

residents of the City of Detroit, and not members of any other city board, department, commission or any other division of the municipal government. Members may be removed for cause by the Common Council only after consideration of written charges and a public hearing. Any vacancies in the Board shall be filled by the Common Council for the remainder of the unexpired term. The compensation of the members of the Board shall be fixed by the Common Council. (Adopted Aug. 7, 1952; Ord. 669-E.)

#### SEC. 20.3. OFFICERS

The Board shall annually elect its own Chairman, Vice-Chairman and Secretary, and, in accordance with the provisions relative to civil service, shall appoint such additional assistants, clerks and subordinates as may be necessary. The Board shall prescribe their duties and shall, subject to the approval of the Common Council, fix their compensation.

#### SEC. 20.4. MEETINGS AND RECORDS

All Board meetings shall be open to the public. Regular meetings shall be held at least once a week, and special meetings shall be held at the call of the Chairman or as the Board may determine, or upon written request of three (3) members provided twenty-four (24) hours' notice has been given to each member before the time set for such meetings. Four (4) members of the Board shall constitute a quorum for the conduct of its business. Concise records shall be kept of all proceedings before the Board and minutes shall be kept of its official acts. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matter before it.

#### SEC. 20.5. JURISDICTION AND APPEALS

The Board shall hear and decide appeals from, and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Ordinance. They shall also hear and decide all matters referred to them or upon which they are required to pass under this Ordinance. The concurring vote of four (4) 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 any matter upon which they are required to pass under this ordinance, or to effect any variation in such Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the City. Such appeal shall be taken within such time as shall be prescribed by the Board by general rule, by the filing in writing, with the officer from whom the appeal is taken and with the Board of a notice in writing of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board, all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Circuit Court, or other Court of proper jurisdiction, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

#### SEC. 20.6. RULES OF PROCEDURE AND NOTICE

The Board shall adopt general rules and regulations relating to its procedure. It shall by general rule or in specific cases, determine the interested parties who, in the opinion of the Board, may be affected by any matter brought before it and shall prescribe the means by which such interested parties shall be notified as to the time and place of hearing on such matters. The Board may require any party applying to the Board for relief to give such notice to interested parties as it shall prescribe.

#### SEC. 20.7. HEARINGS AND POWERS.

The Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, subject to the conditions and limitations of this Section, and to that end shall have all the powers of the office from whom the appeal is taken.

The decision of the Board in these and all other matters heard by it shall be final insofar as it involves discretion or the finding of facts.

The Board shall have power to interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the District Maps accompanying and made a part of this Ordinance where the street or alley layout actually on the ground varies from the layout as shown on said maps after notice and hearing to parties owning property involved in such interpretation.

The Board shall have the power to hear and decide appeals where it is alleged by an appellant that there is an error in any refusal of a building permit or certificate of occupancy, or other order, requirement or decision made by the Commissioner of Buildings and Safety Engineering or other administrative official in the administration of this Ordinance. Nothing contained in this paragraph shall be deemed to authorize the Board to reverse or modify a refusal or other order or decision which conforms to the provisions of this Ordinance.

Where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship or involve practical difficulties, the Board shall have power upon appeal in specific cases to authorize such variation or modification of the terms of this Ordinance as will not be contrary to the public interest and so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

The Board shall have power in addition to other proper variations and modifications, to grant the following special exceptions after public notice and hearing, provided that after investigation the Board ascertains the conditions involved in the proposed exception conform to the limitations and restrictions specified for each such exception as listed in the following Sections 20.8 to 20.15.

Section 20.8. Permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes in any permitted district to a greater height or with lesser yards on the lot occupied by such building that the district requirements herein established, and permit the location in any district of a public utility building, structure or use, if, upon investigation by the Board it is ascertained from the facts that such use, height, area, building or structure are reasonably necessary for the public convenience and service, and that such building or structure is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.

Section 20.9. Permit the extension of any building, structure or use into a more restricted district immediately adjacent thereto under such conditions and limitations as will safeguard the character of the more restricted district, provided a reasonable need for such an extension and an absence of injurious effect on the contiguous property is shown to the satisfaction of the Board.

Section 20.10. In undeveloped sections of the city the Board may approve temporary and conditional permits for non-conforming uses, to terminate at a date specified in the approval, which date shall not exceed two (2) years from the date of the permit, provided that upon investigation by the Board it is ascertained that such uses are helpful to the development of such sections and are not detrimental to the adjoining and neighboring developed sections. Renewals of such permits may be approved by the Board provided the general conditions of the neighborhood have remained practically unchanged.

