

## **SECTION 6: BOARD OF ADJUSTMENT**

### **Subdivision 1: MEMBERSHIP**

The City Council shall act as the Board of Appeals and Adjustments. The City will perform its duties as the Board of Appeals and Adjustments during its regular City Council Meetings and all references in this Ordinance shall be to the City Council and not to the Board of Appeals and Adjustments.

### **Subdivision 2: DECISIONS**

All decisions of the City Council, acting as the Board of Appeals and Adjustments require the affirmative vote of a simple majority of the members present.

### **Subdivision 3: DUTIES**

The City Council, as the Board of Appeals and Adjustments, has the following powers with respect to the Zoning Ordinance:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of the zoning ordinance.
2. To hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. "Undue hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes, Section 216C.06, subdivision 2, when in harmony with the Zoning Ordinance. The City Council may not permit as a variance any use that is not permitted under the Zoning Ordinance for property in the zone where the affected person's land is located. The City Council may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The City Council may impose conditions in the

granting of variances to insure compliance and to protect adjacent properties.

3. To hear appeals by the owner of the land in accord with Minnesota Statutes Section 462.359, Subd. 4, when a building permit has been denied based upon its conflict with an Official Map created pursuant to Minnesota Statutes Chapter 462.359.