

ORDINANCE NO. 1471
AN ORDINANCE TO AMEND AND RE-ENACT SECTION 10 OF APPENDIX C
OF THE CITY CODE PERTAINING TO BOARD OF ADJUSTMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMESTOWN, NORTH DAKOTA, that Section 10 of Appendix C of the City Code of the City of Jamestown, North Dakota, is hereby amended and re-enacted to read as follows:

Sec. 10. - Board of adjustment.

The city council shall establish a board of adjustment sometimes referred to hereinafter as the board. The board members shall be appointed by the mayor subject to council approval. The board shall have the power and duties authorized by law and by this ordinance.

(A) and (B) (Same as parent volume.)

(C) *Appeals.* The board shall hear and decide appeals from and shall review any order, requirement, decision or determination of the zoning administrator, and shall hear and decide all matters referred to it or upon which it is required to pass under this ordinance. With the concurring vote of four (4) members the board may reverse any order, requirement, decision or determination of the zoning administrator, may decide in favor of the applicant on any matter requiring its approval under this ordinance and permit any variation from ordinance regulations or make any interpretation. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Jamestown.

Such appeal shall be taken with such time as shall be prescribed by rule of the board, by the filing with the officer from whom the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken forthwith shall transmit to the board all papers constituting the record upon which the action appealed from was taken.

An appeal to the board stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken 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, in his opinion, would cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by a restraining order which may be granted by the board or by a court of record, on application, and on due cause shown, after notice to the officer from whom the appeal is taken.

The board shall fix a reasonable time for the hearing of any appeal and shall give due notice thereof to the parties and adjoining land owners. Upon the hearing, any party may appeal in person or by agent or by attorney. The board may reverse or affirm, in whole or in part, or may modify, the order, requirement, decision, or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end the board shall have all the powers of the officer from whom the appeal is taken. Where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this ordinance, the board, in passing upon an appeal, may vary or modify any of the regulations or provisions of the ordinance relating to the construction or alteration of buildings or structures including yard, lot areas, lot width, lot coverage, open space and height regulations, the use of land, building or structures, or automobile parking or loading spaces, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done, except that said board shall not have the power to grant zoning variances.

(D) through (G) (Same as parent volume.)

ATTEST:

Jeff Fuchs
City Administrator

APPROVED:

Katie Andersen
Mayor

Introduced by Council Member Gumke
Seconded by Council Member Buchanan
First Reading: December 7, 2015
Second Reading: January 4, 2016
Final Passage: January 4, 2016
Roll Call No. 5 showed: 5 ayes, 0 nays, 0 absent.