



---

110 N. Poplar Street • PO Box 218 • West Branch, Iowa 52358  
(319) 643-5888 • Fax (319) 643-2305 • [www.westbranchiowa.org](http://www.westbranchiowa.org) • [city@westbranchiowa.org](mailto:city@westbranchiowa.org)

**ZONING BOARD OF ADJUSTMENT MEETING**  
**Monday, February 13, 2023 • 6:00 p.m.**  
**City Council Chambers, 110 N. Poplar St.**  
*Council Quorum May Be Present*

1. Call to Order
2. Roll Call
3. Approve \_\_\_\_\_ as Chairperson of the Zoning Board of Adjustment. / Move to action.
4. Approve \_\_\_\_\_ as Vice Chairperson of the Zoning Board of Adjustment. / Move to action.
5. Approve \_\_\_\_\_ as secretary of the Zoning Board of Adjustment. / Move to action.
6. Review the West Branch Code of Ordinance – Chapter 27 – Zoning Board of Adjustment as compared to Iowa State’s Zoning Board of Adjustment language.
7. Discussion:
  - a. Iowa State’s four-pronged unnecessary hardship test for variances.  
A variance must meet all categories:
    - i. Does the land in question not yield a reasonable return if used only for the purpose allowed in that zone?
    - ii. Is the plight of the owner due to unique circumstances and not to general conditions in the neighborhood?
    - iii. Is the hardship not self-created?
    - iv. Will the use of the hardship not alter the essential character of the locality?
  - b. How the board has previously viewed variances, zoning administrator challenges, and special/conditional uses.
8. Board comments
9. Staff comments
10. Adjourn

---

**Board of Adjustment Members:** Wayne Frauenholtz, Frank Frostestad, Greg Humrichouse, Paula Verlo

**Zoning Administrator:** Terry Goerdt • **Mayor:** Roger Laughlin

**Council Members:** Colton Miller, Nick Goodweiler, Jodee Stoolman, Jerry Sexton, Tom Dean

**City Administrator:** Adam Kofoed • **City Clerk:** Leslie Brick **Fire Chief:** Kevin Stoolman • **Library Director:** Nick Shimmin **Parks & Rec Director:** Matt Condon • **Police Chief:** John Hanna • **Public Works Director:** Matt Goodale

---

## CHAPTER 27

---

### ZONING BOARD OF ADJUSTMENT

---

27.01 Board of Adjustment	27.04 Expenses of The Board of Adjustment
27.02 Rules - Meetings - General Procedure	27.05 Powers and Guidelines of the Board
27.03 Compensation	27.06 Conflicting Rules, Ordinances, Statutes and Omissions

#### **27.01 BOARD OF ADJUSTMENT.**

A Board of Adjustment is hereby established as provided in Chapter 414 of the *Code of Iowa*, as amended, the members of which shall be appointed by the Council for staggered terms of five years. The Board of Adjustment shall consist of five members, none of whom shall hold an elective office or other official position in the City. The members of the Board of Adjustment shall be residents of the City representing the public at large and shall not be involved in the business of purchasing or selling real estate. The members of the Board shall be removable for cause by the Council upon written charges and after public hearing. A vacancy shall be filled by the Council for the unexpired term of any member who resigns, dies, or is removed. The Board shall meet each January to select a Chairperson and Vice Chairperson from its members, and a Secretary who may, but need not, be a member of the Board.

#### **27.02 RULES - MEETINGS - GENERAL PROCEDURE.**

The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

#### **27.03 COMPENSATION.**

All members of the Board shall serve without compensation, except their actual expenses which shall be subject to the approval of the Council.

#### **27.04 EXPENSES OF THE BOARD OF ADJUSTMENT.**

The Board shall have authority to expend such sums as may be appropriated by the Council.

