

1.4. Change in use.

A nonconforming use of a building or structure shall not be expanded or extended into any other portion of such building or structure nor changed except to a conforming use.

Sec. 2. Nonconforming uses of land.

2.1. Footprint construction.

A new single-family residential structure may be constructed on a substandard lot (a lot that is less than 60' in width and less than 6500 square feet in total lot size) if the structure is built within the same footprint of the previous structure. The applicant at the time of the request for permit shall provide a written notarized statement of the setbacks and site coverage of the previously existing legal residential structure. The setbacks shall be consistent with the general setbacks of the abutting properties. In no case shall the side yard setbacks be less than five (5) feet. The new construction shall comply with all current building code standards to insure structural integrity.

2.2. Time limitation.

A nonconforming use of a building, existing at the time of adoption of this ordinance, which has been or becomes discontinued for a period of six (6) months may not be extended or renewed.

(Ord. of 1-2-02(4))

ARTICLE VIII. BOARD OF ADJUSTMENT

Sec. 1. Board of zoning adjustment and methods of appeal.

There is hereby created for Columbus, Mississippi, a board of adjustment with the powers and duties as hereinafter set forth.

Sec. 2. Membership.

The Columbus Board of Adjustment shall be composed of five members. One of those members shall be an ex officio member who shall be a registered professional engineer who serves as, or is employed by, the firm of the city engineer. The remaining members shall be residents of the city appointed by the city council for a term of three years; provided however, that for the first appointment under the provisions of these regulations, two members shall be appointed for a term of one year; two members shall be appointed for a term of two years; and one member shall be appointed for a term of three years. All appointments thereafter, except to fill an unexpired term, shall be for a term of three years.

One such member shall be appointed from the membership of the city planning commission.

The board of adjustment shall elect a chairman from its membership to serve for a term of one year.

Sec. 5. - Powers.

The board of adjustment shall have the following powers:

- (1) Power to hear and decide appeals.
- (2) Powers relative to variances: Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area, the strict application of these regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the board of adjustment is hereby empowered to authorize upon an appeal relating to such property a variance from such strict application so as to relieve such difficulties or hardship, but may establish such requirements relative to such property as would carry out the purpose and intent of these regulations.
 - (a) Even where the property in question is not shallow or narrow in shape and/or does not have exceptional topographical conditions that might justify a variance, the board of adjustments may grant a setback variance when all the following facts are determined by the board to exist:
 - (i) The requirement sought to be waived has been waived or is grandfathered, and is prevalent in the immediate neighborhood of the property in question;
 - (ii) No issues would result that would endanger the owner, the public, or the neighbors' property as a result of the requested waiver; and
 - (iii) The granting of the waiver would not detract from the general appearance prevalent in the neighborhood.

In addition to the factors set forth in this Section 5(2)(a) and its subparagraphs, the board of adjustments may consider whether there exists substantial public support or opposition to the requested variance in determining whether to grant or deny the request.

- (3) Powers relative to exceptions: Upon appeal, the board of adjustment is hereby empowered to permit the following exceptions:
 - (a) To permit the extension of a district not to exceed one hundred (100) feet where the boundary lines of a district divide a lot in single ownership as shown of record.
 - (b) To interpret the provisions of these regulations where the street layout actually on the ground surface varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of these regulations.
 - (c) To permit, after public notice and hearing, a temporary building for commerce or industry in a dwelling district which is incidental to the residential development, such permit to be issued for a period of not more than one (1) year.

In exercising the above mentioned powers, the board of adjustment may, in conformance with the provisions of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals from rulings made under these regulations, the board shall, in making its findings on any specific case, determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion in the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding area, and upon other factors relating to the public health, safety, comfort, morals and general welfare of the people of Columbus, Mississippi. Every ruling made upon any appeal to the board of adjustment shall be accompanied by a written finding of fact, based upon the testimony received at the hearing afforded by the board of adjustment, and shall specify the reason for granting or denying the appeal.

(Ord. of 11-20-18)

Any member may be removed, by majority vote of the city council, for cause, among them conflict of interest and/or failure to attend more than two meetings.
(Ord. of ?????)

Sec. 3. Procedure.

The board of adjustment shall adopt rules in accordance with the provisions of these regulations. Meetings of the board shall be held at the call of the chairman or of any other two (2) members and at such other times as the board may determine, but such meetings shall be held at least as often as quarterly. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. The board of adjustment shall keep minutes of its meetings, setting forth the vote that each member made on each issue.

Sec. 4. Appeals to the board of adjustment.

Appeals may be taken to the board of adjustment by any person aggrieved or by any department, board or commission of the city affected by any decision of the city inspecting officer. Such appeal shall be taken within ten (10) days from the date of written notice of the decision delivered to or sent by registered mail to the appealing party by filing with the inspecting officer from whom the appeal is taken, and with the board of adjustment, a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

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Sec. 6. Appeals to a court of law.

