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ZONING FOR IOWA CITIES AND TOWNS

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ZONING

THE whole purpose of zoning is to encourage the erection of the right building in the right place. It protects the man who develops his property along proper lines against the man who develops his property along improper lines. Rightly understood, zoning means the substitution of an economic, scientific, efficient community program of city building for wasteful, inefficient, haphazard growth."

ZONING FOR IOWA CITIES AND TOWNS

By Rolland S. Wallis, Municipal Engineer

The purpose of town planning is to secure orderly and efficient growth for our cities and towns. Guided by skilled planning, our small cities can grow efficiently and avoid duplicating the costly mistakes that have been made by older cities. Zoning, while a comparatively new idea, is receiving universal recognition as a most important phase of town planning.

What Zoning Is

Zoning regulates the development of private property, chiefly by imposing restrictions on the bulk, location and use of buildings erected on the land. It is the assignment by law of various areas or districts to particular uses and types of occupancy. "The purpose of zoning is to put the right occupation in the right place and to keep it there."

While specified by a city ordinance under the direct authority of the state, zoning restrictions "are in reality a democratic agreement on the part of citizens to cooperate in establishing order and stability in city development." Each property owner, in effect, gives up some of his property rights in return for similar sacrifices on the part of his neighbors.

Types of Zoning Districts

A "zone," strictly speaking, is a girdle or belt. Most zoning areas are not encircling bands or strips, but are irregular in size and shape. Hence, they are coming to be more accurately designated as "districts." Town planners are interested chiefly in three sorts of zoning districts:

- (1) Height Districts
- (2) Area Districts
- (3) Use Districts

Height restrictions control the height to which buildings may be erected. **Area restrictions** specify the portion of the building-lot area that may be built upon. **Use restrictions** control the uses to which buildings or land may be put. There is a tendency at present to combine "height" and "area" districts into what are termed "bulk" districts or "volume" districts.

Most zoning ordinances regulate the distances which buildings must be set back from the front property or street line in certain districts. Set-backs may be provided for by the nature of the "area" restrictions. In some cities they are established by separate ordinances.

The division of cities into districts or zones of varying structural requirements is a form of zoning that has long been common in our large cities as a means of fire protection. Zoning for value protection is just as necessary as zoning for fire protection, and is accomplished under the same legal authority. In many districts the depreciation losses due to the presence of injurious buildings and injurious uses of buildings greatly exceed the losses due to fire.

Heights of Buildings

The erection of buildings of unnecessary height is evidence of civic ignorance rather than a demonstration of civic progress. In a number of our larger cities instances may be found where the "skyscraper disease" has run its full course. First, some land owner in the business district of a city erects a skyscraper on his land—a building taller than any on adjoining property. He gains a temporary advantage by virtue of the light and air stolen from his neighbors—the building proves popular and nets him a large income. Such a development gives to nearby land a fictitious value based on this return, and other owners follow suit in an attempt to realize a proper income on the new and inflated valuation of their land.

Ultimately the district is uniformly built up with high buildings, whereupon the owners find their buildings earning very low returns on their investments. This is mainly due to the unattractiveness of such buildings to tenants, who find them dark and poorly ventilated. It has been shown that the constant use of artificial light necessary in many such buildings, the poor circulation of air and the bad sanitary conditions encouraged by the absence of sunlight have had effects on the health and mental attitude of the occupants.

High buildings are not an economic development. The construction cost per cubic foot increases rapidly as the height is increased. The difficulties of construction also cause an unnecessary loss of life among the workmen. Then, too, the higher the building the more valuable floor space that must be given over to walls, columns, pipes and elevator shafts. A prominent real-estate authority of Chicago states that "the tall building is responsible for raising ground value above the possibility of its earning power The skyscraper in Chicago is an economic and financial blunder."

High buildings have introduced serious difficulties into fire fighting, as well as serious possibilities as to high loss of life when large

conflagrations occur. Recent experience with city fires demonstrates the comparative limitations at such times of fireproof construction and private sprinkler systems.

High concentrations of business population cause a great deal of unnecessary street congestion. Many streets in skyscraper districts would be found inadequate to handle the throngs of people working in and visiting the high buildings fronting on these streets if they were suddenly called upon to do so.

