

IMPORTANT INFORMATION FOR APPLICANT

Meetings

Meetings shall be called as necessary for any purpose on the call of the Chairman or as may be scheduled by a simple majority of the Board at any previous meeting.

Public Meetings

Any party in interest may appear in his own behalf or be represented by counsel or agent.

Authority of Board

- A. hear and decide appeals that allege error in an order, requirement, decision, or determination by the City's Building Official in the enforcement of the Zoning Ordinance (see Appendix A);
- B. hear and decide requests for special exceptions as may be provided in the Zoning Ordinance when the Zoning Ordinance authorizes the Board to do so (see Appendix B);
- C. authorize variances from the terms of the Zoning Ordinance, as will not be contrary to public interest, and where, owing to special conditions, a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship, and so that the spirit of such Ordinance is observed and substantial justice is done (see Appendix C); and
- D. hear and decide other matters authorized by the Zoning Ordinance.

Refusal Required

An application for consideration by the Board of an appeal, the granting of a special exception, or the granting of a variance, shall be filed on the appropriate form provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the affected property or, if signed by someone other than the owner, accompanied by an acknowledged power of attorney authorizing the applicant to file on behalf of the owner. Appeals from a decision, order, requirement, or determination of the Building Official shall be signed by the person making the appeal. An incomplete application, or a communication purporting to be an application and not made in the form prescribed, shall be regarded only as a notice of intent to apply, and shall not be considered or acted upon by the Board. If an agent is to speak for an applicant on a matter before the Board in the absence of the applicant, a notarized letter of designation must be included with the application.

Filing Deadline

Application for an appeal of a decision made by an administrative official of the City shall be filed within a reasonable time after the date of such decision which is the subject of the appeal. Every application shall be filed with the City Secretary of the City. Meetings of the Board will be scheduled no sooner than twenty-one (21) days following the submission of an application for hearing. If an application is submitted on a City holiday, the following workday shall be observed as the submission deadline.

Notice

Written notice shall be given to the affected property owner, and may also be given to owners of real property adjacent to the specific property, by depositing such notice in the United States Mail, postage prepaid, prior to the date of hearing. All notices shall identify the applicant, the location of the property in issue, the nature of the application, and the applicable Zoning Ordinance provisions.

Submission of Evidence

Evidence relating to any matter before the Board shall be submitted only to the Board in public meeting.

Withdrawal

Any request for Board action may be withdrawn upon written notice to the City Secretary; but no request shall be withdrawn after the giving of public notice and prior to Board action thereon without formal consent of the Board.

Appeal or Application After Board Denial

No appeal or application that has been denied shall be further considered in a new proceeding unless there has been a material change in conditions or unless substantial new evidence becomes available.

Public Hearings

The applicant may appear in his own behalf or may be represented by counsel or agent.

Procedure for Hearing

- A. The Chairman shall first call upon the applicant to present his case and all evidence supporting his plea. The Chairman shall then inquire of the applicant if there are others affected who support the application.

- B. The Chairman shall next call on the Building Official to present any information he deems necessary or appropriate relative to the application.
- C. The Chairman shall next call on those opposed to the granting of the application to present their evidence and arguments. The applicant shall then have the right of rebuttal. Following rebuttal, the Chairman shall order the hearing closed.
- D. Each side shall proceed without interruption by the other, and all arguments and pleadings shall be addressed to the Chairman. No questioning or arguments between individuals appearing before the Board will be permitted.
- E. The Board may elect to continue a hearing on any matter for which the applicant fails to appear unless the applicant has requested that the Board act without his being present at the hearing; provided, however, the Board shall hear those persons appearing in response to the notice of such hearing.

Board's Questions

The Board may direct any question to the applicant, or to any person speaking on the application, in order to bring out all relevant facts, circumstances, and conditions affecting the application, and the Chairman shall call for questions from other members of the Board and from the staff before closing the hearing on each application.

Decision

After each application has been heard, and the public hearing closed, it shall be reviewed and acted upon. The Board may grant, may grant conditional approval, may grant with modifications, or may deny an application. The Board may also defer action on any matter whenever it concludes that additional evidence is needed or that alternate solutions need further study. An application may be dismissed when the Board finds that it has been improperly filed or upon notification by the Building Official that a permit has been issued which negates the application.

