

**RULES OF THE  
ZONING BOARD OF APPEALS  
ANN ARBOR, MICHIGAN**

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Revised Adopted July 28, 2010.

## **I. GENERAL GOVERNING RULE**

1. The provisions of all applicable state statutes, the Ann Arbor City Code, and these rules shall govern the Zoning Board of Appeals. Every Board member shall thoroughly familiarize himself with these provisions. In case of uncertainty or difficulty, the City Attorney shall be consulted for clarification and amplification.
2. For the purposes of applying Roberts Rules of Order, these rules shall be treated as bylaws.

## **II. OFFICERS AND DUTIES**

1. Chairperson. The Chairperson shall be a board member as designated by the City Council pursuant to Section 1: 197 of Chapter 8 of Title I of the Ann Arbor City Code, however, the Chairperson shall not be a member of City Council. The Chairperson shall decide all points of order and procedure, subject to the provisions of these rules, unless directed otherwise by a majority of the Board in session at that time.

The Chairperson may appoint any committees found necessary to investigate any matters properly before the Board. A minimum of two (2) members of the Board shall serve on such a committee.

2. Vice Chairperson. A Vice Chairperson shall be elected to act in the absence of the Chairperson. Election of the Vice Chairperson by the Board from its members shall be by majority vote. The Vice Chairperson shall be elected at the annual organizational meeting to serve a term of one (1) year. The Vice Chairperson shall not be a member of City Council.

## **III. MEETINGS AND MINUTES**

1. Time of Meetings. Regular monthly meetings shall be held on the fourth (4th) Wednesday of each month or such other time as set by the Board.
2. Agenda of Meetings. Except for the scheduling of appeals and applications, agendas for all Board meetings shall be set by the Planning and Development Services Manager and the Board Chairperson. At a meeting of the Board, any member may, by majority consent of members present, request that an item be placed on the agenda at a future meeting.
3. Annual Organizational Meeting. The first meeting in April of each year shall be the annual organizational meeting. At such meeting the election of the Vice Chairperson shall be held and the Board shall review its rules and procedures.
4. Cancellation of Meetings. Whenever there is no proper business scheduled to come before the Board at a regular meeting of the Board, the Chairperson may cancel such meeting by notice to all members not less than 3 days prior

to the regular meeting time. Public notice of cancellation shall also be posted at that time.

5. Conduct of Meetings. All meetings shall be open to the public and no prior requirements established for attendance by members of the public. A meeting shall be defined as any convening of the Board at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy. All deliberations on matters before the Board shall take place in public meetings.

All persons shall be allowed to address the meeting on any issue before it. Such person shall give his name and address for the record. The Chairperson for individual and group presentations may establish reasonable time limits.

Facilities to accommodate members of the public shall be provided; however, large organized groups shall give reasonable notice to the Board if their numbers exceed the facilities normally provided. In such cases, the Board shall provide adequate facilities for all who wish to attend.

A quorum shall consist of 5 (five) members of the Board. The Chairperson, or in his or her absence the Vice Chairperson, may administer oaths.

Unless otherwise provided by statute, ordinance or rule of this body, meetings shall be conducted in accordance with Robert's Rules of Order, which are adopted herein by reference and made a part of these rules of procedure.

The order of business shall be:

Roll Call

- A. Approval of Agenda
- B. Reading and approval of minutes of preceding meeting.
- C. Hearings of Appeals and Applications. Prior to taking up these hearings, announcement shall be made of any petition withdrawn or adjourned. Requests for such withdrawal or adjournment may be made at any time prior to the particular petition being called and may be granted at the discretion of the Chairperson. Audience participation shall be allowed for any hearing where public notice has been provided prior to the meeting.

Unless the petitioner or his agent or his attorney is present for the hearing of a petition, the Chairperson shall dismiss the petition, and the petition shall not be heard again by the Board within 3 months from the date of dismissal.

If, within one week of the missed hearing, the petitioner provides

evidence to the Chairperson that in the Chairperson's discretion shows good cause for the failure to be present, the Chairperson shall put the dismissed petition on the next regularly scheduled meeting agenda as practicable to provide notice and a hearing. The petitioner shall be exempt from filing a rehearing request or paying an additional fee.

- D. Old Business.
- E. New Business
- F. Reports and Communications
- G. Audience Participation - General.

Adjournment.

6. Minutes. A minute book shall be kept by administrative support staff, showing the record of all important facts pertaining to each meeting, which shall include but not be limited to the following: names and addresses of all persons appearing before the Board, a record of all hearings, all exhibits presented to the Board, a copy of each motion acted upon by the Board, the vote of each member, and members absent or failing to vote. Administrative support staff shall include any other details to be included within the minute book as may be ordered by the Board or its Chairperson. Such minute book shall be filed in the Planning and Development Services Unit and shall be a public record.

Draft minutes shall be available for public inspection not more than 8 business days after the meeting to which the minutes refer. Approved minutes shall be available for public inspection not later than 5 business days after the meeting in which the minutes are approved. Copies of the minutes shall be made available on request with a charge to cover costs.

7. Staff. The Board shall be provided with staff consisting of representatives from the Planning and Development Services Unit. Other Planning and Development Services Unit staff and the City Attorney's Office personnel may be called on as needed.

A staff report prepared by a representative of the Planning and Development Services Unit shall accompany each appeal. The report shall consist of a summary of the request and pertinent facts related to the petitioner's property and surrounding property. Pertinent facts shall include information as to whether there has been a previous petition on that property, and its disposition. In matters concerning nonconforming uses and structures, a history of the property shall be presented showing when the property was built and the zoning provisions under which it was built. The Attorney's office shall advise the Board as to legal questions, and submit opinions and memoranda as requested. Additional staff reports may be presented concerning matters of concern to the Board or staff.