The height regulation is usually based upon the width of the street, higher buildings being permitted on wider streets. Some authorities, however, prefer the simpler plan of having a flat height limitation for each district. In the case of tower buildings greater heights are usually permitted for the tower portion. Set-backs of cornices and at the base of buildings are other devices employed to secure additional height without seriously diminishing the light and air available within the street lines.

Area Occupied by Buildings

In order to insure further an adequate supply of light and air, zoning ordinances customarily specify the portion of the lot area which may be occupied by buildings. The percentage of the lot area which may be built upon is usually restricted to from 25 per cent to 100 per cent, depending on the character of the district. The sizes and proportions of rear yards, side yards and courts are usually controlled by area restrictions.

Uses of Buildings

Regulations controlling the uses to which buildings or land may be put are of great importance. Such regulations prevent the injurious and unsuitable use of property. Factories and public garages (for example) are necessary and have their place, but they are nuisances and cause property depreciation when located near residences, schools, churches or hospitals. Zoning means a suitable place for every building and every building in its place—it helps insure, moreover, a normal life to every building that is properly located.

A city gains in civic strength with each increase in home ownership. In every city there are many individuals who would like to acquire homes of their own, but each is afraid to do so lest some one ruin his investment and home neighborhood by erecting near by an apartment, a stable, a laundry, or perhaps a public garage.

Zoning has been described as the greatest stabilizer of real-estate values ever conceived. Stability of values not only protects the home owner but makes the financing of his home an easier matter. A recognized authority on real-estate loans has said that "fully 75

per cent of all the losses taken by the lending institutions of this country arise out of the fact that unregulated and unrestricted building is the rule rather than the exception."

A zoning ordinance properly drawn and administered determines the character of the zone or district for a long period of years. This assures lenders on mortgages freedom from loss and tends materially to allay their natural timidity in loaning on real estate. More funds are thus available for the home-builder—and on easier terms.

It has been truly said that zoning is a poor man's law. Many residents are financially able to protect their own interests, but the poor man cannot afford lawsuits. Then, too, the well-to-do usually have proportionately less at stake in home ownership than the poor man. His home represents a large part, if not all, of his savings.

It should not be thought, however, that zoning is exclusively to the advantage of residential districts. An equitable arrangement of residence, business and industrial districts is to the advantage of each sort of district. The occupants of each can plan ahead and develop their property with assurance as to the permanency of the character of the district. Much investment risk is thus eliminated, so that business and industry can develop more efficiently to their ultimate profit. The haphazard mixing of the uses of buildings is detrimental to business and industrial districts as well as to residential districts.

The classifications of "use" districts found in existing zoning ordinances vary from a few simple divisions to some very complex classifications. Usually it is found sufficient to divide the city area into districts about as follows:

- a.—Residential (including schools, clubs and churches).
- b.—Business (or commercial).
- c.—Light industry.
- d.—Heavy industry.
- e.—Unrestricted.

Advantages of Zoning

The following statements summarize the advantages of zoning from various viewpoints:

1. Zoning stabilizes real-estate values. "To the owner of neighboring property the invasion of an injurious use often spells financial ruin."
2. Zoning promotes the peace and quiet of residential districts. Noisy industries are kept out.
3. Zoning protects residential districts from offensive odors and reduces the amount of smoke, dust and dirt.
4. Zoning promotes the public health. Less dirt, less noise, less

- impure air and more sunlight mean an increase in physical efficiency.
5. Zoning makes a city a better place in which to live and to work —not only more healthful, but more pleasant in many ways.
 6. Zoning results in orderly community growth. The chaos resulting from the haphazard mixing of conflicting interests is avoided.
 7. Zoning permits the efficient platting of land to suit the needs of its intended use, uninfluenced by the requirements of other districts as to the arrangement and development of streets or the sizes and proportions of lots and blocks.
 8. Zoning permits the planning of a functional street system in which each street is designed to serve a specific purpose.
 9. Zoning places the design of street paving on an economic and scientific basis. Better results are secured at a financial saving. Each street can be paved as best suits the district and its traffic, the needs of which can be foreseen for a long period.
 10. Zoning permits large economies in the construction of sewers and water mains. Where definite knowledge of the future character of a district is available, comparatively little allowance need be made for increased demands due to changes in the character of a district.
 11. Zoning reduces street congestion, not only by preventing "skyscraper" districts, but also by tending to segregate the different kinds of street traffic. The mixing of fast and slow traffic makes traffic regulation difficult.
 12. Zoning reduces street accidents. Segregation of traffic makes streets safer for vehicles and pedestrians.
 13. Zoning simplifies the problems of street cleaning.
 14. Zoning simplifies city transit problems. The distribution of residential, business and industrial districts determines the arrangement of transit lines. The permanency of zoning districts permit the development of a satisfactory system.
 15. Zoning reduces the fire hazard. Much of the menace of high buildings is avoided, while the segregation of each of the various types and uses of buildings in suitable districts permits the effective location of the type of fire fighting equipment needed by each district.
 16. Zoning facilitates the efficient location of new parks and playgrounds. With less shifting of residential areas the future needs of any district may be more accurately predicted.
 17. Zoning facilitates the efficient location of public school buildings, just as in the case of parks and playgrounds.
 18. Zoning protects the public schools from noisy industries and other nuisances.

