

## **ARTICLE VIII**

### **BOARD OF ADJUSTMENT**

#### **SECTION 1. BOARD OF ZONING ADJUSTMENT AND METHODS OF APPEAL**

There is hereby authorized for Philadelphia, Mississippi a Board of Adjustment with the powers and duties as hereinafter set forth to be made effective by resolution or order of the Mayor and Board of Aldermen.

#### **SECTION 2. MEMBERSHIP**

The Philadelphia Board of Adjustment shall be composed of five (5) members, residents of the City appointed by the Mayor and Board of Aldermen for a term of three (3) years; provided, however, that for the first appointment under the provisions of these Regulations two (2) members shall be appointed for a term of one (1) year; two (2) members shall be appointed for a term of two (2) years; and one (1) member shall be appointed for a term of three (3) years. All appointments thereafter shall be for a term of three (3) years.

#### **SECTION 3. PROCEDURE**

The Board of Adjustment shall adopt rules in accordance with the provisions of these Regulations. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its meetings.

#### **SECTION 4. APPEALS TO THE BOARD OF ADJUSTMENT**

Appeals may be taken to the Board of Adjustment by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the City Inspecting Officer. Such appeal shall be taken within ten (10) days from the date of the decision by filing 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 of Adjustment all the papers constituting the record upon which the action appealed from was taken.

#### **SECTION 5. POWERS**

The Board of Adjustment shall have the following powers:

- (1) To hear and decide appeals.
- (2) **Powers Relative to Variances:** Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, 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 area, the strict application of these regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, the Board of Adjustment is hereby empowered to authorize upon an appeal relating to such property a variance from such strict application so as to relieve such difficulties or hardship, but may establish such requirements relative to such property as would carry out the purpose and intent of these regulations.
- (3) **Powers Relative to Exceptions:** Upon appeal, the Board of Adjustment is hereby empowered to permit the following exceptions:
  - (a) To permit the extension of a district not to exceed one hundred (100) feet where the boundary lines of a district divides a lot in single ownership as shown of record.
  - (b) To interpret the provisions of these regulations where the street layout actually on the ground varies from street layout as shown on the map fixing the several districts which map is attached to and made a part of these regulations.

In exercising the above mentioned powers of the Board of Adjustment may, in conformance with the provisions of these regulations 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. In considering all appeals from rulings made under these regulations, the Board shall, in making its findings on any specific case, determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion in the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding area, and upon other factors relating to the public health, safety, comfort, morals and general welfare of the people of Philadelphia, Mississippi. Every ruling made upon any appeal to the Board of Adjustment shall be accompanied by a written findings of fact based upon the testimony received at the hearing afforded by the

Board of Adjustment and shall specify the reason for granting or denying the appeal.

**SECTION 6. APPEALS TO A COURT OF LAW**

An appeal from any action, decision, ruling, judgment or order of the Board of Adjustment may be taken by any person or persons, jointly or severally, or any officer, department, board or bureau of Philadelphia to the Mayor and Board of Aldermen and by filing notice of appeal with the City Clerk within twenty (20) days from the filing of the decision of the Board of Adjustment which notice of appeal as herein provided, the City Clerk shall forthwith transmit to the Mayor and Board of Aldermen the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the Board of Adjustment. Any person aggrieved at any final decision of the Mayor and Board of Aldermen may appeal there-from to the Circuit Court of Neshoba County, Mississippi, within the time and in the manner prescribed by law for appeals from any order of the governing authority of a municipality.