

ARTICLE XIII
BOARD OF ADJUSTMENT

Section 13.01 **POWERS AND DUTIES.**

The Board of Adjustment shall act upon all questions as they may arise in the administration of any ordinance or official control, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing this ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or commission of the City of Hayfield.

Such appeal shall be taken in such time as shall be prescribed by the Board of Adjustment by general rule, by filing with the Board of Adjustment a notice of appeal specifying the grounds thereon. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and decide the same within a reasonable time. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reason for the board's decision shall be stated. The decision of such board shall not be final and any person having an interest affected by such ordinance shall have the right to appeal to the district court for Dodge County. The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this ordinance in the case of exceptionally irregular narrow or shallow lots, or other exceptional physical condition, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other uses except as specifically described.

Section 13.02 **VARIANCES.**

No variance in the provisions or requirements of this ordinance shall be authorized by the Board of Adjustment unless it finds evidence that all the following facts and conditions exist:

- (a) that there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district

- (b) that such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity - The possibility of increased financial return shall not in itself be deemed sufficient to warrant a variance.

- (c) that the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this ordinance or the public interest.
- (d) that the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

In granting a variance, the Board of Adjustment may impose conditions to insure compliance and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this ordinance for the property in the district where the affected person's land is located.

Section 13.03 **PROCEDURE.**

Within sixty (60) days after receipt of filing of a request for a variance or an appeal from an administrative order or determination, the Board of Adjustment shall hold a public hearing thereon, and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of such hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the date of hearing. In addition, notice of such hearing shall be mailed not less than ten (10) days before the date of hearing to the person or persons who filed the appeal or request and in the case of a request for a variance to each owner of property situated wholly or partly within three hundred (300) feet of the property to which the variance relates. A map containing the names and addresses of property owners within three hundred (300) feet of the property whereon the variance is requested shall be submitted with and made a part of the application for variance.

Within a reasonable time after the hearing, the Board of Adjustment shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.