

SECOND REGULAR SESSION

HOUSE BILL NO. 2819

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE THOMAS.

5714H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 64.281, RSMo, and to enact in lieu thereof one new section relating to appeals of zoning decisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 64.281, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 64.281, to read as follows:

64.281. 1. **(1)** Any county commission which has appointed a planning board, as provided in sections 64.211 to 64.295, shall create by order a county board of zoning adjustment. The board of zoning adjustment shall consist of three commissioners of the county commission whose terms shall be only for the duration of their tenure of office. The board of zoning adjustment shall adopt rules of procedure consistent with the provisions of the zoning regulations and the provisions of sections 64.211 to 64.295. The ~~chairman,~~ **chair** or, in the ~~chairman's~~ **chair's** absence, the acting ~~chairman,~~ **chair** shall administer oaths and compel the attendance of witnesses.

(2) All meetings of the board of zoning adjustment shall be open to the public. Public notice of such meeting shall be given in at least one publication in a newspaper of general circulation in the county at least fifteen days before the date of the meeting. The notice shall state the time and place of the hearing ~~and~~, the official docket of the board of zoning adjustment, and the place where the specific requests will be accessible for examination by interested parties. Minutes shall be filed in the office of the county clerk and shall be a public record.

(3) Appeals to the board of zoning adjustment may be taken by any person aggrieved or by a public officer, department, board, or bureau affected by any order or decision of the

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 administrative officer in administering county zoning regulations. The appeal shall be taken
19 within a period of not more than three months, and in the manner provided by the rules of the
20 board of zoning adjustment. The appeal shall stay all proceedings in furtherance of the action
21 appealed from[;] unless the officer from whom the appeal is taken shall certify to the board of
22 zoning adjustment that the grounds of appeal would, in the officer's opinion, jeopardize or be
23 detrimental to life or property.

24 **(4)** The board of zoning adjustment shall have the following powers and ~~it~~ shall ~~be~~
25 ~~its~~ **have the duty:**

26 ~~(1)~~ **(a)** To hear and decide appeals where it is alleged there is error of law in any
27 order, requirement, decision, or determination made by an administrative official in the
28 enforcement of the county zoning regulations; **and**

29 ~~(2)~~ **(b)** To hear and decide all matters referred to it or upon which it is required to
30 pass under county zoning regulations[;].

31 ~~(3)~~ **(6)** In passing upon appeals, where there are practical difficulties or unnecessary
32 hardship in the way of carrying out the strict letter of such order, which difficulties or
33 hardship constitute an unreasonable deprivation of use as distinguished from merely granting
34 a privilege, the board of zoning adjustment may vary or modify the application of any of the
35 regulations or provisions so the intended purpose of the regulations shall be strictly observed,
36 public safety and welfare secured, and substantial justice done.

37 **(7) Upon a ruling by the board of zoning adjustment, a party may appeal the**
38 **ruling to the county commission. The appeal shall be taken within a period of not more**
39 **than three months and in the manner provided by the rules county commission. The**
40 **appeal shall stay all proceedings in furtherance of the action appealed from unless the**
41 **officer from whom the appeal is taken shall certify to the county commission that the**
42 **grounds of appeal would, in the officer's opinion, jeopardize or be detrimental to life or**
43 **property.**

44 2. In exercising the above powers, the board of zoning adjustment may in conformity
45 with the provisions of sections 64.211 to 64.295, reverse or affirm wholly or partly, or may
46 modify the order, requirement, decision or determination appealed from and may make such
47 order, requirement, decision or determination as ought to be made, and to that end shall have
48 all the powers of the officer from whom the appeal is taken.

49 3. Regulations adopted pursuant to the provisions of sections 64.211 to 64.295 may
50 include appropriate and reasonable provisions for the control of the use of buildings,
51 structures, or land, which use of same cannot, in the opinion of the board of zoning
52 adjustment, be placed, specified, or generally permitted in a specific district or districts
53 because of the peculiar nature of the uses. The uses shall be limited to those which, if placed,
54 specified or generally permitted in a specific district or districts, would pose undue regulatory

55 difficulties. The uses shall be permitted only by a special permit issued by the board of
56 zoning adjustment as a permissive use and not as a rezoning, after public hearing before the
57 planning board, as provided by subsection 2 of section 64.271, and a report and
58 recommendation made by the planning board to the board of zoning adjustment. The
59 special permit shall set out regulations, restrictions, limitations and termination date so that
60 reasonable control may be exercised over said uses. This section shall not allow the
61 application of requirements for special use permits for any retail or retail service
62 establishment in a district in which retail and retail service establishments generally are
63 permitted uses, nor for any wholesale distribution establishment in a district in which
64 wholesale storage and distribution establishments generally are permitted uses.

65 4. Any person aggrieved by any decision of the county board of zoning adjustment, or
66 of the county commission, or of any officer, department, board or bureau of the county may
67 present to the circuit court having jurisdiction in the county in which the property affected is
68 located, a petition in the manner and form provided by section 536.110.

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