§ 325. Review boards. 1. There may be in each county a review board, to consist of three members, who shall be appointed by the board of supervisors of the county. One member shall be a registered architect or a professional engineer. The term of office of each member of such a review board shall be for three years, provided, however, that of the members first appointed in the case of any such board one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Such members shall receive no compensation unless the board of supervisors shall otherwise determine but each member shall be entitled to his expenses actually and necessarily incurred by him in the performance of his duties. The board shall elect its chairman from among its own members. Two members of the board shall constitute a quorum. The concurring vote of at least two members of the board shall be necessary for action. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed. The board of supervisors shall have power to remove any member of the review board for cause and after public hearing.

2. The board may appoint such employees as may be authorized by the board of supervisors, and prescribe their duties.

3. Each county board shall have power within its county, except as stated to the contrary in subdivision eight of this section, and each local board of review, as provided in said subdivision eight, shall have power within its own applicable area:

a. With respect to dwellings existing on the effective date of this chapter only, to vary or modify, in whole or in part, the application of any provision of this chapter or of any rule or regulation of the department or commission, relating and limited to

(1) secondary means of egress from dwellings,

(2) fire retarding of public halls, stairs, and cellar ceilings,

(3) requisite open spaces, and

(4) requirements with respect to bulkheads and scuttles; provided, however, that in the instance of each such variance or modification, the basic spirit and intent of the law are maintained and public health,

safety and welfare are preserved, and further provided that in connection with any such variance or modification the board may prescribe alternative or substitute requirements where such requirements are appropriate or necessary to effectuate the basic purposes of this chapter. Any such variance or modification shall be granted only after satisfactory proof, at a public hearing, of practical difficulties or unnecessary hardships to be encountered or caused by compliance with the strict letter of such law, rule or regulation.

b. To fix a reasonable time for the hearing of an application, requiring that due notice be given of the time and place of such hearing to the applicant and to the department or to other persons affected. In every case the board shall state the reason or reasons for its decision. A record of all orders, requirements and decisions of each such board, indexed according to the section or sections of this chapter affected thereby shall be kept in the office of the board, and such record shall be open to public inspection at all times during normal business hours.

c. To enter, or delegate to any employee or officer of such a board power to enter, any building or property for the purpose of conducting investigations, surveys, or inspections necessary to carry out the provisions of this article.

d. To adopt a seal and to alter the same at its pleasure, and to require that it be used for the authentication of orders and proceedings and for such other purposes as it may prescribe.

e. To conduct examinations and investigations, administer oaths, hear testimony and take proof, under oath, if the board should so determine, of any matter relevant or necessary to carry out the provisions of this article.

f. To do all other things convenient and necessary to carry out its powers.

4. No member of such a board, nor any of its employees, shall pass upon any question relating to any premises in which he or any

corporation in which he is a stockholder or security holder has any interest directly or indirectly.

5. An application for such variance or modification may be made within thirty days after service of a notice or order to remove any violation of this chapter or any nuisance, by any person aggrieved, or by the head of an agency or department within the area in which such board has jurisdiction. An aggrieved person shall be construed as one who is directly and adversely affected by a provision of this chapter or a rule or regulation of the department or commission. Any action or decision of such a board may be reviewed on the law or the facts in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

6. An appeal shall stay all proceedings, both civil and criminal, in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall file with the board to which the appeal has been taken a certificate that, by reason of facts stated therein, a stay would, in his opinion, cause imminent peril to life or property, in which case, proceedings shall not be stayed otherwise than by a restraining order which, upon good cause shown, may be granted by such board or by the supreme court, on application, at least three days notice of which shall be given to the officer from whom the appeal is being taken.

7. Each review board shall have power to charge and collect reasonable fees and to make rules governing such charges.

8. A municipality may continue an existing local board of review, which is in existence on July first, nineteen hundred fifty-four, to have jurisdiction solely within the territorial limits of such municipality. In any such case, the jurisdiction of a county board of review shall not extend to any such municipality or municipalities. In the event that no such local board exists in a municipality and in the event that, and so long as, there shall not be in such county a review board appointed pursuant to subdivision one of this section, a review board to consist of three members, one of whom shall be a registered

architect or a professional engineer, may be established by such municipality before September thirty, nineteen hundred sixty-six located within such county to have jurisdiction solely within the territorial limits of such municipality. The powers and duties of a local board of review, insofar as the operation of the provisions of this chapter is concerned, shall be the same, within the territorial limits of the municipality, as those of a county board created pursuant to this section.

9. In the event that, and so long as, there shall not be in any county or municipality a review board authorized to be established in this section, appeals authorized to be taken to such county or municipal review board, as herein provided, within the area in which such board would, if established, have jurisdiction, may be taken to the commission instead, and in such event and with respect to any such county or municipality, the commission shall have the same powers and jurisdiction as is herein provided for a county or municipality review board in such county.