

ARTICLE XVIII - BOARD OF ADJUSTMENT

SECTION 18.0 - GENERAL: The *Board of Adjustment* shall be regulated by KRS 100.217 to 100.263.

SECTION 18.1 - REQUEST FOR HEARING: A request for a *Board of Adjustment* hearing shall be made by completing an application provided by the City of Bellevue.

A. **CONDITIONAL USES:**

1. **DETERMINATION:** The *Board of Adjustment* may authorize a *conditional use* to be located within any *zone* in which such *conditional use* is permitted, if the evidence presented by the applicant is such as to establish, beyond any reasonable doubt:

a. That the proposed *use* at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.

b. That such *use* will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

c. Evaluation of the proposed *conditional use* and/or *Development Plan* shall be based upon the following criteria, where applicable:

1. **Design:**

- Agreement with various elements of the *Comprehensive Plan*, and where applicable, any other adopted plan.
- Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g. topography, natural features, streets, relationship of adjacent *uses*, etc.).
- Nature and extent of the proposed *uses* in relation to the unique characteristics of the site.
- Extent to which the design of the proposed development responds to the natural and man - made features of the site.
- *Building* locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and *off-street parking* areas.
- Extent to which the scale of each *building* relates to the natural environment.
- The primary activity area of a *building* should be oriented toward a natural site amenity.

- The location of *buildings* should be designed to provide for an orderly rhythm by avoiding long, unbroken *building* facades.
- Heights of *structures* should be compatible with the height of existing *structures* adjacent to the site.

2. Circulation:

- Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
- Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.
- The circulation system should follow the natural terrain of the site.
- The circulation system should provide for the continuation of existing streets and provide for the connection of proposed streets to adjoining properties.
- Extent to which the complete separation of pedestrian and vehicular circulation systems is achieved.
- Pedestrian street crossings should provide for safe crossings where there is good sight distance along the street or at a grade-separated crossing.

3. Open Space:

- Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.
- Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.
- Landscaping should be an integral part in the design of *off-street parking* areas to soften the impact of hard surfaced areas on adjacent areas.
- Open spaces should not be isolated from one another by unrelated physical obstructions, but rather, should be linked together by open space corridors having a reasonable width.
- Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining *uses* and *zones*.

4. Public Services/Utilities:
 - Extent to which all necessary public utilities and facilities are available to service the proposed development, including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

5. *Signage*:
 - *Signage* should be designed to protect and enhance the visual amenities of the site.
 - A *sign* package should be developed for the entire development that forms an integral part of the total design of the site.
 - All *signs* should be of a complimentary scale and proportion in design and in visual relationship to the site and *buildings*.
 - Extent to which *signs* define and enhance the architectural elements of a *building* or site.
 - Extent to which *signage* is consolidated and coordinated with the overall site design.

2. CONDITIONAL USE PERMITS: The *Board of Adjustment* shall issue *conditional use permits* in accordance with KRS 100.237.

B. VARIANCES: An application for a *variance* and the findings necessary for granting a *variance* shall be regulated by KRS 100.241 to 100.251.

C. NONCONFORMING USE: The existence, continuance, change, and duration of and application for a *nonconforming use* shall be regulated by KRS 100.253.

D. ADMINISTRATIVE REVIEW: Shall be regulated by KRS 100.257 to 100.263.

1. DECISIONS OF THE BOARD OF ADJUSTMENT:

- a. In exercising administrative review powers, the *Board of Adjustment* may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as made by the *Zoning Administrator*, from whom the appeal is taken.

- b. A majority of board members present and voting shall be necessary to reverse any order, requirement, decision, or determination of the *Zoning Administrator*, so long as such action is in conformity with the provisions of this ordinance, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

- c. The details of the decisions of the board shall be forwarded to the *Zoning Administrator*.

- d. An appeal stays all proceedings in furtherance of the action appealed from, unless the *Zoning Administrator* from whom the appeal is taken, certifies to the *Board of Adjustment*, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the *Zoning Administrator* from whom the appeal is taken and on due cause shown.