

COUNTY ZONING ACT (EXCERPT)
Act 183 of 1943

***** 125.223 THIS SECTION IS REPEALED BY ACT 110 OF 2006 EFFECTIVE JULY 1, 2006 *****

125.223 County board of zoning appeals; hearing; notice; appearance of party; powers; decision final; judicial review.

Sec. 23. (1) The county board of zoning appeals shall fix a reasonable time for the hearing of the appeal and give due notice of the appeal to the parties, and decide the appeal within a reasonable time. At the hearing, a party may appear in person or by the agent or by attorney. The county board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. If there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, the county board of zoning appeals, in passing upon appeals, may vary or modify any of its rules or provisions so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done.

(2) The county board of zoning appeals may impose conditions with an affirmative decision, pursuant to section 16d(2). The decision of the county board of zoning appeals shall be final. However, a person having an interest affected by the zoning ordinance has the right to appeal to the circuit court. Upon appeal the circuit court shall review the record and decision of the county board of zoning appeals to insure that the decision meets the following requirements:

- (a) Complies with the state constitution of 1963 and the laws of this state.
- (b) Is based upon proper procedure.
- (c) Is supported by competent, material, and substantial evidence on the record.
- (d) Represents the reasonable exercise of discretion granted by law to the county board of zoning appeals.

(3) If the court finds the record of the county board of zoning appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the county board of zoning appeals, the court shall order further proceedings before the county board of zoning appeals on conditions which the court considers proper. The county board of zoning appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court.

(4) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the county board of zoning appeals.

History: 1943, Act 183, Imd. Eff. Apr. 17, 1943;—CL 1948, 125.223;—Am. 1978, Act 640, Eff. Apr. 12, 1979.