

**TOWN OF MENTONE  
BOARD OF ZONING ADJUSTMENT**

## COMPOSITION

In availing itself of the powers conferred by this article, the legislative body of any incorporated city or town may provide for the appointment of a board of adjustment. *Code of Alabama 11-52-80(a)*

The board of adjustment shall consist of five members, each to be appointed for a term of three years or until his successor is duly appointed. *Code of Alabama 11-52-80(a)*

In addition to the five regular members provided for in this subsection two supernumerary members shall be appointed to serve on such board at the call of the chairman only in the absence of regular members and while so serving shall have and exercise the power and authority of regular members. *Code of Alabama 11-52-80(a)*

## PROCEDURE

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall immediately be filed in the office of the board and shall be a public record. *Code of Alabama 11-52-80(b)*

## AUTHORITY

The board of adjustment shall have the following authority as set forth in the *Code of Alabama 11-52-80(d)*:

Appeal of an administrative decision

Special exceptions

Variances

### Appeal of an Administrative Decision

To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto; *Code of Alabama 11-52-80(d)*

## Special Exceptions

To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance; *Code of Alabama 11-52-80(d)*

## Variances

To 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. *Code of Alabama 11-52-80(d)*

### Unnecessary Hardship, *Priest vs. Griffin, 1969*

"No one factor determines the question of what is practical difficulty or unnecessary hardship, but all relevant factors, when taken together, must indicate that the plight of the premises in question is unique in that they cannot be put reasonably to a conforming use because of the limitations imposed upon them by reason of their classification in a specified zone."

### Economic Hardship, *Priest vs. Griffin, 1969*

"Variations from the terms of the zoning ordinance should be permitted only under peculiar and exceptional circumstances. Hardship alone is not sufficient. The statute says "unnecessary hardship" and mere financial loss of a kind which might be common to all of the property owners in a use district is not an unnecessary hardship".

### Limitations, *Priest vs. Griffin, 1969*

"Variations should be sparingly granted, and the spirit of the zoning ordinance in harmony with the spirit of the law should be carefully preserved, to the end that the structure of a zoning ordinance would not disintegrate and fall apart by constant erosion at the hands of a board of zoning adjustment or the courts."

## DECISIONS OF THE BOARD

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

*Code of Alabama 11-52-80(e)*

## APPEALS FROM A DECISION OF THE BOARD

Any party aggrieved by any final judgement or decision of such board of zoning adjustment may within 15 days thereafter appeal therefrom to the circuit court by filing with such board a written notice of appeal specifying the judgement or decision from which the appeal is taken. In case of such appeal such board shall cause a transcript of the proceedings in the action to be certified to the court to which the appeal is taken, and the action in such court shall be tried de novo. *Code of Alabama 11-52-81*