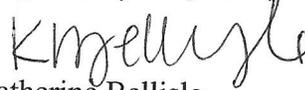


**ALLIANCE, NEBRASKA**  
**Board of Adjustment Meeting**  
**Alliance Learning Center: Meeting Room C**  
**1750 Sweetwater Avenue**  
**October 28, 2025 - 5:30 p.m.**  
**AGENDA**

- **Call to Order**
- **Roll Call**
- **Open Meetings Act Announcement**  
For the public's reference a copy of the Open Meetings Law has been posted on the north wall of this room in the audience area. This posting complies with the requirements of the Nebraska Legislature.
- **Pledge of Allegiance**
- A. **Reorganization of the Board**  
The Board of Adjustment will reorganize, electing a Chairman and Vice-Chairman.
- B. **Approval of Meeting Minutes – October 28, 2024**
- C. **Board of Adjustment Training**
- **Adjournment**

Respectfully submitted,



Katherine Bellisle

Community Development Administrative Secretary

# ALLIANCE BOARD OF ADJUSTMENT

## REGULAR MEETING, TUESDAY, OCTOBER 29, 2024

The Alliance Board of Adjustment met at their Regular Meeting, October 29, 2024 at 6:30 p.m. at the Alliance Learning Center: Meeting Room C, 1750 Sweetwater Avenue. A notice of the meeting was published in the Alliance Times-Herald on October 23, 2024. The notice stated the date, time, and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the Community Development Office in City Hall; provided the Board could modify the agenda at the meeting if it determined an emergency so required. A similar notice, with a copy of the agenda, had also been delivered to each of the Board Members. An agenda, kept continuously current, was available for public inspection at the Community Development Office during regular business hours from the publication of the notice to the time of the meeting.

Chairman Mehne, opened the October 29, 2024 Regular Meeting of the Alliance Board of Adjustment at 6:30 p.m. Present were Board Members Kelsey Turman, Dick Fankhauser, and Evan Mehne. Also present was Community Development Director Brent Kusek and Administrative Secretary Katherine Bellisle.

- Chairman Mehne announced the Open Meetings Act for public reference.
- The first item before the Board was the election of a Chairman and Vice – Chairman of the Board.

A motion was made by Board Member Turman, which was seconded by Board Member Fankhauser to elect Board Member Mehne as the Chairman of the Board of Adjustment.

Roll call vote with the following results:

Voting Aye: Fankhauser, Turman, Mehne.

Voting Nay: None.

Motion Carried.

A motion was made by Board Member Turman, which was seconded by Board Member Mehne to elect Board Member Fankhauser as the Vice-Chairman of the Board of Adjustment.

Roll call vote with the following results:

Voting Aye: Turman, Mehne, Fankhauser.

Voting Nay: None.

Motion Carried.

- The next item on the agenda was the approval of the minutes from the November 28, 2023 Regular Meeting of the Alliance Board of Adjustment.

A motion was made by Board Member Turman, which was seconded by Board Member Fankhauser to approve the November 28, 2023 Regular Meeting minutes as presented.

Roll call vote with the following results:

Voting Aye: Mehne, Fankhauser, Turman.

Voting Nay: None.

Motion Carried.

- Chairman Mehne announced there was no further business before the Board and adjourned the meeting at 6:34 p.m.

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Evan Mehne, Chairman

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Katherine Bellisle, Administrative Secretary

# Board of Adjustment

# Cities and Villages

- ▶ Cities and Villages derive their authority to grant variances from Nebraska Revised Statutes §19-907 through §19-912.
- ▶ These same statutes provide communities with board membership guidelines, basic procedures, and the requirements a variance must meet.

# Board Membership

- ▶ State Statute requires a 5 member board with one alternate. The alternate may sit in and vote when one of the 5 regular board members is absent. (Village trustees may appoint themselves as the Village Board of Adjustment)
- ▶ Board members are appointed by the governing body of the City (City Council) for 3 year terms and receive no compensation.
- ▶ One member of the Board of Adjustment must be a sitting member of the City Planning Commission to convey any recommendations by the Board to the Commission. If that person loses their seat on the Commission, they must also give up their seat on the Board of Adjustment. Said member may not be the alternate of either Board.
- ▶ If more than 200 people reside in the Extraterritorial Zoning Jurisdiction, one member of the Board must reside in the ETJ.

# Board Requirements

- ▶ The Board must adopt rules and by-laws for the general conduct of the meeting.
- ▶ Meetings shall be opened to the public; the Open Meetings Law applies to meetings of the Board of Adjustment.
- ▶ The Board Secretary shall keep minutes of the proceedings.
- ▶ The vote of each member shall be recorded in the minutes including all findings of fact.
- ▶ The Board shall meet at least once a year, by call of the Chairperson, or as the Board may determine.

# Procedures

- ▶ The Board is a quasi-judicial body and may administer oaths and compel the attendance of witnesses.
- ▶ The applicant may appear in person, by agent, or with an attorney.
- ▶ All hearings shall be advertised in a newspaper of general circulation a minimum of 10 days before the date of said hearing.
- ▶ If a variance is requested, the properties abutting each property line of the subject property must be notified by certified mail or served said notice; and a sign meeting the same requirements for rezones must be posted on the subject property no less than 10 days before the hearing.

# Board Functions

- ▶ The Board has three functions as defined in State Statute.
  1. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location and soundness of structures. (Interpret Code; in Alliance this includes our adopted building code)
  2. To hear and decide, in accordance with the provisions of any regulation, the interpretation of any official City map.
  3. A variance from the municipal code for reason of an exceptional hardship as detailed below.

# Code Variances

- ▶ In order to grant a variance, the applicant is required by Nebraska State Statute to prove the existence of a hardship on the property to the Board to Adjustment. A hardship is defined as:
  - 1) Exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning ordinance; or
  - 2) By reason of exceptional topographic condition, or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation would result in peculiar and exceptional practical difficulties.

# Code Variances

- ▶ The Board must make the following findings in order to issue a variance. No variance shall be authorized by the Board unless it finds that the applicant has clearly proved that:
  - 1) the strict application of the zoning regulation would produce undue hardship (as defined by State Law);
  - 2) such hardship is not shared generally by other properties in the same zoning district and the same vicinity\*;
  - 3) the authorization of such variance will not be of substantial detriment to the adjacent property and the character of the district will not be changed by the granting of the variance; and
  - 4) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

# Code Variances

\* No variance shall be authorized unless the Board finds that the condition or situation of the property concerned is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

# Board Findings

- ▶ The Board shall make findings based off of the material and testimony presented to them during the Public Hearing.
- ▶ These findings shall list each of the State requirements for a variance and detail how the property does or does not meet these requirements.
- ▶ Should the Board request more time or information to render a decision, they may table the item for no more than 30 days from the date of the meeting in which the public hearing was held. A meeting time shall be set before adjourning.
- ▶ The final decision of the Board and all findings of fact shall be filed with the permanent record of the property and meeting records.

# Appeal

- ▶ Any person(s) aggrieved, any officer, taxpayer, department, board, or bureau of the municipality, may appeal the Board of Adjustments decision to district court within 15 days of the Boards decision by submitting a verified petition to the court specifying the grounds of the decisions illegality.
- ▶ A summons and a copy of the petition will be served to the Board of Adjustment by the court. Return of service shall be delivered to the court within 4 days after the summons and petition are served to the Board.
- ▶ The Boards response shall be sent and filed with the court within 10 days of receipt of the summons.
- ▶ The court will proceed to hear and render judgement according to law. If the court decides more evidence is needed the court may take additional evidence.
- ▶ In making a decision the court may reverse or affirm, wholly or partly, or modify the decision brought to the court for review.

# Alliance Specific Appeals

- ▶ Expansion of a Nonconforming Use.
  - Nebraska Revised Statute 19-904.01 allows communities to adopt code for the expansion of a legal, preexisting, nonconforming use.
  - Section 109-6 (F) in the Alliance Municipal Code provides the City's guidelines on such an expansion.
  - The structure enlargement may not exceed an amount greater than 25% of the original floor area. Such floor area shall be documented with the permanent record of the property.
  - The applicant must show certain finding of fact in order for the Board of Adjustment to allow the expansion. The requirements are:
    - Such use is a legal, preexisting, nonconforming use.
    - Such use is not generally the same as the other properties in the same zoning district and area.
    - The expansion will not be of substantial detriment to the adjacent property and the character of the district.
    - The expansion shall not be for reasons of convenience, profit, or caprice.

# Alliance Specific Appeals

- ▶ Parking Lot Space Reductions.
  - Section 111-243(E) of the Alliance Municipal Code allows applications to the Board of Adjustment for relief from Subsection D of the same Section. Subsection D provides the minimum number of parking spaces required for a development, structure, or property, based on land use.
  - The applicant must submit a detailed site plan of the proposed parking lot and demonstrate why fewer than the number of spaces required by code should be permitted.
  - Such evidence and the Boards decision shall be filed with the building permit application.

# Alliance Specific Appeals

- ▶ Building Code Interpretation and Variance.
  - ▶ Section 105-2 of the Alliance Municipal Code directs any reference the Board of Appeals in the City Building Code to the Board of Adjustment.
  - ▶ Such appeals will be similar to those of zoning code interpretation. The Board does NOT have the authority to waive the requirements of the Building Code.