



CITY OF MADISON
ZONING BOARD OF APPEALS
APPEAL APPLICATION

\$200 Filing Fee

Ensure all information is **typed** or legibly **printed** using blue or black ink.

Notices are sent to the District Alderperson and to owners of record as listed in the Office of the City Assessor. Maximum size for all drawings is 11" x 17".

Name of Applicant: Joseph P. Bartol, Stroud, Willink & Howard, LLC

Address: 33 E Main Street, Suite 610
Madison, WI 53703

Daytime Phone: 608-257-2281 Evening Phone: 608-661-1039

Email: jbartol@stroudlaw.com

1. The undersigned hereby appeals the decision of the Zoning Administrator in regard to
Madison General Ordinance Section No. Section 28.211 and Table 28D-2 (see attached)

2. When relevant to a specific property, fill out below:
Street Address: Not Applicable

3. List of grounds for the appeal, statements, evidence of fact, and any additional information associated with the appeal are provided on a separate attachment.

Applicant Signature: 

FOR OFFICE USE ONLY	
Amount Paid: <u>\$200.00</u>	Zoning District: _____
Receipt: <u>119390-0001</u>	Hearing Date: <u>6-16-22</u>
Filing Date: <u>5-25-22</u>	Published Date: <u>6-9-22</u>
Received By: <u>TWS</u>	Appeal Number: _____
Parcel Number: <u>N/A</u>	GQ: _____
Alder District: <u>N/A</u>	

DECISION

The Board, in accordance with the findings of fact, hereby determines that the requested appeal for _____ is

Approved

Denied

Conditionally Approved

Zoning Board of Appeals Chair:

Date:

28.205 BOARD OF ZONING APPEALS.

5. Appeals to Decisions of the Zoning Administrator.

Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected, by any decision of the Zoning Administrator.

- (a) An appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Appeals.
- (b) The applicant shall file a notice of appeal with the Zoning Board of Appeals. The notice of appeal must specify the grounds for the appeal, including a specific reference to the terms of this chapter, state or federal law, or the state or federal constitution that the applicant believes were incorrectly applied.
- (c) The Zoning Administrator shall transmit all the papers constituting the record upon which the action appealed from was taken to the Zoning Board of Appeals.
- (d) Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would in her/his opinion cause imminent peril to life or property. In that case, proceedings shall not be stayed unless the Zoning Board of Appeals or a court of record grants a restraining order on application. A restraining order requires the applicant to show due cause and to notify the Zoning Administrator.
- (e) Notice. An appeal requires the following types of notice (See Sec. 28.181(5)):
 1. Mail – sent at least 10 days before the required public hearing.
 2. Publication - at least 7 days before the required public hearing.
- (f) Scheduling. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal.
- (g) Rendering the Decision. The Zoning Board of Appeals, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the concurring vote of a majority of quorum, may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from.
- (h) Approval Criteria. The Zoning Board of Appeals may reverse or modify the decision appealed from if it determines that it is error based on the terms of this chapter, a lawful condition of approval established under this chapter, or a provision of a federal or statute or constitution.
 1. For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
 2. For disputes concerning floodplain district boundaries:
 - a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the map scale, and the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Zoning Board of Appeals.
 - c. If the boundary is incorrectly mapped, the Zoning Board of Appeals should inform the person contesting the boundary location to petition the Common Council for a map amendment.

6. Finality of Decisions of the Zoning Board of Appeals.

All decisions and findings of the Zoning Board of Appeals are considered final administrative determinations, and are subject to judicial review as provided by law.

**Attachment to Appeal Application
Zoning Board of Appeals, City of Madison**

The applicant, Joseph P. Bartol and Stroud, Willink & Howard, LLC, represents a client who is interested in renting a unit (the "Rental Unit") that permits commercial uses that are permitted in the TSS District (with certain exceptions that are not relevant to this appeal). The permitted uses in the TSS District are set forth in Table 28D-2 of the Madison General Ordinances ("MGO"). Pursuant to Table 28D-2, "general office" is a permitted use in the TSS District.

My client works for a non-profit entity that researches endangered species. My client is one of the directors of the non-profit entity; accordingly, my client would use the Rental Unit for administrative and executive functions related to the non-profit entity. Additionally, my client would conduct computer research in the Rental Unit. Apart from occasional deliveries, there would be no vehicle trips to the Rental Unit attributed to visitors, clients, or employees.

On behalf of my client, I had requested confirmation from the Zoning Administrator that my client's contemplated uses of the Rental Unit are permitted uses under the SIP and the TSS District. Section 28.211, MGO, defines "general office" as follows:

"Office, Professional and General. Use of a building for **administrative, executive**, professional, **research**, or similar organizations. A general office is characterized by a low proportion of vehicle trips attributable to visitors or clients in relationship to employees. Examples include, but are not limited to, firms providing architectural, computer software consulting, data management, engineering, interior design, graphic design, or legal services." (Emphasis added.)

The Zoning Administrator decided that the proposed use would be classified as "Laboratories for Research, Development and Testing" which is not a permitted use in the SIP or TSS District. On behalf of my client, we appeal the Zoning Administrator's classification of my client's work.

To be clear, my client's research uses results of DNA tests done by a third-party laboratory. The third-party lab is independent of my client and the non-profit entity. The lab is not local and the DNA tests will not be done in the Rental Unit.

My client would have a small role in preparing the DNA samples for the off-site lab tests. Specifically, my client would receive DNA samples (primarily saliva) from accredited zoos. My client would purify and amplify these DNA samples and then send the samples to the laboratory. The laboratory would test the amplified/purified DNA samples to determine the ancestry, origins, or sex of the endangered species. The laboratory would send the test results which are incorporated into my client's research described above. Neither my client's computer research nor my client's role amplifying/purifying the DNA samples falls within the definition of "laboratory" provided in Section 28.211, MGO, which is copied below.

"Laboratories for Research, Development and Testing. Establishments which conduct research, development, or controlled production of high-technology electronic, industrial, or scientific products or commodities for sale; or establishments conducting educational or medical research or testing. May include limited accommodations for researchers or research subjects."

We reserve the right to supplement this appeal prior to the June 16 hearing.