19. Zoning promotes home ownership and thus tends to stabilize labor conditions.
20. Zoning fosters a wholesome neighborhood spirit and greater civic pride.
21. Zoning affords a better basis for the assessment of property for taxation.
22. Zoning results in greater total tax values. While it tends to check sudden increases in land value (especially in business districts), this results in spreading out these values over a much greater area.

Police Power and Eminent Domain

Zoning is accomplished under what is known legally as the "police power," but the term may be more readily understood if taken as meaning simply "community power." Under the police power the right is given to impose such regulations as are necessary to the health, morals, safety and welfare of the public. The police power should be clearly distinguished from the right of "eminent domain" under which private property can be taken for public use by condemnation proceedings and on the payment of damages shown. In the case of the police power no payment is made for property or property rights surrendered by the private individual to the community.

The regulation of the development of private property by an exercise of the power of eminent domain, while theoretically possible, would be prohibitive on account of the expense and the enormous amount of legal procedure involved. Then, too, such a plan would be too rigid for our rapidly-changing cities. No person could look into the future with sufficient accuracy to know just what rights the community should purchase in order to protect indefinitely its future development.

Zoning Not Retroactive

Zoning ordinances should not be retroactive in effect. "There must be a fair relationship between the public good to be secured and the private injury suffered." Zoning should not interfere with the existing buildings or the existing uses of buildings. The emphasis is placed on the regulation of future structures, to the end that the standards of each district shall be protected from the effects of injurious property developments.

The tendency of most carefully-drawn ordinances is to bring any non-conformities gradually into line as such buildings are altered or rebuilt. The initial non-conformities are of relatively short life when compared with the probable life of any zoning district.

Legality of Zoning

The courts have repeatedly upheld the legality of zoning measures. In order to be valid, however, such ordinances must be reasonable and uniform in operation rather than arbitrary or discriminatory in their effect. In fairness to the courts it must be admitted that the legality of any particular ordinance seems to depend more on the care and fairness entering into its preparation than on any lack of judicial progressiveness.

Zoning by Private Restrictions

Private restrictions have been widely employed in the protection of property values, especially in the better class of residential districts, but have seldom proved entirely satisfactory. Restricting by contract cannot be relied on for long-time protection from the broad, community viewpoint. Perpetual restrictions written into property deeds are inflexible and cannot be adapted to changing city conditions. As such restrictions at times actually stand in the way of necessary and proper improvements, they are frequently set aside by the courts.

Private restrictions are usually of short life, rarely being made effective for more than twenty or twenty-five years. As the end of a restricted period approaches, the district affected is apt to become "run down" in character. This is due to the natural tendency of property owners to anticipate the depreciation in property values that would result from the probable invasion of the district by objectionable developments.

While property regulations by the method of private restrictions has its limitations and cannot take the place of comprehensive zoning, such restrictions can exist along with zoning without interference and with good effect. This is especially true in the case of a new residential development.

Zoning Not Inflexible

No zoning ordinance can be so drawn as to be without error or flaw, and provision is invariably made for changes wherever and whenever justified by existing conditions. A reasonable amount of flexibility is essential so that initial errors due to oversights and technicalities may be corrected, and so that the changes necessitated from time to time by changing conditions can be effected.

