

City of Columbus
Zoning Board of Adjustment
Rules of Procedures

ARTICLE I - Meetings

Section 1.

Regular meetings of the Zoning Board of Adjustment (ZBA) shall be held at 6:30 p.m., on the second Tuesday of each month. The City Manager, with concurrence from the Chair may reschedule any meeting of the ZBA.

Section 2.

Special meetings may be called by the Chair of the ZBA or at the request of two board members.

Section 3.

Notice of all meetings shall be posted as required by Texas Local Government Code § 212 and the City's Code of Ordinances. Each member of the ZBA shall be notified in writing at least 72 hours prior to the meeting except in the case of emergency meetings, which can be called with two hours notice.

Section 4.

A quorum for hearing by the Board shall consist of four members.

ARTICLE II - Applications Before the Board

Section 1.

Each application to the Board shall be made on the standard City forms and shall be filed at City Hall, 605 Spring Street, Columbus, Texas.

Section 2.

To be considered for placement on the agenda of the next regular meeting, all required data must be received and docketed at least by the 20th day prior to the next regular meeting. The Board may reject any application not made on the prescribed form properly filled out with all required data attached.

Section 3.

Every appeal must be filed on or before the tenth regular City business day following the date the Building Official refuses to issue a permit, or the date the Code Enforcement Officer enters an order, ruling, decision, or determination, that is the subject of the appeal, and the Building Official or Code Enforcement Officer shall so advise the applicant in writing. Upon written motion and a showing of good cause, the Board may allow an appeal to be late-filed (after the ten-day period specified above).

Section 4.

Any communication purporting to be an appeal shall be regarded as mere notice to seek relief until it is made in the form required by these rules.

ARTICLE III - The Docket and Calendar

Section 1.

Each application filed in proper form with the required data shall be numbered serially, docketed, dated, and placed upon the calendar of the board by the City Manager. The docket numbers shall begin anew on January first of each year and shall be hyphenated with the number of the year in which the application is filed.

Section 2.

All cases docketed more than 20 days preceding a regular meeting day, and for which the meeting requirement of State Law can be complied,

shall be set for hearing on the succeeding regular meeting day. Cases docketed within 19 or fewer days of the regular meeting day, for which the meeting requirements of State Law cannot be complied, shall be set for hearing no later than the second regular meeting day after docketing of the application.

Section 3.

Applications shall be heard in the order in which they appear on the calendar, unless the Board changes the order by motion. Action or further proceedings on an application may be suspended at any time as determined by the Board upon motion. Where all applications cannot be disposed of on the day set, the Board may adjourn from day to day, or until the next regular meeting, as it may order.

Section 4.

Notice as prescribed in Section 86-62 of the Zoning Ordinance will be given to applicants or other interested parties by the Board; provided.

Section 5.

No informal request for advice, or moot questions, will be considered by the Board. (However, the Building Official may seek advice or guidance from the Board by formally presenting matters to the Board at a meeting.) Any advice or opinion, or information given by any individual Board Member, or any other official or employee of the City of Columbus, shall not be binding on the Board. Because of the annoyance caused by individuals appealing personally to members of the Board, it is declared the policy of the Board to disapprove of any such personal appeals.

ARTICLE IV - Hearings

Section 1.

Hearings shall be held by the ZBA in the Municipal Building, 605 Spring Street, in the City of Columbus, Texas, or at such other place as set forth in the notice of hearing.

Section 2.

A quorum for hearing by the ZBA shall consist of four members. A lesser number may meet and reschedule or adjourn a meeting. If any member of the Board (Positions 1-5) is absent, the City Manger shall advise the Board as to which Alternate(s) is/are designated to be a voting member of the Board for that meeting. Each Alternate, regardless of whether he or she is designated as a voting member, may participate in the discussions and deliberations for each matter heard by the Board. However, only the designated voting Alternate(s), if any, may vote on any matter before the board.

Section 3.

All hearings shall be open to the public.

Section 4.

