

**SYNOPSIS OF AMENDING THE CODE OF SOUTH BETHANY,  
CHAPTER 145, ZONING, ARTICLE XV, BOARD OF ADJUSTMENT,  
§145-58 POWERS AND DUTIES  
ORDINANCE 208-22 (SECOND READING)  
(Sponsored by Councilman Shaw)**

This Ordinance amends the Code of the Town of South Bethany, Chapter 145, Zoning, Article XV, Board of Adjustment, Powers and Duties; to update language pertaining to Board of Adjustment hearing letter notification.



## ORDINANCE NO. 208-22

**AN ORDINANCE TO AMEND** the Code of the Town of South Bethany, Chapter 145, Zoning, Article XV, Board of Adjustment, Powers and Duties; to update language pertaining to Board of Adjustment hearing notification.

**BE IT HEREBY ENACTED** by the Council of the Town of South Bethany, Sussex County, Delaware, a majority thereof concurring in Council duly met, that the following ordinance be and hereby is amended as follows: (additions are **bold and highlighted in red text** and deletions are ~~bold and marked through~~)

### **§ 145-58 Powers and duties.**

The Board of Adjustment shall, in its activities and decisions, be governed by Title 22, Chapter 3, of the Delaware Code, and Article II of this chapter. Within that scope, the Board of Adjustment shall have the following powers and duties:

- A. Appeals: to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by a town official in the enforcement of this chapter. Such appeals shall be filed with the Town Manager within 20 days of discovery of the issuance of such order, but in no event more than 30 days after the issuance of a Certificate of Compliance/Occupancy (or where no Certificate of Compliance/Occupancy is required, after final completion of the work), together with application fees, and shall specify the details of the order and the consequences which serve as the basis for the appeal. Within 10 days of receipt of such appeal, the Town Manager shall send the applicable documents, including any relevant comments of the town official cited in the appeal, to the Chairperson and members of the Board of Adjustment. The Board of Adjustment shall designate a reasonable time for hearing of the appeal and shall give public notice in accordance with Subsection B(2) of this article. Any appeal stays all proceedings in furtherance of the action which has been appealed.

B. Special exceptions: to hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of § 145-28 of this chapter. The Board of Adjustment may grant special exceptions with such additional conditions and safeguards as are appropriate under this chapter or may deny special exceptions when the particular use cannot be accommodated to a particular site without violating the purposes of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

- (1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.
- (2) A public hearing shall be held. At least 30 days before the hearing, notice shall be posted and be not less than 11 x 17 inches on the property for which the special exception is sought; and at least 8 1/2 x 11 inches on the bulletin board in the Town Hall and at four other public places in the Town. The notice shall contain the name of the property owner, the geographic location of the subject property, subdivision or other matter requested and the date, time and place of the hearing. The notice shall also be published in one newspaper of general circulation in the Town at least 30 days prior to the hearing. A copy of the notice shall be **mailed sent by certified mail, return receipt requested**, at least 30 days prior to the hearing to the owner(s) of the subject property and to the owner(s) of property, within the Town's corporate limits, located within a radius of 200 feet, measured from the center of the subject property, at their addresses as shown on the Town's tax records.

C. Variances. A variance from the dimensional terms of this chapter shall be granted only upon a finding by the Board of Adjustment that:

- (1) Special conditions or exceptional situations exist with regard to the particular lot or structure (because, among other reasons, of its size, shape, location or topography) such that a literal interpretation/application of the dimensional terms of this chapter to that particular lot will result in unnecessary hardship and/or exceptional practical difficulties to the owner thereof;
- (2) The spirit of this chapter shall be observed, and substantial justice done; and
- (3) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of this chapter.

D. Use variance prohibited. A variance shall not be given to permit uses which are not permitted in any given district.

E. Additional powers and duties of the Board of Adjustment are listed in the following sections: § 42-10B, 42-15, 116-20F, 145-28, 145-40, 145-67 and 145-69.

**Effective date. This ordinance shall become effective upon the date of adoption.**

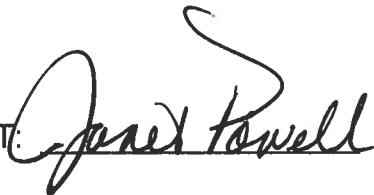
**ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BETHANY, SUSSEX COUNTY, DELAWARE, ON THE 12th OF August 2022.**

SEAL:

  
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Tim Saxton, Mayor

  
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Dick Oliver, Council Secretary

ATTEST:

  
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Janet Powell

1<sup>st</sup> Reading: 7.8.22  
2<sup>nd</sup> Reading: 8.12.22

Sponsored by Councilman Tim Shaw  
TS:jp Ordinance 208-22  
Second Reading