

ORDINANCE NO. 1332-S

AN ORDINANCE AMENDING CHAPTER 6.06, APPEALS COMMISSION OF THE FRIDLEY CITY CODE PERTAINING TO VARIANCE AND APPEAL PROCEDURES

I. Title

An ordinance which clarifies appeal procedures in Ch. 6 of City Code.

II. Summary

The City Council of the City of Fridley does hereby ordain as follows: that Ch. 6.06 of Fridley City Code shall be amended to require the Planning Commission to select a designee to serve on the Appeals Commission if there is a lack of a quorum and sets forth an appeal process for rental license grievances. The amendment further clarifies the procedure for variance application processing and appeals, deferring procedure details to Ch. 205.05 and 128 of City Code.

III. Notice

This Title and Summary has been published to clearly inform the public of the intent and effect of the City of Fridley's Zoning Ordinance. A copy of the ordinance, in its entirety, is available for inspection by any person during regular business hours at the offices of the City Clerk of the City of Fridley, 6431 University Avenue N.E., Fridley, MN 55432.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRIDLEY THIS 22ND DAY OF FEBRUARY 2016.


SCOTT J. LUND, MAYOR

ATTEST:


DEBRA A. SKOGEN, CITY CLERK

Public Hearing: January 25, 2016
First Reading: February 8, 2016
Second Reading: February 22, 2016
Published: March 4, 2016

ORDINANCE NO. 1332

AN ORDINANCE AMENDING CHAPTER 6.06, APPEALS COMMISSION OF THE FRIDLEY CITY CODE PERTAINING TO VARIANCE AND APPEAL PROCEDURES

The City Council of the City of Fridley hereby finds, after review, examination and recommendation of staff, that the Fridley City Code be hereby amended as follows:

FRIDLEY CITY CODE CHAPTER 6. COMMISSIONS

6.06 APPEALS COMMISSION

1. Title.

The Council hereby creates an Appeals Commission to serve as the Board of Appeals and Adjustments and to exercise all authority and perform all functions of said Board pursuant to Minnesota Statutes Sections 462.351 to 462.364 and operate according to the Fridley City Code. (1980)

2. Substitute Members

At any meeting of the Appeals Commission, if there is less than a quorum present, the ~~chairperson, vice chairperson, or a designee of the Planning Commission's designee~~ may serve as a member of the Appeals Commission in a member's absence. (Ref 1237)

3. Purpose.

The Appeals Commission is established to provide a process by which the public may appeal staff's interpretation of code, request a variance to performance standards in code, or to provide comprehensive planning advice to the Planning Commission. ~~the literal provisions of the zoning ordinance, sign ordinance, and building code, for reasons of exceptional circumstances when strict enforcement would cause undue hardship and strict conformity of the standards would be unreasonable and impractical or not feasible under the circumstances.~~

4. Scope.

A. The Appeals Commission shall act as an advisory commission to the Planning Commission for continuous community planning and development of the comprehensive City goals and policies. Any change in related community planning and comprehensive City goals and policies must be reviewed by the Planning Commission who will then make recommendations to the City Council.

B. The Commission shall ~~have the power and duty of hearing and recommending to the City Council appeals or requests in the following cases:~~

(1) Appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an ~~administrative officer~~ Compliance Official in the enforcement of the zoning ordinance, sign ordinance, ~~or of the State Building Code,~~ or of the Residential Rental Licensing Code.

(2) Requests for variances from the literal provisions of the ~~z~~Zoning Code ordinance, ~~or sign ordinance or of the State Building Code~~ in instances where strict enforcement would cause practical difficulties ~~undue hardship~~ because of circumstances unique to the individual property under consideration.

C. In recommending or approving a variance, subject to the conditions of ~~s~~Section 6.07.5 6.06.B the ~~e~~Commission and the Council may impose conditions to ensure compliance and to protect adjacent properties.