The applicant may appear personally or be represented by agent or attorney at the hearing. In the absence of any personal appearance on behalf of the applicant, the Board will proceed to dispose of the matter on the record before it, or the Board may provide for a hearing at a future date, in which event it shall give verbal notice at the hearing, so that all present will be on notice of the date set for future hearing. If required by state law or city ordinance, additional notices shall be given.

Section 5.

The normal order of proceedings for hearings before the ZBA is as follows:

1. Call to order and administration of oaths to witnesses (I do solemnly affirm that I will testify to the truth under penalty of perjury so help me god.)
2. (Optional: Background report by City staff)
3. Presentation by the applicant
4. Receipt of written comments, protests, etc.
5. Presentations by other interested persons
6. Presentation by City staff

7. Response by the applicant (limited to issues raised by interested persons, City staff, written comments, etc.)

8. Incorporation of testimony, exhibits, etc. into record and close of hearing.

Members of the ZBA may pose questions to each witness. Other persons may submit written questions to be asked by the chair, at the chair's discretion. If requested by written motion and supported by a showing of good cause and true need, the ZBA may allow direct cross-questioning.

ARTICLE V - Meeting Procedures

Section 1.

Except as otherwise prescribed by these rules, the ZBA meetings may be conducted in accordance with Robert's Rules of Order (ninth edition), at the Chair's discretion or at the discretion of two board members. If any question arises as to procedure, the ruling of the Chair shall be final unless reversed by a vote of at least three members.

Section 2.

Informal voice voting shall be used, unless a ZBA member requests a roll call vote. Where there is a single vote on a group of items, under circumstances where no member requests a separate vote, the vote on the group is deemed the same as a separate, identical vote on each item.

Section 3.

The presiding officer will preserve order and decorum, preventing the impugning of any member's motives or other personal comments not relevant to the orderly conduct of business. The presiding officer shall request all speakers to keep comments brief and relevant to the question before the ZBA. All persons present in the meeting room should eschew abusive, rude or inappropriate conduct.

Section 4.

This paragraph applies to general comments in public sessions (not formal public hearings). Speakers should limit their presentations to three minutes each or other such limitations as may be decided by the Presiding Officer or a majority vote of the ZBA members present. Speakers should direct all remarks and questions to the presiding officer, who may refer them for investigation, response or other action. The Texas Open Meetings Act requires the City to post a notice, in advance, listing every topic or subject to be considered by the ZBA. This law may prevent the ZBA from considering a subject raised by a member of the public. In this case, the presiding officer may refer the matter and the ZBA may direct that the matter be placed on the agenda for an upcoming meeting.

ARTICLE VI - Final Disposition

Section 1.

In the final disposition of an appeal, the decision shall affirm, modify or reverse the refusal of a permit by, or any order or decision of, the Building Official or Code Enforcement Officer. In case of an application for variance or special exception the decision shall set forth that the application is denied or that it is granted and the decision shall specifically set forth what conditions, if any, shall be complied with by the applicant to receive the relief. Every application shall be disallowed, unless the concurring vote of four members of the Board shall favor the appeal or application prior to adjournment, unless another disposition is expressly made by the Board (such as, for example, taking the matter under advisement or postponing action to the next meeting). The vote of each member present on each decision shall be recorded with the decision. An application for variance or special exception shall be deemed denied upon the vote of two or more voting members supporting a motion to deny; a second to the motion shall not be deemed a second vote for the denial, unless decided otherwise by a majority of those present and voting prior to adjournment.

Section 2.

Any applicant may, in writing, or upon the record at a meeting withdraw his application prior to a final disposition by the Board.

Section 3.

If an application is granted by the Board, all permits necessary for the prosecution of the work shall be applied for within 90 days and construction commenced and completed within two years from the date of granting by the Board, unless otherwise prescribed in the approval itself, or unless an extension of that time is granted by the Board. No extensions may be granted by the Building Official unless authorized to do so by the Board.

Section 4.

The applicant and the Building Official and Code Enforcement Officer will be notified of the decision of the ZBA.

ARTICLE VII - Rehearing

Section 1.

