

INDIAN RIVER COUNTY ORDINANCE 75-1

AN ORDINANCE AMENDING SECTION 26, INDIAN RIVER COUNTY ORDINANCE 71-3 REDEFINING THE FUNCTIONS POWERS AND DUTIES OF THE BOARD OF ZONING ADJUSTMENT.

SECTION 26. BOARD OF ZONING ADJUSTMENT

(A) Functions, Powers, and Duties of the Board of Zoning Adjustment.

The Board of Zoning Adjustment shall have the following powers:

(1) 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 ordinance.

(2) Interpretation: To interpret these regulations at the request of the zoning enforcement officials.

(3) Granting of Variances: To receive and consider appeals for the granting of variances from the terms of this ordinance and to grant such variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will cause significant hardship.

In considering whether or not to grant a variance, the Board will consider the following criteria:

a. Is the plight of the applicant due to unique circumstances not created by him or his predecessor in title?

b. Do special conditions and circumstances exist which are peculiar to the land or structure involved, and which are not applicable to other lands or structures in same district?

c. Would literal interpretation of the provisions of these ordinances deprive the applicant of rights commonly enjoyed by the properties in the same district?

d. The variance normally shall not permit establishment or enlargement of any use or structure which is not permitted in the district in which the variance is requested?

e. The variance must observe the spirit and intent of this zoning ordinance.

(4) The Board of Zoning Adjustment may grant a variance to complete any project to any applicant who had received zoning approval prior to September 8, 1971, for a project which was legal before the adoption of this ordinance but not legal after the adoption of this ordinance, regardless of the acreage requirements of this ordinance.

(5) Conditional Variance: The Board of Zoning Adjustment may make the authorization of a variance conditional upon such alternate and additional restrictions, stipulations, and safeguards as it may deem necessary to insure compliance with the intent and purpose of these regulations. Violation of such conditions when made a part of the terms under which a variance is granted shall be deemed a violation of this ordinance.

(6) Public Hearings:

Notice: Notice, in writing, will be given by the County Administrator by using the address of said owner on the last tax roll, to the owners of all land next to land upon which a variance is sought at least seven days prior to the hearing at which the Board of Zoning Adjustment is scheduled to hear the request. The notice will contain the name of the applicant for a variance, a description of the land sufficient to identify, the variance requested and the date, time and place of the hearing.

(B) Establishment, Appointment, Terms, Meetings:

(1) Establishment and Appointment: There is hereby created a Board of Zoning Adjustment for Indian River County, Florida, to be composed of five members appointed by the Board of County Commissioners of Indian River County.

(2) Term of Office: The Board of Zoning Adjustment members shall serve a term of two years or until a successor is appointed and shall be removable by a majority vote of the full Board of County Commissioners. Vacancies shall be filled for the unexpired term of any member whose seat becomes vacant.

(3) Compensation: The Board of Zoning Adjustment members shall serve without compensation but shall be paid actual expenses incurred in the performance of their duties which expenses shall not exceed allowances as prescribed by state law.

(4) Meetings: The Board of Zoning Adjustment shall organize and adopt rules in accordance with the provisions of any resolution or regulation of the Board of County Commissioners. Meetings of the Board shall be held at the call of the Chairman or at such other times as the Board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. Three members of the Board shall constitute a quorum and a majority vote of those present shall determine any issue before the Board.

This Amendment shall become effective on the 21st day of January, 1975.