The Board shall also be provided with administrative support staff from the Planning and Development Services Unit. Administrative support staff shall conduct all correspondence of the Board and shall generally be responsible for the clerical work of the Board.

8. Notice of Meetings. Notice of the regular meetings stating the dates, times and places shall be posted within ten (10) days after the first meeting of the calendar year, and amended as required. If there is a change in the schedule of regular meetings, public notice of the change shall be posted within three (3) days after the meeting at which the change is made, stating the new dates, times and places of the regular meetings. If the length of the agenda or complexity of issues before the Board indicate the necessity for an additional regular meeting, administrative support staff shall notify the Chairperson who may then call an additional regular meeting to be held within two (2) weeks of the regularly scheduled meeting

The petitions shall be assigned to the first or second meeting in the order received, and the notices shall be sent out accordingly. Public notice of the additional regular meeting shall be posted within three (3) days of the Chairperson's decision. The Chairperson may call additional special meetings or rescheduled regular meetings. Public notice of special meetings or rescheduled regular meetings stating the date, time and place of the meeting shall be posted at least 18 hours before the meeting. Administrative support staff shall give notice of all meetings to each member of the Board.

To the extent that the meeting notice requirements above differ from those in the Open Meetings Act, the requirements of the Open Meetings Act shall prevail.

#### **IV. CONFLICTS**

1. No Board member shall sit in hearing or vote in passing upon any case in which he is personally or financially interested. Disclosure of the basis for abstention may be given at the meeting. The Board member shall abstain from discussion and voting. If such abstention results in loss of quorum, the matter shall be laid over until the next regularly scheduled meeting, and testimony shall not be heard without a quorum.

#### **V. APPEALS AND APPLICATIONS**

1. Appeals. An appeal may be taken by any aggrieved person or by any officer, department, board, or bureau of state or local government. Such an appeal shall be filed within 60 calendar days of the date of decision of the Administrative Official charged with the responsibility of enforcing the zoning ordinance from which the appeal arises. Notice of the appeal shall be filed with the officer from whom the appeal is taken and with the Board of Appeals, specifying the grounds for the appeal.
2. Manner of Filing Appeals. The appeal shall be filed with the Planning and Development Services Unit. Any communication purporting to be an appeal

or application shall be regarded as a mere notice of intention to seek relief until it is made upon the form prescribed, including required data. A fee as prescribed by ordinance shall be paid at time of filing the appeal.

3. Applications. In the case of applications for variances, and such matters as may properly come before the Board, the application shall be made upon forms provided by the Board and kept by the Planning and Development Services Unit. The procedure for applications shall be the same as that for the filing of an appeal except that applications may be filed at any time.
4. Scheduling of Appeals and Applications. Each appeal or application, filed in the proper form with the required data and fee, shall be numbered serially within each calendar year, and placed upon the agenda of the next meeting; provided, however, that filings submitted within three weeks of the scheduled meeting may be placed upon the following meeting's agenda.

## **VI. HEARINGS AND NOTICES**

1. Notice of Hearings. Administrative support staff shall provide notice of the hearings as required by state law and City ordinance.
2. Form of Notice. The notice shall state the location of the building or lot, the relief requested, and the time and place of the hearing. A copy of the notice and a list of persons to whom the notice was mailed shall become part of the records of the Board.
3. Conduct of Hearings. Each appeal or application shall be heard in the following manner.
  1. Calling of the case by the Chairperson.
  2. Staff reports and recommendations. Any communications to the Board concerning the case shall be read and made part of the record.
  3. Statement of Standards to be applied.
  4. Questions by Board to staff.
  5. Petitioner's presentation. Petitioner may testify on behalf of his own request and bring such witnesses as may be necessary.
  6. Questions by Board to Petitioner.
  7. Audience Participation.
  8. Petitioner Rebuttal.
  9. Closing of hearing followed by Board discussion and decision.
4. Re-hearings. An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be

denied by the Board if the petitioner is unable to present evidence to show that there has been a substantial change in facts, circumstances, or scope or nature of relief requested, or that the Board approval has expired.

## **VII. DECISIONS**

1. Possible Decisions. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from or, where it is claimed there are practical difficulties or unnecessary hardship, the Board may grant or deny variances.
2. Time of Decisions. The Board shall make its decisions within a reasonable time.
3. Motions. The motion proposing a decision to reverse or modify the decision appealed from or, in the case of a variance, a decision to grant the variance based on practical difficulty or unnecessary hardship, shall include reasons in support of the proposed decision to reverse or modify or to grant a variance, and what conditions, if any, the Board requires.
4. Vote. The concurring vote of five (5) of the members of the Board shall be necessary to reverse any order, requirement or determination of the Administrative Official. The same vote shall be necessary for the granting of a variance, except that two-thirds of the members of the Board (6 votes) shall be necessary to grant a variance from uses of land permitted in the ordinance.
5. Written Decision and Order. Within ten (10) business days of the hearing at which the Board's decision becomes final, there shall be a written decision and order signed by the Chairperson. The decision and order shall identify the property, the relief sought, the motion voted upon, the vote and whether the motion passed or failed.
6. Filing of Decision and Orders. Decisions and Orders of the Board shall be filed in the office of the City Clerk and shall be public records. Copies shall also be sent to all parties of the appeal, the City Assessor's Office, and to other interested agencies and departments of the City Government.

## **VIII. AMENDMENTS**

1. These rules may be amended by a majority vote of all members of the Board, provided that there be a period of at least thirty (30) days from initial presentation to final action.