#### **27.05 POWERS AND GUIDELINES OF THE BOARD.**

The Board of Adjustment shall have the following powers:

1. **Administrative Review.** To hear and decide appeals where it is alleged by the appellants that there is error in any order, requirement, permit, decision, determination or refusal made by the Zoning Officer or other administrative official in the carrying out or enforcement of any provision of Chapter 165 of this Code of Ordinances, and for interpretation of the Zoning Map.
2. **Vote Required.** The concurring vote of three members of the Board shall be necessary to reverse or modify any order or decision of an administrative official.
3. **Special Exceptions.** To hear and decide applications for special exceptions as specified in Chapter 165 of this Code of Ordinances and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.
4. **Variance.** To hear and decide applications for variance from the terms of Chapter 165 of this Code of Ordinances because of unnecessary hardship. Before any variance is granted, all of the following conditions must be shown to be present.
  - A. Conditions and circumstances are peculiar to the land, structure or building and do not apply to neighboring lands, structures or buildings in the same district.
  - B. Strict application of the provisions of Chapter 165 of this Code of Ordinances would deprive the applicant of reasonable use of the land, structure or building equivalent to the use made of neighboring lands, structures or buildings in the same district and permitted under the terms of this chapter.
  - C. The peculiar conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of Chapter 165 of this Code of Ordinances.
  - D. The use to be authorized by variance will not alter the essential character of the locality.
5. **Floodplain.** To hear and decide: (i) appeals and (ii) requests for variances to the provisions of Chapter 160, and take any other action which is required of the Board.
5. **Financial disadvantage to the property owner** shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
6. The Board does not possess the power to permit a use not generally or by special exception, permitted in the district involved.

7. In granting a variance or special exception, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of Chapter 165 of this Code of Ordinances. Violation of any of these conditions or safeguards shall be deemed violation of this chapter.

8. The effective date of a variance is 30 days after granted by Zoning Board of Adjustment. The City Council may remand a decision to grant a variance to the Zoning Board of Adjustment for further study. The effective date of the variance in this case is delayed for 30 days from the date of the remand.

**27.06 CONFLICTING RULES, ORDINANCES, STATUTES AND OMISSIONS.**

In the case of conflicting rules, ordinances, statutes, or omissions in this Code of Ordinances, the rules outlined in the *Code of Iowa* shall take precedence.

# Zoning Board of Adjustment

Iowa Code §§ [335.15 \(counties\)](#) and [414.12 \(cities\)](#) provide identical mandates for zoning boards of adjustment. These statutes are very specific in limiting the functions of the board of adjustment to (1) hearing appeals of decisions made by the zoning administrator, (2) granting or denying special exceptions (also referred to as “special uses” or “conditional uses”), and (3) granting or denying variances.

## Appeals

Zoning administrators are given the authority to make many decisions relating to the interpretation and implementation of the zoning ordinance. If a landowner is dissatisfied with a zoning administrator’s decision, the landowner has a right to appeal the decision to the board of adjustment. The board’s role is to review the zoning administrator’s interpretation of the ordinance and the given fact. Then, based on the purpose and intent of the regulations, the board will render a decision affirming or overturning the administrator’s determination. If the zoning administrator’s decision is reasonably debatable, it should be upheld.

## Special Exceptions, aka Special Uses or Conditional Uses

In each zoning district two broad classes of land uses are explicitly identified: (1) permitted uses, which are those listed by the ordinance as being allowed by right in any location, and (2) special exceptions, which are listed by the ordinance as being permissible only at the discretion of the zoning board of adjustment. Special exceptions are generally unique uses that are slightly out of character with permitted uses. To be granted a special exception by the board of adjustment, the applicant must be able to show that the requested use can be made to fit into its surroundings.

## Variances

A variance is a minor exception to the existing zoning rules to allow a landowner to do what is generally forbidden by the ordinance. To be granted a variance, the applicant carries the burden of proving to the board that strict enforcement of the terms of the ordinance will inflict an unnecessary hardship on the landowner.

Administratively, the board of adjustment is a forum of last resort. The only appeal from the decision of the board of adjustment is to the court system. In too many communities, however, this arrangement has led to the mistaken assumption that the board of adjustment is the final authority on almost all zoning matters. Individuals will go to the board any time they feel the ordinance is “too strict,” and some boards will grant almost any relief requested by landowners. In these communities’ boards of adjustment are treating their zoning regulations as suggestions, not as law. In reality, the board of

adjustment is bound by relatively strict criteria found in the zoning ordinance that define the limits of its discretion to grant variances or special exceptions and to overturn decisions of the zoning administrator.

[Download a printable copy of this page here.](#)

Source: <https://www.extension.iastate.edu/communities/zoning-board-adjustment>