5. Petition by Owner.

A. ~~Appeals From Decision of Zoning Administrator~~ Request for Variance.

A property owner may request a variance when the owner establishes that there are practical difficulties in complying with the Zoning Code. An application must be filed with the City and must state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance.

~~At any time within thirty (30) days, any property owner who deems himself aggrieved by an alleged error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this chapter which affects his property, may appeal to the commission by filing a written appeal with the City Manager. The appeal shall fully state the order appealed from, the facts of the matter, and also the mailing address of the owner.~~

B. Request for Variances Appeals.

Any person aggrieved by an alleged error in any order, requirement, decision or determination made by a Compliance Official in the enforcement of City Code, may request a hearing before the Appeals Commission. The appeal must be made in writing to the Community Development Director according to the terms and procedures established in Chapters 205.05.7 and 128 of City Code, and must clearly describe the code section under appeal, the facts of the matter, and the mailing address of the owner.

~~The commission may recommend variances from the strict application of the provision of this chapter and impose conditions and safeguards in the variances so granted in cases where there are practical difficulties or particular hardships preventing the strict application of the regulations of this chapter. An application for a variance must be filed with the Zoning Administrator and shall state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance.~~

6. Recommendation by Appeals Commission.

~~A. Variance: The Appeals Commission shall follow the variance process established in Chapter 205.05.6. Within thirty (30) days after filing an appeal from an administrative order or determination, or request for variance completed application, the commission shall set a date for hearing thereon and shall hear such persons as want to be heard, either in person or by Agent or attorney. Notice of such hearing shall be mailed not less than ten (10) days before the date of hearing to the person or persons who file the appeal, and to all adjacent property owners within a 350 foot distance of the requested variance location. Within a reasonable time after the hearing, the Appeals Commission shall make its recommendations or approvals subject to conditions of Section 6.07.6, and forward a copy of such recommendation or approval to the City Council.~~

~~B. Appeals: The Community Development Director shall follow the appeals process established in Chapter 205.05.7.~~

~~7. Variances in R-1 Zoning.~~

~~In residential (R-1 Zoning) areas the Appeals Commission has the authority to approve variances when all the following conditions are met:~~

~~A. There is unanimous agreement of the Appeals Commission.~~

~~B. The staff concurs with the recommendation of the Appeals Commission.~~

~~C. The general public attending the meeting or responding to the notice of public hearing have no objection.~~

~~D. The petitioner is in agreement with the recommendation.~~

~~When the above conditions are not met, the variance request must be channeled through the normal variance procedure for final approval by the City Council.~~

~~8. Record of Action Taken.~~

~~A. The Appeals Commission shall provide for a record of its proceeding which shall include the minutes of its meeting, its findings and the recommendation or approval on each matter heard by it, subject to the condition of Section 6.07.6.~~

~~B. The Commission recommendation or approval finding of fact as to:~~

~~(1) The public policy which is served by the requirement.~~

~~(2) The practical difficulties or unique circumstances of the property that cause undue hardship in the strict application of the requirement.~~

~~(3) — Any conditions that attach to the variance.~~

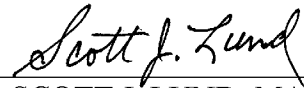
9. — Action of the Council.

The Council shall at its next regular meeting after receiving the recommendation of the Appeals Commission, decide on the action to be taken.

10. — Lapse of Variance by Non-use.

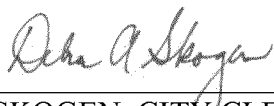
~~If work as permitted by a variance is not commenced within one year and completed within two years after granting of a variance, then such variance shall become null and void unless a petition for extension of time in which to complete the work has been granted by the commission. Such extension shall be requested in writing and filed with the City Manager at least twenty (20) days before the expiration of the original variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. Such petition shall be presented to the Appeals Commission for hearing and decision in the same manner as the original request for variance. (Ref. 846)~~

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