An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally, or any taxpayer, or any officer, department, board or bureau of Columbus, to the city council and by filing notice of appeal with the secretary-treasurer of the City of Columbus within twenty (20) days from the decision of the board of adjustment, which notice shall specify the grounds of such appeal. Upon filing of the notice of appeal as herein provided, the secretary-treasurer of the City of Columbus shall forthwith transmit to the city council the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the board of adjustment.

Any person aggrieved at any final decision of the city council may appeal therefrom to the Circuit Court of Lowndes County, Mississippi, within the time and in the manner prescribed by Section ~~1105~~ of the Mississippi Code of 1972, as amended.

11-51-75 See next page

ARTICLE IX. ADMINISTRATION

Sec. 1. Building permit and certificate of occupancy required.

These regulations shall be enforced by an inspecting officer appointed by the city council. It shall be a violation of these regulations for any person to change or permit the change in the use of land or buildings or structures or to erect, alter, move or improve any building or structure until a building permit has been obtained under the following conditions.

West's Annotated Mississippi Code

Title 11. Civil Practice and Procedure

Chapter 51. Appeals

Miss. Code Ann. § 11-51-75

§ 11-51-75. Appeal from judgment or decision by municipal authorities

Effective: July 1, 2018

Currentness

Any person aggrieved by a judgment or decision of the board of supervisors of a county, or the governing authority of a municipality, may appeal the judgment or decision to the circuit court of the county in which the board of supervisors is the governing body or in which the municipality is located. A written notice of appeal to the circuit court must be filed with the circuit clerk within ten (10) days from the date at which session of the board of supervisors or the governing authority of the municipality rendered the judgment or decision. Upon filing, a copy of the notice of appeal must be delivered to the president of the board of supervisors or to the mayor or city clerk of the municipality and, if applicable, to any party who was a petitioner before the board of supervisors or the governing authority of the municipality.

(a) The notice of appeal filed in the circuit court with the circuit clerk shall contain the following:

(i) The name of the county board of supervisors or the name of the municipality as the appellee. If applicable, any party who was a petitioner before the board of supervisors or the governing authority of the municipality shall be named as an appellee.

(ii) A succinct statement of the reasons, or grounds, for the appeal.

(iii) A written description or designation of record which includes all matters that the appellant desires to be made part of the record.

(iv) Appellant must also deliver a copy of the notice of appeal and a written designation of the record, along with a list of all documents or transcripts in appellant's possession, to the clerk of the board of supervisors or to the clerk of the municipality.

(b) An appellee has ten (10) days from the filing of the notice of appeal with the circuit clerk to designate any other items or matters that appellee believes should be included in the designated record.

§ 11-51-75. Appeal from Judgment or decision by municipal authorities, MS ST § 11-51-75

(c) The clerk of the board of supervisors or the municipal clerk must assemble a complete record of the proceedings to include all writings, matters, items, documents, plats, maps and transcripts of proceedings that were part of the record and deliver the complete record to the circuit clerk within thirty (30) days after the filing of the notice of appeal with the circuit clerk. The clerk of the board of supervisors or the municipal clerk shall certify that the record is accurate and complete and contains all writings, matters, items, documents, plats, maps and transcripts of proceedings designated by appellant and appellee in their designations of record.

(d) The circuit court, as an appellate court, either in term time or in vacation, shall hear and determine the same on the record and shall affirm or reverse the judgment. The circuit court shall enter an order establishing a briefing schedule and a hearing date, if any, for the parties to appear and present oral argument. If the judgment is reversed, the circuit court shall render such judgment or decision as the board of supervisors or the governing authority of the municipality ought to have rendered, and certify the same to the board of supervisors or the governing authority of the municipality. Costs shall be awarded as in other cases.

(e) No appeal to the circuit court shall be taken from any order of the board of supervisors or the governing authority of the municipality which authorizes the issuance or sale of bonds, but all objections to any matters relating to the issuance and sale of bonds shall be adjudicated and determined by the chancery court, in accordance with the provisions of Sections 31-13-5 through 31-13-11. And all rights of the parties shall be preserved and not foreclosed, for the hearing before the chancery court, or the chancellor in vacation.

Credits

Laws 1940, Ch. 245, § 1; Laws 1955, 1st Ex. Sess., Ch. 33, § 1; Laws 1962, Ch. 240, eff. from and after passage (approved June 1, 1962). Amended by Laws 2018, Ch. 448 (H.B. No. 1239), § 1, eff. July 1, 2018.

Miss. Code Ann. § 11-51-75, MS ST § 11-51-75

The Statutes and Constitution are current with laws from the 2021 Regular Session effective through July 1, 2021. Some statute sections may be more current, see credits for details. The statutes are subject to changes provided by the Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

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