Any property owner who feels that he has not been treated justly as to the type of development permitted on his land under the operation of a zoning ordinance has recourse to a tribunal designated in Section of the Iowa zoning law as the Board of Adjustment (see appendix). This board has the power to decide appeals of individuals affected by the operation of the law. This body can correct technical errors of any administrative official, can decide upon spe-

cial exceptions to the terms of the ordinance and can authorize such departures from the exact terms of the ordinance as are not contrary to the public interest in cases where strict enforcement of its provisions would result in unnecessary hardship.

The decisions of this board are all subject, on appeal, to revision by court procedure, as outlined in Section 7 of the zoning law.

Piecemeal Zoning

Zoning should not be done on a piecemeal plan, as this procedure has never proved entirely satisfactory. The zoning ordinance should be comprehensive and based on a careful study of the whole community by a local commission thoroughly familiar with conditions.

Residential districting has been permitted in Iowa cities of the first class since 1917 by a statute of the piecemeal type (Chapter 138, Laws of the 37th General Assembly—see appendix), but the operation of this law seems apt to result in more trouble than good.

Comprehensive ordinances are stronger legally than any piecemeal plan of zoning can be. Iowa now has a law (Chapter 134, Laws of the 40th General Assembly—see appendix) which permits comprehensive zoning in all her cities and towns. When any municipality proceeds to take advantage of this law, the provisions of the piecemeal law previously mentioned thereupon cease to apply to that city.

Zoning Needed by Iowa Municipalities

Every city and town can benefit by having a zoning ordinance. In every community can be found outstanding examples of property depreciation caused by objectionable property developments which are either the results of greed or a lack of good judgment on the part of those responsible for them. Zoning protection will encourage home ownership and thus maintain for Iowa her front-rank position in this respect.

There are, it is true, relatively few skyscraper districts in Iowa, but her cities are already aping the high buildings of larger cities in other states. Now is the best time to set height limits. Many of the larger cities mentioned waited until it was nearly too late—until much of the damage was done.

The cities and towns of Iowa, furthermore, are not as congested as some well-known examples, but such conditions naturally gravitate from bad to worse. Now, while development is relatively slow, is the time to regulate population density by suitable zoning restrictions. Uncertainty as to the future development of real estate tends to create slum conditions in any city.

Zoning Procedure

Appointment of zoning commission. Experience indicates that the preparation of a zoning ordinance, as well as the collection of the data on which it is based, is best accomplished by a local commission largely made up of citizens serving without pay and assisted by certain municipal officials of experience and proved judgment. The appointment of such a commission is the first legal step to be taken by the municipality under the Iowa zoning law. The employment of a zoning expert as a consultant is usually advisable.

The zoning survey. The first duty of a zoning commission after its organization is the making of a zoning survey. This includes the collection, the analysis and the presentation of the facts as to existing conditions in local property development. Maps are prepared showing the arrangement, types, materials, heights and uses of existing structures; the distribution of population; property values; transportation lines; recreational areas and various other data.

Drawing up the zoning ordinance. The next step is the drawing up by the zoning commission of a tentative zoning ordinance consisting of a reasonable, carefully-determined set of restrictions governing the height, area and use of buildings in each district of the city, these restrictions being based on a thorough study of the conditions revealed by the survey. It should be emphasized that zoning cannot safely be standardized. Each city presents a different set of conditions which constitute a different problem for solution in each case. Each city has its own individuality and should retain it.

The zoning ordinance should also provide for the creation of a board of adjustment, define its powers and state the rules governing its procedure.

Submitting plan to property owners. When the tentative ordinance and the accompanying maps have been prepared by the commission, the next step consists in putting the matter before the people. This necessitates an educational campaign to acquaint the local property owners with the need, the purpose and the details of the zoning plan. This publicity is necessary for the protection of the property owners interested. Public hearings are held, at which times the commission considers the views presented, usually modifying the proposed ordinance to agree with the wishes of the people directly affected. "The community itself ought to do the zoning."

Submitting plan to city council. The fourth and final step is the submission of the proposed ordinance to the city council. To this body belongs the right (after public hearings) to adopt the zoning plan, to reject it or to amend it from time to time as conditions may demand.

APPENDIX

Chapter 138—Laws of the Thirty-Seventh General Assembly

AN ACT authorizing cities of the first class, including cities under commission form of government, and cities under special charter, to designate and establish restricted residence districts and to prohibit the erection, alteration, and repairing of buildings thereon, and therein, for certain prohibited purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. **Restricted Residence Districts—Petition.** Cities of the first class, including cities under commission form of government, and cities under special charter may, and upon petition of sixty per cent of the owners of the real estate in the district sought to be affected residing in such city shall designate and establish, by appropriate proceedings, restricted residence districts within its limits.

