

## Government

### BOARD OF ADJUSTMENT

91.01 ORGANIZATION: There shall be a Board of Adjustment consisting of five (5) members, with two (2) alternate members, all as provided by Section 211.008 of the Texas local Government Code.

City Council shall take nominations to fill a vacancy for a board member or alternate member of the Board of Adjustments and shall take a vote to fill the vacancy.

Nominations shall be made by Council and/or the Mayor.

91.02 PRACTICE AND PROCEDURES: The Board shall have the power to adopt rules of practice and procedure not inconsistent with 211.008, et seq. of the Texas Local Government Code, nor with the provisions of this ordinance, provided that such rules and regulations shall not become effective until approved by the City Council of the City of Hilshire Village, Texas. Practice and Procedure before such Board shall be as set forth in said sections and as in this ordinance, all as supplemented by said Rules. All applications to the Board of Adjustment for relief shall be accompanied by a Fee as provided for in the Fee Schedule of Hilshire Village to cover the costs of notice by publication and mail. In all matters submitted to the Board of Adjustment for decision, it shall fix a reasonable time for public hearing thereon, give public notice thereof by publication once, not more than twenty (20), nor less than ten (10) days before such hearing, in the official newspaper of the City of Hilshire Village, Texas, and give notice to the applicant and to all owners of property within this City lying within two hundred (200) feet of the property affected, as shown on the City Tax Rolls, by mailing United States post cards to each of such parties at the address, if any, shown on the City's tax rolls, not less than ten (10) days before the date of such hearing. If no address of the owner of any portion of property within this City lying within two hundred (200) feet of the property in question is disclosed by the City's tax rolls, the public notice in the official newspaper shall be sufficient, unless any such party shall furnish the City in writing with his or her address for the purpose of receiving such notice.

(Ordinance 588, adopted May 16, 2006, Section 11)

#### 91:03 POWERS.

91:03.01 Hear appeal: The Board may hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance, or of the Zoning Law of the State of Texas.

91:03.02 Grant Variance: The Board may authorize, upon appeal in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

91:03.03 Grant special exception: The Board may at its discretion in the instances hereinbefore set forth in this ordinance and those additional instances set forth in subsection 91:04 of this Section 91, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of this ordinance set forth in this ordinance, if in harmony with its general purpose and intent and in accordance with the general or special rules herein contained, where to do so will not be contrary to the public interest and will not result in substantial injury to surrounding property or the appropriate use thereof.

91:04 SPECIAL EXCEPTIONS: In addition to the special exceptions heretofore set forth in this ordinance, the Board of Adjustment may in the manner aforesaid grant Special Exceptions in the following cases:

91:04.01 Area or setback: Permit a variation in the area or setback requirements where there are unusual and practical difficulties in the carrying out of these provisions due to an irregular shape of the lot, topographical or other similar condition.

91:04.02 Non-conforming use: Permit the moving of a building occupied by a non-conforming use or permit the extension of a non-conforming use in a building upon a lot occupied by such building upon the effective date of this ordinance, or permit a change of a non-conforming use to another use of the same or higher classification.

91:04.03 Temporary use: Grant in undeveloped sections of the City temporary and conditional permits for not to exceed two one-year periods (in addition to that now provided for under the Zoning Ordinance) for any temporary conforming structure or use.

91.04.05 Nonconforming Building: Permit such modifications of the requirements of these regulations as the Board may deem necessary to secure an appropriate conforming use development of a lot where adjacent to such lot on two (2) or more sides there are buildings that do not conform to these regulations.

91:04.06 Relocation within lot: Permit the moving of a non-conforming use or building to different place on the same tract, where it was lawfully located when application for such change was made, in cases where no more building floor area will be required for the non-conforming use at the new location, and where all parties having property interest in the old location, join in the application and expressly abandon all claims of non-conforming use in the land used for such nonconforming use at the old location and any structures remaining thereon. Furthermore, the applicant shall give evidence satisfactory to the Board of Adjustment that a majority of property owners adjacent to the new location have no objection to the new location.

91:04.07 Yard conformance: Permit modifications of the front and/or side street yard requirements where a majority of the frontage of lots abutting upon the same side of a street in the same block is occupied by a building or buildings with front and/or side street yard of less depth than is required by this ordinance.

91:04.08 Restricted area: Permit such modifications of the yard or open space or lot area or width regulations as may be deemed necessary to secure appropriate conforming use improvement of a parcel of land where such parcel was in separate ownership upon the effective date of the zoning ordinance, and is of such restricted area that it cannot be privately improved without modification.

91:04.09 Free parking areas: Permit the use of property by a church, public school, city, county, state or federal government for the free parking of passenger cars. When so used the parking lot shall be screened from adjoining streets and property by a wall, fence or hedge maintained at a height of at least six feet at side and rear of parking area and three feet at front of parking area, and shall be properly drained and paved in accordance with the City's specifications, where lighting is provided it shall be beamed downward so that it shall not constitute an annoyance to neighbors.

91:04[A] APPEAL PROCEDURE: Appeals to the Board of Adjustment may be taken by any person arrived or by any officer, department, board or bureau of the City of Hilshire Village, Texas, affected by any decision of the Building Official. Such appeal shall be taken within such reasonable time as may be provided for by the Rules of the Board of Adjustment, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof, and shall not otherwise be governed by the provisions of Article 1011g of Vernon's Annotated Texas Civil Statutes, as amended. Decisions of the Board of Adjustment are reviewable on petition presented to a District Court of Harris County, Texas, within ten days after the filing of such decision, as provided in said Article 1011g.

91.05 APPEAL PROCEDURE: appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Hilshire Village, Texas, affected by any decision of the Building Official. Such appeal shall be taken within such reasonable time as may be provided for by the Rules of the Board of Adjustment, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof.