

Building Appeal Board
Wednesday, October 11, 2023

MEMBERS PRESENT: Nancy Janzig; Bill Scalzo; Justin Hoffman; Brian Morse; Shawn Krizaj

MEMBERS ABSENT: Mark Pleml; Jordy Sargent; John Miller; Don O'Connor; Rick Wallin; John Hinzmann

STAFF PRESENT: Blake Nelson; Steve Hanke; Bonnie Engseth

1. ROLL CALL
2. Motion made by Board Member Scazo, seconded by Board Member Morse to approve the August 9, 2023 minutes. Motion passed.
3. OLD BUSINESS

Potential Changes to the City Code related to the Building Appeal Board

- a) Blake Nelson stated that he and Steven Robertson proposed several changes to the Building Appeal Board section of Chapter 10 of the city code.
- b) A discussion was held by the Board regarding the proposed changes to Article IV. Building Appeal Board, Sec. 10.5 and the Board recommended the following:

1. Sec. 10-5 paragraph (a) should read: There is hereby established a building appeal board, which shall hear and determine appeals under the State Fire Code and Duluth Housing Code. Such board shall consist of nine members who shall be appointed by the mayor, subject to the approval of the city council and who shall serve without compensation. The Duluth fire chief shall be an appointed member of the board. The building official shall be appointed as an ex officio member of the board and shall have no vote on any matter before the board and shall act as secretary of the board.

One member of the board shall work in the area of finance; one member shall be a registered architect; one member shall be a registered engineer working in the area of building construction design; one member shall be engaged in the business of residential building construction or commercial construction; one member shall work in the area of building materials supply; and two members shall be appointed from the general citizenry of the City of Duluth.

2. Sec. 10-5 paragraph (c) (1) should read: To hear appeals from decisions made by the building official in enforcing or interpreting the Duluth Housing Code, Chapter 29A, of the Duluth City Code;
3. Sec. 10-5 paragraph (d) should read: Any owner or occupant who wishes to appeal a decision of the building official or fire marshal shall serve written notice of appeal upon the issuing authority within 15 days after receiving notice of such decision and pay the appeal fee. The appeal fee shall be set in accordance with Section 31-6(a) of this Code. The notice of appeal shall contain a complete statement of the matter in controversy and relief requested. If the appeal is from a decision of the fire marshal, the building official shall forward a copy of the notice of appeal to the fire chief. The building official shall notify the appellant of the time and place of the hearing. If the appellant

withdraws their appeal in writing prior to the date and time set therefore, the building official shall refund the aforesaid fee. At the hearing, the board shall hear all relevant evidence and arguments. After due deliberation, the board shall render its decision in writing and notify the appellant of its decision by U.S. mail, electronic means or personal service. The building official shall keep an indexed record of decisions of the board. If the board grants an appellant an extension of time to do an act, then, at the next meeting after expiration of that period of time, the matter shall be set on the meeting agenda for the board's review and action;

4. Sec. 10-5 paragraph (e) (1) and (2) should read: (1) Housing code appeals and appeals of demolition or other orders. The board may remedy any error is has found the building official has made in the interpretation of the housing code or of Article II or III of Chapter 10, Duluth City Code, or their successors. The board may also grant such relief as it deems reasonable from strict compliance with each provision of these parts of Duluth City Code, but no relief shall be granted unless it is found that:
 - (A) There is substantial compliance with the provisions of the Code; and
 - (B) No detriment to public health or safety will result from grant such relief; and
 - (C) The intent of the Code is not compromised; and
 - (D) The relief granted will not result in increased cost expense to the city;
- (2) Variances from the minimum requirements of the fire code may be recommended to the state fire marshal only if:
 - (A) There is substantial compliance with the provisions of the fire code; and
 - (B) The safety of the building occupants and general public will not be jeopardized; and
 - (C) Undue hardship will result to the application if relief is not granted.
- (c) Board Member Janzig asked what the next step is in approving the changes. Blake Nelson stated it will go to the attorney's office. Counsel Steve Hanke stated the changes will go before the task force, then to the city council.
- (d) The Board also discussed the Building Appeal application and Blake Nelson stated he will look look at the form and make changes to better clarify what is needed by the appellant.

Motion to adjourn made by Board Member Hoffmann, seconded by Board Member Morse at 4:05 p.m.
Motion passed.