistakably accomplish the intent of this regulation.
5. To authorize variances to the District Regulations upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, will impose upon him practical difficulties or particular hardship, and that such variations of the strict applications of the terms of this ordinance as are in harmony with its general purpose and intent, (but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty too great as to warrant a variation from the Comprehensive Plan as established by this regulation) and at the same time the surrounding property will be properly protected.
6. To hear and grant exception to district zoning regulations subject to the requirements of Article 21.
7. To hear and grant variances and exceptions to the City of Rossville Subdivision Ordinance, pursuant to the requirements of Article 2.5 of said Subdivision Ordinance.

20.4 APPEALS TO THE BOARD

1. **Who May Appeal.** Appeals to the Board may be taken by any person or persons aggrieved, or by an officer, department, any board, other than the Board of Zoning Appeals, or bureau of the City of Rossville affected by a decision of the Code Enforcement Administrator. Such appeal shall be taken within a reasonable time, as shall be prescribed by the Board by general rule, by filing with the Code Enforcement Administrator and with the Board a Notice of Appeal specifying the grounds thereof. The Code Enforcement Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.
2. **Time For Appeal.** The Board shall fix a reasonable time for the hearing of the appeal, give not less than five (5) days notice thereof, by the posting of not less than one (1) sign containing notice of the hearing in a conspicuous place on or near the property upon which application for appeal is made as well as due notice to the parties in interest, as required in Section 20.4, Number 4. Upon the hearing, any party may appear in person, by agent, or by attorney.
3. **Stay Of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Administrator certifies to the Board after the Notice of Appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record, on application or notice to the Code Enforcement Administrator on good cause shown.
4. **Hearing And Notice.** The Board of Zoning Appeals shall select a reasonable time and place for the hearing of the appeal. Public notice of the time, place, date, and subject of such hearing shall be published once in the official City newspaper at least twenty (20) days prior to the date of the hearing. A copy of such notice shall be mailed by certified mail by the Board of Zoning Appeals to each party in interest and to the Planning Commission; and if action directly affects specific property in the subject area of the appeal, then to owners of all property within two hundred (200) feet of the boundaries thereof. The Board of Zoning Appeals may give such additional notice as it may from time to time by rule provide. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.

20.5 DECISION OF APPEALS

The Board of Zoning Appeals may affirm or reverse, 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 Code Enforcement Administrator to direct the issuance of a permit. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Code Enforcement Administrator, or to decide in favor of the applicant upon any matter which it is required to pass under any such ordinance, or to affect any variation in such ordinance. Upon the hearing, any party may appear in person, by agent, or by attorney.

20.6 FEE

Fees for all variance requests shall be figured at five (5) percent of the improvement cost with a minimum fee of Twenty-five (\$25.00) Dollars and a maximum of One Hundred (\$100.00) Dollars. The conditional use fee shall be One Hundred (\$100.00) Dollars. Fees shall be paid to the City Clerk at the time the Notice of Appeal is filed.

20.7 APPLICATIONS

Applications to the Board of Zoning Appeals shall be on forms furnished by the Code Enforcement Administrator.

20.8 JUDICIAL APPEAL

Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals or of any officer, department, board or bureau of the City of Rossville may appear before the Governing Body of the City to determine the reasonableness of any such order or determination or may bring an action in the District Court having jurisdiction in Shawnee County, to determine the reasonableness of any such order or determination. Provided any action taken by the Governing Body of the City shall not preclude an aggrieved party from appealing to the District Court having jurisdiction in Shawnee County. Provided, any action brought in the District Court shall be within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals.