

Summary
Board Bill Number 91
Introduced by: Alderman Jeffrey Boyd
September 17, 2021

An ordinance amending the text of the zoning **code chapter 26.84.050** to ensure the Board of Adjustment consider compliance with the City's Comprehensive Plan in its decision-making process.

Today, the Board of Adjustment grants variances to the strict letter of the code "relating to use, construction or alteration of buildings or structures or the use of land so that the spirit of the code shall be observed, public safety and welfare secured and a substantial justice done." The proposal before the commission would also be that the granting of the variance is in keeping with the City's Comprehensive Plan. This language was derived to mirror that language that exists in other cities in Missouri such as St. Joseph's, Columbia, Springfield, and Maryland Heights.

The Board of Adjustment currently reviews approximately 5-6 variance requests every 2 weeks. This will allow the City to ensure that the Strategic Land Use Plan, which is the land use component of the City's Comprehensive Plan, and any plans adopted as an element of the Comprehensive Plan, such as Neighborhood Plans, are in sync with approvals granted to vary from the City's code.

BOARD BILL NUMBER 91 INTRODUCED BY: ALDERMAN JEFFREY BOYD

1 An ordinance amending **Ordinance Number 64195, codified Section 26.84.050** of the
2 Revised Code of the City of St. Louis, relating to the Board of Adjustment; requiring
3 consideration of variance to be in keeping with the City’s adopted Comprehensive Plan; this
4 ordinance has an effective date.

5 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

6 **SECTION ONE. Ordinance Number 64195, codified in Section 26.84.050** of the
7 Revised Code of the City of St. Louis is hereby amended to read as follows:

8 **26.84.050. Jurisdiction** - The Board shall have the following powers:

9 A. To hear and decide appeals where it is alleged there is error in any order, requirement,
10 decision or determination made by an Administrative Official or Agency in the enforcement of
11 the Zoning Code;

12 B. To permit the extension of a use district where the boundary line of a district divides a
13 lot in a single ownership on April 25, 1950;

14 C. To interpret the provisions of the Zoning Code in such a way as to carry out the intent
15 and purpose of the plan, as shown upon the maps fixing the several districts accompanying and
16 made a part of the Zoning Code where the street layout actually on the ground varies from the
17 layout as shown on the maps aforesaid;

18 D. In passing upon appeals, where there are practical difficulties or unnecessary
19 hardships in the way of carrying out the strict letter of the Zoning Code, to vary or modify the
20 application of any of the regulations or provisions of such code relating to the use, construction
21 or alteration of buildings or structures or the use of land so that the spirit of the code shall be

1 observed, public safety and welfare secured a substantial justice done, and that the granting of
2 the variance is in keeping with the City's comprehensive plan.

3 E. In exercising the above-mentioned powers, the Board may, in conformity with the
4 provisions of law, reverse or affirm, wholly or partly, or may modify the order, requirement,
5 decision or determination appealed from, and may make such order, requirement, decision or
6 determination as ought to be made, and to that end shall have all the powers of the Building
7 Commissioner or the Board of Public Service. The concurring vote of four (4) of the members
8 of the Board shall be necessary to reverse any order, requirement or determination of the
9 Building Commissioner or the Board of Public Service, or to decide in favor of the applicant on
10 any matter upon which it is required to pass under the Zoning Code; provided, however, that the
11 action of the Board shall not become effective until after the resolution of the Board setting forth
12 the full reason for its decision and the vote of each member participating therein has been spread
13 upon the minutes. Such resolution immediately following the Board's final decision shall be filed
14 in the office of the Board and shall be open to public inspection;

15 F. The Board of Adjustment shall cause to be published in the City Journal a statement
16 showing disposition of each appeal and shall mail a copy of said statement to the Aldermen of
17 the ward in which the property affected by the appeal may be located, the Community
18 Development and the Director of Public Safety;

19 G. Any person or persons jointly or severally aggrieved by any decision of the Board of
20 Adjustment or any officer, department, board, or bureau of the municipality may present to the
21 Circuit Court of the City a petition, duly verified, setting forth that such decision is illegal, in
22 whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to
23 the court within thirty (30) days after the filing of the decision in the office of the Board as

1 provided by RSMo 89.110. Upon the presentation of such petition the court may allow a writ of
2 certiorari directed to the Board to review such decision of the Board, and shall prescribe therein
3 the time within which a return thereto may be made and served upon the realtor's attorney which
4 shall be not less than ten (10) days and may be extended by the court. The allowance of the writ
5 shall not stay proceedings upon the decision appealed from but the court may, on application, on
6 notice to the Board and on due cause shown, grant a restraining order. The Board shall not be
7 required to return the original papers acted upon by it, but it shall be sufficient to return certified
8 or sworn copies thereof or of such portions thereof as may be called for by such writ;

9 H. The return shall concisely set forth such other facts as may be pertinent and material to
10 show the grounds of the decision appealed from, and shall be verified. If, upon the hearing, it
11 shall appear to the court that testimony is necessary for the proper disposition of the matter, it
12 may take additional evidence or appoint a referee to take such evidence as it may direct and
13 report the same to the court with his findings of fact and conclusions of law, which shall
14 constitute a part of the proceedings upon which the determination of the court shall be made.
15 The court may reverse or affirm, wholly or partly, or may modify the decision brought up for
16 review.

17 **SECTION TWO.** All remaining provisions of **Ordinance Number 64195** shall remain
18 in full force and effect.

19 **SECTION THREE.** This ordinance shall have an effective date of January 1, 2022.

St. Louis City Ordinance 64195

FLOOR SUBSTITUTE

BOARD BILL NO. [97] 71

INTRODUCED BY ALDERMAN ROBERT RUGGERI

An ordinance pertaining to the Board of Adjustment, repealing section 26.84.020 of Section One of Ordinance 59981, approved on July 31, 1986, and in enacting in lieu thereof a new section pertaining to the adoption of rules and regulations by the Board of Adjustment and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Section 26.84.020 of Section One of Ordinance 59981, approved on July 31, 1986, is hereby repealed and enacted in lieu thereof is a new section to read as follows:

26.84.020 Rules and regulations. The Board of Adjustment shall submit to the Clerk of the Board of Aldermen on or before June 1st of each year proposed rules and regulations as it may deem necessary to carry into effect the provisions of the zoning code. Said proposed rules and regulations shall be subject to the approval and adoption by resolution of the Board of Aldermen on or before June 30th of said year.

SECTION TWO. This being an ordinance for the preservation of public peace, health, and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the mayor.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
05/02/97	05/02/97	LEG	11/05/97	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
11/07/97			11/14/97	11/14/97
ORDINANCE	VETOED		VETO OVR	
64195				

St. Louis City Cod 26.84.050 - Jurisdiction.

The Board shall have the following powers:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an Administrative Official or Agency in the enforcement of the Zoning Code;
- B. To permit the extension of a use district where the boundary line of a district divides a lot in a single ownership on April 25, 1950;
- C. To interpret the provisions of the Zoning Code in such a way as to carry out the intent and purpose of the plan, as shown upon the maps fixing the several districts accompanying and made a part of the Zoning Code where the street layout actually on the ground varies from the street layout as shown on the maps aforesaid;
- D. In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Zoning Code, to vary or modify the application of any of the regulations or provisions of such code relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of the code shall be observed, public safety and welfare secured a substantial justice done;
- E. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of law, 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 Building Commissioner or the Board of Public Service. The concurring vote of four (4) of the members of the Board shall be necessary to reverse any order, requirement or determination of the Building Commissioner or the Board of Public Service, or to decide in favor of the applicant on any matter upon which it is required to pass under the Zoning Code; provided, however, that the action of the Board shall not become effective until after the resolution of the Board setting forth the full reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolution immediately following the Board's final decision shall be filed in the office of the Board and shall be open to public inspection;
- F. The Board of Adjustment shall cause to be published in the City Journal a statement showing disposition of each appeal and shall mail a copy of said statement to the Aldermen of the ward in which the property affected by the appeal may be located, the Community Development and the Director of Public Safety;
- G. Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment or any officer, department, board, or bureau of the municipality may present to the Circuit Court of the City a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board as provided by RSMo 89.110. Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board to review such decision of the Board, and shall prescribe therein the time within which a return thereto may be made and served upon the realtor's attorney which shall be not less than ten (10) 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 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;
- H. 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. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(1994 C., § 26.84.050; Ord. No. 59981, § 1(part), 1986; Ord. No. 59979, § 23(part), 1986.)

Cases:

Variance may be granted on evidence of practical difficulty resulting from factors other than physical characteristics of property. *Arens v. City of St. Louis*, 872 S.W. 2d 631 (Mo. App. E.D. 1994).

Challengers' status as alderwomen did not by itself confer standing to challenge zoning variances granted by the Board of Adjustment. *State ex rel. Smith v. Grant*, 943 S.W. 2d 319 (Mo. App. E.D. 1997).

Fiscal Note

Board Bill Number 91

Preparer's Name Cecilia Dvorak

Phone Number or Email Address (will be available publicly) 314-657-3873

Bill Sponsor Alderman Jeffrey Boyd

Bill Synopsis:	Board Bill would amend the text of the Administration code chapter 3.48.070 to allow the Board of Aldermen to override a negative recommendation of the planning commission for a zoning ordinance or zoning district map only by a two-thirds majority vote of all the members of the Board of Aldermen.
Type of Impact:	Zoning Text Amendment, Citywide change.
Agencies Affected:	Zoning Office, Planning & Urban Design Agency.

SECTION A

Does this bill authorize:

- An expansion of services which entails additional costs beyond that approved in the current adopted city budget? ___ Yes ___ X No.
- An undertaking of a new service for which no funding is provided in the current adopted city budget? ___ Yes ___ X No.
- A commitment of city funding in the future under certain specified conditions? ___ Yes ___ X No.
- An issuance of bonds, notes and lease-purchase agreements which may require additional funding beyond that approved in the current adopted city budget? ___ Yes ___ X No.
- An execution or initiation of an activity as a result of federal or state mandates or requirements? ___ Yes ___ X No.
- A capital improvement project that increases operating costs over the current adopted city budget? ___ Yes ___ X No.

- A capital improvement project that requires funding not approved in the current adopted city budget or that will require funding in future years? _____ Yes X No.

SECTION B

- Does the bill require the construction of any new physical facilities? _____ Yes X No

- If yes, describe the facilities and provide the estimated cost:

- Is the bill estimated to have a direct fiscal impact on any city department or office? _____ Yes X No

- If yes, explain the impact and the estimated cost:

- Does the bill create a program or administrative subdivision? _____ Yes X No

- If yes, then is there a similar existing program or administrative subdivision?

_____ Yes _____ No

- If yes, explain the how the proposed programs or administrative subdivisions may overlap:

- Describe the annual operating, equipment, and maintenance costs that would result from the proposed bill, as well as any funding sources:

Complete the chart below to list the total estimated expenditures required of the City resulting from the proposed board bill and any estimated savings or additional revenue.

Financial Estimate of Impact on General Fund			
Fiscal Impact	<u>Year 1 (current)</u>	<u>Year 2</u>	<u>Year 3</u>
Additional Expenditures	N/A	N/A	N/A
Additional Revenue	N/A	N/A	N/A
Net	N/A	N/A	N/A
Financial Estimate of Impact on Special Funds			
Fiscal Impact	<u>Year 1 (current)</u>	<u>Year 2</u>	<u>Year 3</u>
Additional Expenditures	N/A	N/A	N/A
Additional Revenue	N/A	N/A	N/A
Net	N/A	N/A	N/A

- Describe any assumptions used in preparing this fiscal note:

- List any sources of information (including any City officials, agencies, or departments) used in preparing this fiscal note:

- Have the financial estimates of this bill been verified by the City Budget Division? _____ Yes X No

○ If yes, by whom? _____ .