Section 20.11. Permit such variation or modification of yard, lot area and percentage of lot coverage requirements of this Ordinance as may be necessary to secure an appropriate improvement of a specific parcel of land which at the effective date of this Ordinance was of such size, shape or dimension, or which at the effective date of this Ordinance had such peculiar or exceptional geographical or topographical conditions, that it cannot be appropriately improved without such variation or modification, provided that the purpose and spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

Section 20.12. Permit a partial or complete exception to the loading space provisions of Section 3.16 where, after investigation by the Board, it is ascertained that the volume of vehicular service will not require compliance with said provision, and will not cause undue interference with the public use of the streets or alleys or imperil the public safety and where such modification or exception will not be inconsistent with the purpose and spirit of this Ordinance.

Section 20.13. Permit an increase in height of a non-conforming building or structure existing at the effective date of this Ordinance, or an enlargement or extension of such a non-conforming

building, structure or use upon land partially occupied by such existing non-conforming building, structure or use at the effective date of this Ordinance, subject to such conditions and protections as will safeguard the character of contiguous property and the surrounding neighborhood, provided that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

Section 20.14. Permit a variation in the use of and/or location of a building or structure upon a lot which abuts directly a zoned district different than the district in which the lot is located, under the following conditions and limitations:

- (1) That a reasonable need for such a variance is shown.
- (2) That such use or location will not have an injurious effect on the contiguous or the surrounding property.
- (3) That the height of the structure shall not exceed the maximum height restrictions permitted in the district in which the lot is located.
- (4) That the front yard requirements shall be not less than the front yard requirements of the district in which the lot is located.
- (5) That the rear yard requirements shall not be less than 50% of the rear yard requirements of the district in which the lot is located: Provided, however, That this limitation does not reduce the rear yard to a lesser amount than that required in the less restricted district.
- (6) That the side yard adjacent to the adjoining lot in the same district shall be not less than 50% of the total side yard required in the district in which the lot is located: Provided, however, That this limitation does not reduce the side yard to a lesser amount than that required in the less restricted district.
- (7) That the structure permitted is similar in character and appearance to the existing or permitted structures in the more restricted district.
- (8) That the distance the variation extends into the more restricted district shall be not more than 50 feet.
- (9) Such other conditions and limitations which the Board of Zoning Appeals may impose so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

Section 20.15. Permit a variation or modification in the required location of off-street parking facilities or in the amount of off-street parking facilities required, or both, if after investigation by the Board it is found that such variation is necessary to secure an appropriate development of a specific parcel of land which has such peculiar or exceptional geographical or topographical conditions, or is of a size, shape or dimension that it cannot be reasonably developed in accordance with the provisions of Section 3.10 and that any variation will not be inconsistent with the spirit and purpose of this ordinance, with public safety, and with substantial justice.

Provided, that in case of appeals to the Board by churches, special consideration shall be given to any reasonable request for variation or modification of such provisions in view of the obvious necessity for allowing the construction of churches to serve all neighborhoods.

In granting any such variation or modification, the Board shall impose such conditions and limitations in respect to the proposed use and development of the premises as in its opinion are necessary in order to minimize the need for parking facilities and to

make such off-street parking facilities as are provided reasonably adequate. (Ord. 176-E, effective August 5, 1947; Ord. 703-F, effective May 31, 1962.)

#### SECTION 21. ZONING COMMISSION

The City Plan Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, and shall perform the duties of said Commission as provided in the statute in connection with the Amendment of this Ordinance.

#### SECTION 22. COMMISSION APPROVAL

In cases where the Commission is empowered to approve certain uses of premises under the provisions of this Ordinance, or in cases where the Commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter.

The Commission shall investigate the circumstances of each such case and shall notify such parties who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure or any other public hearing required by this Ordinance.

The Commission may impose such conditions or limitations in granting approvals as may in its judgment be necessary to fulfill the spirit and purpose of this Ordinance. The Commission may waive, increase or modify the yard, parking or location of parking requirements of this Ordinance where a finding is made that:

1. Unusual circumstances prevail;
2. Undue hardship would be suffered and no good purpose would be served by compliance with such provisions of this Ordinance;
3. The waiver or modification is not harmful to the surrounding property. (Ord 601-F, effective September 28, 1961.)

#### SECTION 23. VALIDITY

This Ordinance and the various parts, sections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

#### SECTION 24. VIOLATIONS AND PENALTIES

Any person, persons, firm or corporation or anyone acting in behalf of said person, persons, firm or corporation violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a fine of not more than five hundred (\$500.00) dollars or to imprisonment in the Detroit House of Correction for a period of not more than ninety (90) days, or to both such fine and imprisonment in the discretion of the court. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section.

#### SECTION 25. IMMEDIATE EFFECT

This Ordinance is hereby declared necessary for the preservation of the peace, health, safety and welfare of the people of the City of Detroit and is hereby given immediate effect.