No rehearing of any decision by the Board shall be heard except on motion or notification to the Chairman by a member of the Board to reconsider the vote. The motion or notification for rehearing shall be made within 10 days of the date the decision is filed in the Board's office. The request for rehearing shall be acted upon within 30 days after the decision has been filed or at the next regular meeting of the ZBA (whichever comes later) and carried by not less than four concurring votes.

Section 2.

No motion for a rehearing shall be entertained except upon a suggestion that new evidence will be submitted, which was not presented at the meeting at which the hearing was originally heard. The Board may require the presentation of new evidence and may affirm the original decision upon a finding that no new evidence has been presented without hearing additional evidence.

Section 3.

If a rehearing is granted, the case shall be put on the calendar for a rehearing and new notices sent to property owners in accordance with provisions of these rules and notice posted as required.

Section 4.

After the decision of the Board is final (that is, no rehearing or appeal to the District Court is pending), the Board need not conduct a hearing unless there shall have been a substantial change in the circumstances affecting such property since the prior decision on substantially the same issue. The Board may first hear evidence on the issue of substantial change in the circumstances, and then make the determination whether it will hold a hearing on the application or dismiss the application.

ARTICLE VIII - Precedents

Section 1.

Recognizing that each parcel of real property is unique, that the facts presented in each case are almost always unique and that the applicant may not always meet the heavy burden of proof imposed by state law and city ordinance, no action of the Zoning Board of Adjustment shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

ARTICLE IX - Officers

Section 1.

The Board shall elect from its members the following officers:

- (a) Chair
- (b) Vice-Chair
- (c) Secretary

The election of such officers by the ZBA shall take place as quickly as possible after appointment by the City Council and, upon resignation or death, successors shall be elected by the ZBA to fill the vacancy so created.

Section 2.

The Chair shall preside at all meetings and hearings of the Board. In the event of the absence or disability of the Chair, the Vice-Chair shall preside. In the event of the absence or disability of both the Chair and Vice-Chair, a temporary Chair shall be elected to preside.

Section 3.

The Chair, subject to these rules, shall decide all points of procedure unless otherwise directed by a majority of the Board in session at that time.

Section 4.

The Chair may designate members of the Board to make personal inspections when necessary from time to time and, unless directed by a majority of the Board, shall appoint such committees as may be found necessary.

Section 5.

The Chair shall report at each meeting on all official transactions that have not otherwise come to the attention of the Board.

Section 6.

The Chair shall, subject to these rules and further instructions from the Board, transact the official business of the Board and exercise general disciplinary power.

Section 7.

The Code Enforcement Officer, subject to the provisions of the Zoning Ordinance, these rules, and the direction of the Board and Chair, shall conduct all correspondence of the Board; shall attend all meetings of the Board and all hearings; shall scrutinize all applications to see that these rules are complied with; shall keep all dockets and minutes of the Board's proceedings; shall maintain the necessary files and indexes and generally supervise all clerical work of the Board.

Section 8.

The Code Enforcement Officer shall require from the applicant such additional information and data as may be required to fully advise the Board with reference to the application, whether or not such information and data is called for by the official forms or not. Any failure or refusal on the part of the applicant to furnish such additional information or data shall be grounds for the dismissal of the application by the Board.

ARTICLE X - Minute Book

Section 1.

The Secretary shall keep a permanent Minute Book which shall record all applications docketed, disposition of action of the ZBA by individual vote and in the case of denial of an application considered by the ZBA, state the reason or reasons given by the Board for such denial.

ARTICLE XI - Resolutions

Section 1.

Every resolution not otherwise provided for shall require a majority vote of the members present at a legally constituted meeting.

ARTICLE XII - Amendments

Section 1.

These Rules of Procedures may be amended at any meeting by a vote of not less than four members of the Board, provided that such amendment is presented in writing at a regular meeting as a special agenda item.

ARTICLE XIII - Valid Action

Any action taken by the ZBA, in compliance with applicable law, shall be deemed to have waived these Rules of Procedure as to the action taken. Such action shall be valid despite any technical noncompliance with these Rules of Procedure.

Adopted by the Zoning Board of Adjustment of the City of Columbus, effective the 14th day of May, 2002.

Jeff Steger, Presiding Officer (Chair)
Zoning Board of Adjustment
City of Columbus