Vote Required

The concurring vote of four (4) members shall be necessary to grant, or to grant conditionally, any matter requested of the Board. When a motion in favor of an applicant fails to receive four (4) affirmative votes, the Board Secretary shall record that fact and shall note in the minutes of the Board that the appeal or request has been denied.

APPENDIX “A”
INTERPRETATION APPEALS

A-1. Interpretation: Basis for Filing

Whenever it is alleged that there is an error in any determination interpreting or applying the requirements of the Zoning Ordinance by the Planning Director, an appeal of such determination may be filed with the Board.

A-2. Interpretation: Papers Required

An appeal shall include:

1. a statement by the applicant describing the way it is alleged the Zoning Ordinance should be interpreted, together with diagrams and charts illustrating the erroneous and the proper application of the map or text provisions; and
2. a statement by the Planning Director giving the reasons for his interpretation of the Zoning Ordinance.

A-3. Interpretation: Basis for Action

1. Before acting on an appeal for interpretation, the Board shall consider:
 - a. the facts and statements filed in the application;
 - b. the testimony presented at the public hearing;
 - c. the City staff's report on the appeal; and
 - d. the Board's independent investigation of the language of the Zoning Ordinance and of related ordinances having a bearing thereon.
2. The Board shall make an interpretation after finding that the following conditions exist:
 - a. the interpretation is in conformity with the spirit and intent of the Zoning Ordinance; and
 - b. the resulting interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated.

APPENDIX “B”
SPECIAL EXCEPTIONS

B-1. Special Exception: Basis for Filing

Whenever an applicant wishes to develop property pursuant to a special exception as provided in the Zoning Ordinance, an application for a special exception shall be approved by the Board before the Planning Director shall issue a permit for the proposed construction or use.

B-2. Special Exception: Papers Required

An application for a special exception shall include:

1. a site plan, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements;
2. a statement by the Planning Director citing the reason a special exception is required; and
3. a statement by the applicant describing the manner in which all conditions prescribed by the Zoning Ordinance and by these Rules will be met.

B-3. Special Exception: Basis for Action

1. Before acting on the application, the Board shall consider:
 - a. the facts filed with the application;
 - b. the testimony presented at the public hearing;
 - c. the City staff’s report on the application; and
 - d. when appropriate, the observations of individual Board members’ field inspections of the property.
2. The Board may grant the application provided the applicant has demonstrated, to the satisfaction of the Board, that:
 - a. all conditions enumerated in the Zoning Ordinance for the requested special exception exist; and
 - b. the granting of the exception will further the objectives, spirit, and intent of the Zoning Ordinance.

APPENDIX “C”
VARIANCES

C-1. Variance: Basis for Filing

Whenever, owing to exceptional and extraordinary conditions, the literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship to the applicant in the use or development of his property, a request for a variance may be filed with the Board.

C-2. Variance: Papers Required

A request for variance shall include:

1. a SITE PLAN drawn to scale, showing the location and dimensions of the lot, all existing and proposed improvements; and all structures located adjacent and contiguous to the lot for which the variance(s) is requested;
2. a STATEMENT OF FACTS AND REASONS why a literal enforcement of the Zoning Ordinance should not be applied to the property in question and how the standards governing the Board’s actions would be satisfied; and
3. fourteen (14) copies of a description of the specific variance requested, either in narrative form or by depiction on a drawing and/or photograph, and in such detail as to inform Board members of the exact nature of the prohibited conduct for which the variance is being sought.

C-3. Variance: Basis for Action

1. Before acting on a request for variance, the Board shall consider:
 - a. the facts filed with the application;
 - b. the testimony presented at the public hearing on the application;
 - c. the City staff’s report on the appeal; and
 - d. the observations of individual Board members’ field inspections of the property.
2. The Board may grant the requested variance, subject to such terms and conditions as it may impose, provided the applicant has demonstrated, to the satisfaction of the Board, that the conditions governing the granting of a variance as set forth in the Zoning Ordinance have been satisfied, and that the decision of the Board would further the spirit and intent of such Ordinance.