Section 2. **Ordinance, Scope of.** In the ordinance designating and establishing such restricted residence district, every such city is hereby empowered to provide and establish reasonable rules and regulations for the erection, reconstruction, altering and repairing of buildings of all kinds, within said district, as well as the use and occupancy of such buildings; and to provide that no building or other structure, except residences, school houses, churches, and other similar structures shall thereafter be erected, altered or repaired, or occupied without first securing from the city council of such city a permit therefor, such permit to be issued under such reasonable rules and regulations as may in said ordinance be provided.

Section 3. **Ordinance—Violations.** Any building or structure erected, altered, repaired or used in violation of any ordinance passed under the authority of this act, shall be deemed a nuisance, and every such city is hereby empowered to provide by ordinance for the abatement of such nuisance, either by fine or imprisonment, or by action in the district or municipal court of the county in which such city is located, or by both; such action to be prosecuted in the name of the city.

Section 4. **Publication Clause.** This act being deemed of immediate importance shall take effect and be enforced from and after its publication in the Des Moines Register, and the Des Moines Capital, both newspapers published in Des Moines, Polk county, Iowa.

Approved April 5, A. D. 1917.

Chapter 134—Laws of the Fortieth General Assembly

AN ACT granting to any city or town, including cities acting under the commission plan of government and special charter cities, the power to appoint a zoning commission and to prescribe its duties;

to divide the city or town into districts with respect to the development and uses of the property therein; and to adopt uniform rules for such property which may affect the general welfare; to provide for the appointment of a Board of Adjustment and to prescribe its duties; to institute appropriate action or proceedings in case of violation of this Act or of any ordinance or other regulation made under authority conferred thereby; and providing for appeals from the action of the Board of Adjustment, and from the City Council, and prescribing notice and hearing of such appeal; also providing that when any city or town avails itself of the provisions of this Act, the provisions of Chapter One Hundred Thirty-eight (138) Acts of the Thirty-seventh General Assembly, and acts amendatory thereof, shall be inoperative and void.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. That for the purpose of promoting the health, safety, morals or the general welfare of the community, any city or town, including cities acting under the commission plan of government and special charter cities, is hereby empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

Section 2. For any or all of said purposes the local legislative body, hereinafter referred to as the Council, may divide the city or town into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations and restrictions shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

Section 3. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district

and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city or town.

Section 4. The Council of such city or town shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days notice of the time and place of such hearing shall be published in a paper of general circulation in such city or town.

Section 5. Such regulations, restrictions and boundaries may, from time to time, be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change signed by the owners of twenty per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth, of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The provisions of the previous section relative to public hearings and official notice shall apply equally to all changes or amendments.

Section 6. In order to avail itself of the powers conferred by this Act, the Council shall appoint a commission, to be known as the Zoning Commission, to recommend the boundaries of the various original districts, and appropriate regulations and restrictions to be enforced therein. Where a city plan commission already exists, it may be appointed as the Zoning Commission. Such commission shall, with due diligence, prepare a preliminary report and hold public hearings thereon before submitting its final report; and such council shall not hold its public hearings or take action until it has received the final report of such commission. After the adoption of such regulations, restrictions and boundaries of districts, the Zoning Commission may, from time to time, recommend to the Council amendments, supplements, changes or modifications.

Section 7. The Council shall provide for the appointment of a Board of Adjustment and in the regulations and restrictions adopted pursuant to the authority of this act shall provide that the said Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent and in accordance with general or specific rules therein contained and provide that any property owner aggrieved by the

action of the Council in the adoption of such regulations and restrictions may petition the said Board of Adjustment direct to modify regulations and restrictions as applied to such property owners.

The Board of Adjustment shall consist of five members each to be appointed for a term of five years, excepting that when the Board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this act. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. 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 other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice 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 of Adjustment 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 such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

The Board of 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 Act or of any ordinance adopted pursuant thereto.

(2). To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.

(3). 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.

In exercising the above mentioned powers such Board may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of three 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.

Any person or persons, jointly or severally aggrieved by any decision of the Board of Adjustment under the provisions of this Act, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

Upon the presentation of such petition, the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.