



VILLAGE OF TWIN OAKS

1393 Big Bend Road, Suite F • Twin Oaks, MO 63021
(636) 225-7873 • fax (636) 225-6547 • www.vil.twin-oaks.mo.us

APPEAL TO THE BOARD OF ADJUSTMENT

APPLICANT: _____ DATE: _____

PROPERTY OWNER: _____ ZONING DISTRICT: _____

ADDRESS OF PROPERTY: _____

DAYTIME PHONE: _____ EVENING PHONE: _____

A variance can only be granted when, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the neighborhood, the strict application of the area regulations of this Chapter would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property.

For details of the Board’s authority to grant a variance, see Sections 400.520-400.570 of the Village Code. Please note that use of requested space, either interior or exterior is not a basis for the Board of Adjustment to grant a variance.

Explanation for Applicant’s Appeal: *(Use back of application if needed)*

The Board of Adjustment will schedule a meeting to review this request upon the publishing of a 15-day public notice. The following items must be submitted before a notice is published and a meeting is scheduled:

- Application and **fee of \$650.00 (Section 400.460)**
- Eight (8) copies of scaled drawings to include an existing survey, site plan and all construction drawings/elevations.
- Photographs of both the owner’s property and the adjacent property or properties relevant to the property line and setback requirements in question. Photographs should include existing structures and other existing site improvements relevant to the property line.

Signature of Petitioner: _____

Print Name: _____

SECTION 400.520: BOARD OF ADJUSTMENT -- CREATED

A. A Board of Adjustment is hereby established. The Board of Adjustment shall consist of five (5) members, all of whom shall be residents of the Village appointed by the Chair of the Board of Trustees and approved by the Board of Trustees. The term of office of the members of the Board of Adjustment shall be five (5) years excepting that the membership of the first (1st) Board of Adjustment appointed shall serve respectively for terms of one (1) for one (1) year; one (1) for two (2) years; one (1) for three (3) years; one (1) for four (4) years; and one (1) for five (5) years. Thereafter, members shall be appointed for terms of five (5) years each. Vacancies shall be filled for the unexpired term only. Members shall be removed for cause by the Board of Trustees of the Village upon written charges and after a public hearing. Up to three (3) alternate members may be appointed to serve in the absence of or the disqualification of the regular members.

B. The Board of Adjustment shall elect its own Chair and Vice-Chair who shall serve for one (1) year. The Board of Adjustment shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Article.

SECTION 400.530: MEETINGS

A. Meetings of the Board of Adjustment shall be held at the call of the Chair and at such other times as the Board of Adjustment may determine. Such Chair, or in his absence the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public.

B. The Board of Adjustment shall keep minutes of the 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 immediately filed in the office of the Village and shall be a public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board of Adjustment for that purpose.

SECTION 400.540: APPEALS TO BOARD OF ADJUSTMENT

A. Appeals to the Board of Adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in Section 32.105, RSMo., representing such person or by any officer, department, board or bureau of the Village affected by any decision of the Code Enforcement Official. Such appeal shall be taken within a reasonable time, as shall be prescribed by the Board of Adjustment by general rule, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

B. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with the officer that by reason of the facts stated in the certificate a stay would, in that officer's opinion, cause immediate peril to life or property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment, or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

C. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give not less than fifteen (15) days' public notice thereof in a newspaper of general circulation in the Village of Twin Oaks, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney.

SECTION 400.550: PURPOSE AND POWERS OF BOARD OF ADJUSTMENT

A. Purpose. The purpose of the Board of Adjustment is to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the Village zoning laws adopted pursuant to Sections 89.010 to 89.140, RSMo., or of any ordinance adopted pursuant to such Sections. Subject only to the general or specific rules in this Article XVII or specific restrictions provided in State law (Sections 89.010 to 89.140, RSMo.), the Board of Adjustment may determine and vary its approval, modification or overturning of a decision appealed from in harmony with its general purpose and intent and appeals therefrom shall be made to the Circuit Court of St. Louis County as hereinafter provided.

- B. Powers. The Board of Adjustment shall have the following powers:
1. To hear and decide all matters referred to it or upon which it is required to pass under such ordinance.
 2. To permit the extension of a district where the boundary line of a district divides a lot held in a single ownership at the time of the passage of this Article.
 3. To interpret the provisions of the zoning ordinances of the Village in such a way as to carry out the intent and purpose of the Master Development Plan.
 4. To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God or public enemy, to the extent of more than sixty percent (60%) of its reasonable value, where the Board of Adjustment finds some compelling public necessity requiring a continuance of the non-conforming use and the primary purpose of continuing the non-conforming use is not to continue a monopoly.
 5. To permit a variation in the yard requirements of any district where there are practical difficulties or unnecessary hardships in carrying out these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare

SECTION 400.560: DECISION OF BOARD OF ADJUSTMENT

A. In exercising the above-mentioned powers such Board may, in conformity with the provisions of Sections 89.010 to 89.140, RSMo., 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. The concurring vote of four (4) 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 any such ordinance or to effect any variation in such ordinance except as provided in Section 305.410, RSMo.

B. Every variation granted or denied by the Board of Adjustment shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variation.

SECTION 400.570: APPEALS FROM BOARD OF ADJUSTMENT

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, any neighborhood organization as defined in Section 32.105, RSMo., representing such person or persons or any officer, department, board or bureau of the municipality may present to Circuit Court of the County or City in which the property affected is located, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board. Upon the presentation of such petition, the court may allow a certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which to return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under Sections 89.080 to 89.110, RSMo., shall have preference over all other civil actions and proceedings.