

6.02. Control of development in bed of mapped streets.

(A) [From and after the recording of any] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER RECORDING A street plat approved by the local legislative body[, as provided in] UNDER § 6.01 of this [article, no permit shall be issued for any development on] SUBTITLE, A LOCAL JURISDICTION MAY NOT ISSUE A PERMIT TO DEVELOP any part of the land between the lines of a proposed street as [thus platted; provided, however, that the] PLATTED.

(B) (1) THE board of zoning appeals of the LOCAL jurisdiction [in which the location of such] WHERE A platted street [lies,] IS LOCATED, or a special board of appeals [which may be] created for the purpose [of] BY the local legislative [body of the jurisdiction, shall have the power, upon an] BODY, MAY GRANT A PERMIT TO DEVELOP A PLATTED STREET:

(I) ON AN appeal filed [with it] by the owner of [any such] THE land ON WHICH THE STREET IS LOCATED [and by]; AND

(II) BY a vote of a majority of [its] THE members[,] OF THE BOARD OF ZONING APPEALS OR THE SPECIAL BOARD OF APPEALS [to grant a permit for a development in such platted street location in any case in which such].

(2) IN ORDER TO GRANT A PERMIT FOR DEVELOPMENT, THE board [finds, upon] OF ZONING APPEALS OR THE SPECIAL BOARD OF APPEALS MUST FIND, FROM the evidence and arguments presented [to it upon such appeal:] ON APPEAL, THAT:

[(a)] (I) [that the] THE entire property of the appellant, of which [such] THE reserved street location forms a part, cannot yield a reasonable return to the owner unless [such permit be] THE PERMIT IS granted; and

[(b)] (II) [that, balancing] AFTER BALANCING the interest of the [county or municipal corporation] LOCAL JURISDICTION in preserving the integrity of [such] THE street plat and [of] the municipal plan and the interest of the owner of the property in the use of [his] THE property and in the benefits of [the] PROPERTY ownership [thereof], the grant of [such] THE permit is required by [consideration of] reasonable justice and equity.

(3) (I) Before taking [any such action] ACTION, the board of ZONING appeals OR THE SPECIAL BOARD OF APPEALS shall [give] HOLD a hearing at which the parties in interest shall have an opportunity to be heard.

(II) At least [fifteen (15) days' notice of the time and place of such hearing shall be given to the appellant by mail at the address specified by the appellant in his appeal petition and shall be published in a newspaper of general circulation in the jurisdiction] 15 DAYS BEFORE THE HEARING, THE BOARD OF ZONING APPEALS OR THE SPECIAL BOARD OF APPEALS SHALL:

1. MAIL TO THE APPELLANT, AT THE ADDRESS SPECIFIED IN THE APPEAL PETITION, NOTICE OF THE TIME AND PLACE OF THE HEARING; AND