

## ORDINANCE 19-03

**AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA, AMENDING DIVISION 3, BUILDING BOARD OF ADJUSTMENT AND APPEAL, OF CHAPTER 109 OF THE LAND DEVELOPMENT CODE TO PROVIDE THAT THE LOCAL PLANNING AGENCY SHALL ACT AS SAID BOARD; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.**

**WHEREAS**, City staff reviewed Division 3 of Chapter 109 of the Land Development Code and has recommended that certain revisions are necessary relating to the Building Board of Adjustment and Appeal; and

**WHEREAS**, the recommendations of staff have been found meritorious by the City Commission; and

**WHEREAS**, the City Commission has received input from the public at two public hearings.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:**

**Section 1.** That Division 3 of Chapter 109 of the Land Development Code is hereby amended to read as follows:

### **DIVISION 3: - BUILDING BOARD OF ADJUSTMENT AND APPEAL**

#### **109-30.1 - Membership (Building Board of Adjustment and Appeal)**

The Local Planning Agency shall act as the Building Board of Adjustment and Appeal.

#### **109-30.2 – Duties.**

- (A) The board shall hear and decide on appeals and variances to the adopted Florida Building Code.
- (B) The board shall exercise the power to make decisions which require public notice and public hearing as set forth in this division.

#### **109-30.2.1 - Administrative Review**

To hear and decide an appeal of the decision of the building official, wherever any one of the conditions of §109-30.3.1.1 *Conditions of Appeal* are claimed to exist.

### **109-30.2.1.1 - Conditions of Appeal**

- (A) The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
- (B) The provisions of the adopted FBC do not apply to the specific case.
- (C) That an equally good or more desirable form of installation can be employed in any specific case.
- (D) The true intent and meaning of adopted FBC, or any of the regulations thereunder, have been misconstrued or incorrectly interpreted.

### **109-30.2.2 - Variances**

To vary the application of any applicable provision of the adopted FBC, to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of the codes or public interest, where all of the following criteria have been found:

- (A) That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others;
- (B) That the special conditions and circumstances do not result from the action or inaction of the applicant;
- (C) That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system;
- (D) That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system; and
- (E) That the grant of the variance will be in harmony with the general intent and purpose of the adopted codes and will not be detrimental to the public health, safety and general welfare.

#### **109-30.2.2.1 - Conditions of the Variance**

In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be

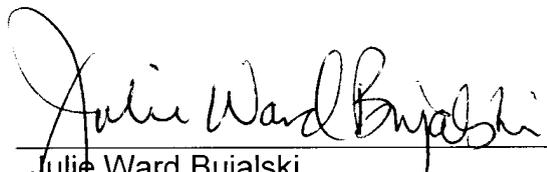
commenced or completed, or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with the city's adopted code. Violation of the conditions of a variance shall be deemed a violation of city code, and such variance shall be voided and repealed unless by the action of the board such variance is granted again under conditions ensuring that the variance will not be voided.

**109-30.3 - Decisions**

In deciding on matters presented to it, the board shall set forth such decision in writing together with all required conditions and safeguards and the reasons for such decision. The chair or vice chair of the board shall sign such decision. A concurring vote of the majority of the total membership of the board shall be required to decide on any matter presented to it, except that it shall require a four-fifths concurring vote of the total membership to override the decision of the building official.

**Section 2.** That this Ordinance shall become effective upon final passage and adoption.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 7th day of March, 2019.**

  
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Julie Ward Bujalski  
Mayor

ATTEST:

  
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Denise M. Kirkpatrick  
City Clerk

READ FIRST TIME AND PASSED: February 7, 2019

READ SECOND TIME AND ADOPTED: March 7, 2019