ARTICLE 10

BOARD OF ADJUSTMENT

SECTION 1001. CREATION

The Board of Adjustment shall consist of 5 members and 1 alternate which shall be

appointed by the governing body to serve a term of 3 years, 2 members per year. One

member only of the Board of Adjustment shall be the Chairman of the Planning

Commission, and the loss of membership on the Planning Commission by such

member shall also result in his immediate loss of membership on the Board of

Adjustment. One member must be from the extra territorial jurisdiction of the

Village of Sutherland.

SECTION 1002. MEETINGS AND VOTING

The Board shall adopt rules in accordance with this Ordinance and shall annually

appoint a Chairman and Vice Chairman from its membership. Meetings of the

Board shall be held at the call of the Chairman and such other times as the Board

may determine. The Chairman or, in his absence, the Acting Chairman, may

administer oaths and compel the attendance of witnesses. All meetings of the Board

shall be open to the public. Any resident or property owner within the zoning area of

the Village shall have the right to appear before the Board in regard to which they

have a reasonable interest in the matter to be determined. A majority of the Board

shall constitute a quorum for the transaction of business. The Board shall keep

minutes of its proceedings showing the vote of each member upon each question, or,

if absent or failing to vote, indicating such fact. Records of its examination and other

official actions shall be immediately filed in the office of the Village Clerk and shall

be a public record. The concurring vote of four members of the Board is necessary to

decide any questions upon which the Board is required to pass. The concurring vote

of four members of the Board shall be necessary to reverse any order, requirement,

decision or determination of any such administrative official, or to decide in favor of

the applicant on any matter upon which the Board is required to pass. (Amended

6/12/96)

SECTION 1003. POWERS

The Board of Adjustment shall, as listed in the NE State Statue Section 19-910,

have the following powers:

1. To hear appeals where error is alleged.

2. To hear and decide, in accordance with the provisions of any zoning regulation

requests for interpretation of any map.

3. Grant Variances

A. Exceptional narrowness, shallowness, or shape of a specific piece of

property at the time of enactment of the zoning regulations; or

exceptional topographic conditions or other extraordinary and conditional

situation or condition of such piece of property.

B. Causes peculiar and exceptional practical difficulties to or exceptional and

undue hardships upon the owner.

C. Relief cannot cause substantial detriment to the public good or impair the

intent and purpose of any ordinance or resolution.

D. Board must find:

i. Strict application of the zoning regulation would produce undue

hardship.

ii. The hardship is not shared generally by other properties in the same

zoning district and the same vicinity.

iii. The variance will not cause a substantial detriment to adjacent

property, and the character of the district will not be changed.

iv. The applicant must demonstrate exceptional hardship, as

distinguished from variances for purposes of convenience, profit,

or caprice.

v. No variance shall be authorized unless the Board finds that the

conditions or situation of the property concerned or the intended use

of the property is not of so general or recurring a nature as to make

reasonably practicable the formulation of a general regulation.

4. Board may reverse or affirm, wholly or in part, and shall have all the powers

of the officer from whom the appeal is taken.

5. The concurring vote of four members of the Board shall be necessary to

reverse any order, requirement, decision or determination, or to decide

in favor of the applicant.

6. No Board of Adjustment may exceed these powers. (see NE State Statue

§19-907)

SECTION 1004. APPLICATIONS

A. PROCEDURE. The procedure for requesting a. hearing before the Board shall be as

follows:

1. All applications to the Board shall be in writing on forms provided by the

Board and filed with the Village Clerk.

2. All applications shall be accompanied by an ownership list obtained from

an abstractor or from County Records, listing the legal description and the

name and address of the owners of all property within three hundred (300)

feet of the boundaries of the property included in the application.

3. The Board shall fix a reasonable time for the hearing of an application and

notice of the time, place and subject of each hearing shall be published in a

newspaper of general circulation at least ten (10) days prior to the date fixed

for the Public Hearing. A copy of the notice of Public hearing shall be mailed

by the applicant, return receipt requested to each person on the ownership

list. The applicant shall submit the receipts and returned notices to the

Village Clerk prior to the Public Hearing. A copy of the notice of Public

Hearing shall be mailed by regular mail to each Planning Commission

member at least ten (10) days prior to the meeting. (Amended 6/12/96)

4. An application shall be accompanied by a filing fee of thirty-five

($35.00) dollars. A separate filing fee of $35.00 shall be required for each

request.

B. ADDITIONAL REQUIREMENTS. In addition to the above requirements, certain

applications require additional information as follows:

1. APPEALS AND INTERPRETATIONS.

a. An application for an appeal or interpretation shall be filed

within 60 days after a ruling has been made.

b. A copy of the order, requirement, decision or determination

which the applicant believes to be in error shall be submitted.

c. A clear and accurate, written description of the proposed use,

work or action in which the appeal or interpretation is involved

and a statement justifying the appellant's position.

d. Where necessary, a plot plan, drawn to scale, in duplicate

showing existing and proposed plans for the area in question

shall be submitted.

2. VARIANCES.

a. The applicant shall submit a statement, in writing, justifying

the variance requested; indicating specifically the enforcement

provisions of the zoning regulations from which the variance is

requested, and outlining in detail the manner in which it is

believed that this application will meet each of the five

conditions as set out in Section 1003.3 (D) of this Article.

b. The applicant shall submit a sketch, in duplicate, drawn to

scale and showing the lot or lots included in the application;

the structures existing thereon; and the structures

contemplated necessitating the variance requested. All

appropriate dimensions and any other information which

would be helpful to the Board in consideration of the

application should be included.

c. PERFORMANCE. In making any decision varying or

modifying any provisions of the zoning regulations, the Board

shall impose such restrictions, terms, time limitations,

landscaping, screening, and other appropriate safeguards as

needed to protect adjoining property.

The Board may require a performance bond, cash, escrow or

letter of credit to guarantee the installation of required

improvements such as parking lot surfacing, landscaping, etc.

The amount of the bond shall be based on a general estimate of

cost for the improvements as determined by the Board, and

shall be enforceable by or payable to the Governing Body in the

sum equal to the cost of constructing the required

improvements.

In lieu of the performance bond requirement, the Board may

specify a time limit for the completion of such required

improvements and in the event the improvements are not

completed within the specified time, the Board may declare the

granting of the application null and void after reconsideration.

SECTION 1005. APPEALS FROM THE BOARD OF ADJUSTMENT

Any person or persons aggrieved by any decision of the Board of Adjustment, or any

officer, department or board of the Village of Sutherland may present to the District

Court a petition setting forth that any decision of the Board of Adjustment is illegal,

in whole or in part, and specifying the grounds of the illegality. Such petitions must

be presented to the Court within fifteen (15) days after the filing of the decision in

the office of the Village Clerk and shall follow the provisions of the Nebraska State

Statutes.