

ARTICLE 23-11
BOARD OF APPEALS

SECTION 11.1 MEMBERSHIP

There shall be a Board of Appeals consisting of five (5) members who shall be citizens of Pittsfield. The Mayor, subject to confirmation by the city Council, shall appoint the members of said Board. Their term shall be five (5) years in length and so arranged that the term of one member shall expire each year. Said Board shall elect, annually, a Chairman from their own members.

SECTION 11.101 ASSOCIATE MEMBERS

The Mayor shall also appoint, subject to confirmation by the City Council, two associate members of the Board of Appeals. the associate members shall be citizens of Pittsfield and shall each serve the term of five (5) years. An associate member shall act as a member of the Board in the consideration and determination of any matter in which he is requested in writing so to act by the Chairman r acting Chairman of the Board when, and in the event that, a member does not act by reason of illness, conflict of interest, absence, or other incapacity. A copy of said request, filed with the records of the Board, shall be conclusive evidence of the necessity of said associate member's acting as a member of the Board.

SECTION 11.102 EXISTING BOARD OF APPEALS

The Board of Appeals heretofore, established under the pre-existing zoning ordinance, shall continue as the board of Appeals under this "Article", and the members and associate members of the present Board of Appeals shall continue in office for the duration of their original terms.

SECTION 11.103 DEFINITION

The words "Board of Appeals" and "The Board" when used in this ordinance, and in this "Article", particularly, shall refer to said Board of Appeals established by the "Article".

SECTION 11.2 MEETINGS AND PROCEDURES

The meetings and procedure of the Board of Appeals shall be governed by the provisions of Chapter 40A of the General Laws, as amended from time to time. The Board shall adopt rules and regulations, not inconsistent with law or the provisions of this chapter, governing its procedure and the transaction of its business. All its meetings shall be public and minutes shall be kept of its proceedings showing the vote of each member on every question, or, if absent or failing to vote, indicating that fact.

SECTION 11.201 WRITTEN APPLICATIONS REQUIRED

The Board shall not act on any matter unless and until a written application is submitted to such Board, indicating the section of this ordinance under which it is requested to act and stating the grounds on which the request is based.

SECTION 11.3 VARIANCES

The Board of Appeals shall be the Permit Granting Authority as the term is defined and employed under Chapter 40A, M.G.L., as amended, and shall have the power to grant upon appeal or upon petition of a variance from the terms of the Zoning Ordinance with respect to particular land or structure or for a use or activity not otherwise permitted in the district in which the land or structure is located, in accordance with Section 10 of Chapter 40A.

SECTION 11.4 PROCEDURE FOR APPLICATION FOR VARIANCE

The Board of Appeals shall the power and duty to authorize upon appeal of petition in specific areas such variance from the terms of this ordinance where the Board specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structure and especially affecting such land or structure but not affecting generally the zoning district in which it is located, literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance.

- A. In granting any variances, the Board may impose safeguards and limitations both of time and use, including the continued existence of any particular structures but excluding any conditions, safeguards or limitations based upon the continued ownership of the land or structures which the variance pertains. Violation of such limitations, conditions and safeguards, when made part of the terms under which the variance is granted, shall be termed a violation of this ordinance.
- B. If the rights authorized by a variance are not exercised within one year of the date of the granting of such variance, they shall lapse and may be re-established only after notice and a new hearing.
- C. Each application for a variance shall be filed in triplicate, together with three sets of plans and information. The Board of Appeals shall transmit a copy of the application and two (2) sets of the plans and information to the Community Development Board. **[Amended 6-28-2022 by Ord. No. 1250]**