

THE BOARD OF ZONING APPEALS
RICHMOND, VIRGINIA

RULES OF PROCEDURE
(as amended December 6, 2017)

The following rules of procedure are adopted by the Board of Zoning Appeals to facilitate the performance of its duties and the exercise of its powers as set forth in Section 17.16 through 17.23 of the Charter of the City of Richmond, and Section 30-1040 of the City Code, as amended.

Article I. Officers and Their Duties

Section 1. The Board shall elect from among its regular members a Chairperson, who shall preside at meetings and perform such other duties as are conferred upon him or her by these articles. The Chairperson may appoint such committees as he or she may deem necessary for the proper conduct of the Board's affairs.

Section 2. The Board shall elect from among its regular members a Vice-Chairperson, who shall act in the capacity of the Chairperson in his or her absence. In the event the office of the Chairperson becomes vacant, the Vice-Chairperson shall succeed to the office for the unexpired term, and a new Vice-Chairperson shall be elected by the Board.

Section 3. In the absence of both the Chairperson and the Vice-Chairperson at any official meeting of the Board, a temporary Chairperson shall be elected by a majority of those members present.

Section 4. The Board shall appoint a Secretary, who shall conduct all correspondence for the Board; see that proper notice of public hearings is given; be responsible for the preparation of the Board's dockets, minutes and other materials; maintain the

necessary files, indexes and records of the Board; make a personal inspection, at the request of the Board, of properties concerned in cases before the Board; and, generally supervise all clerical work of the Board, as well as carry out such other duties as may be specified elsewhere in these articles.

Section 5. The Board shall appoint one of its regular members to serve on the City Planning Commission for a term coincident with that member's term on the Board.

Article II. Election and Appointment of Officers

Section 1. The election and appointment of officers shall take place on the first Wednesday of January of each year, except in the case of the appointment of the Board's representative on the City Planning Commission, which shall take place at the first regular meeting after a vacancy in such position has occurred. A vacancy in the office of Vice-Chairperson or Secretary shall be filled at the first regular meeting following such vacancy.

Section 2. The Chairperson, Vice-Chairperson and Secretary of the Board shall serve for one year or until their successors take office.

Section 3. The affirmative vote of three members of the Board shall be required for the election or appointment of any officer.

Article III. Meetings

Section 1. Regular meetings of the Board shall be held on the first Wednesday of each month at 1:00 p.m. in the fifth floor conference room of City Hall. An alternate meeting time or place shall be designated by the Chairperson, after consultation with the members, if the regular meeting date falls on a legal holiday; if the regular meeting place is not

available; if more than one meeting in a month is warranted based on the length of the docket; or if the length of the docket warrants a different starting time.

Section 2. Special meetings may be called by the Chairperson or by three members of the Board, provided that notice is given to all members.

Section 3. A quorum shall consist of three members of the Board.

Section 4. Hearings shall be open to the public, but the Board may go into executive session for deliberation, provided that no formal action, including the taking of testimony, shall be undertaken at such executive session.

Section 5. The appellant or applicant in any case before the Board may appear on his or her own behalf or be represented by agent or attorney at the public hearing. In the absence of any appearance on behalf of the appellant or applicant, the Board shall dispose of the matter on the record before it.

Section 6. The order of business at any meeting of the Board where appeals or applications are heard shall be as follows:

- (a) Public hearing of cases on the docket. Six (6) cases shall be docketed for each hour beginning at 1:00 p.m., provided that appeals of the Zoning Administrator's decision shall be docketed first on the 1:00 p.m. agenda.
- (b) Deliberation and disposition of appeals and applications shall be heard at the conclusion of the public hearings for each six (6) cases.
- (c) Adoption of minutes of previous meeting.
- (d) New business.

Section 7. The procedure for the hearing of any case before the Board shall be in accordance with applicable Sections of the Code of Virginia and the City Charter as follows:

- (a) Statement of the case.
- (b) Statement of the Zoning Administrator, appellant, other person aggrieved, proponent or city staff.

1. In the case of an appeal of the decision of the Zoning Administrator, the Appellant or Appellant's representative and the Zoning Administrator shall be permitted a total of ten (10) minutes to present their case in chief and their rebuttal. The Appellant or Appellant's representative and Zoning Administrator shall be required prior to beginning their presentation to declare to the Board how many of their allotted minutes shall be devoted to their case in chief and their rebuttal. Following the presentations of the Appellant and Zoning Administrator other interested parties shall be permitted a total of ten (10) minutes to present their views. Interested parties are defined as a property owner other than the Appellant whose property is the subject of an appeal and the neighborhood constituency consisting of neighbors and neighborhood association(s).

2. In the case of an application for a variance or special exception, the applicant, proponents or persons aggrieved under §15.2-2314 of the Code of Virginia shall be permitted a total of six (6) minutes each to present their case.

3. The Board shall withhold questions until the conclusion of the respective presentations.

- (c) Rebuttal for a variance or special exception case, if permitted by the Board.

Rebuttal shall be limited to correction or clarification of factual testimony already presented and shall not exceed five (5) minutes.

Section 8. No cross-examination of witnesses, except by members of the Board, shall be permitted, but the Board may allow limited questioning of witnesses upon a statement by the questioner as to the purpose of such questions.

Article IV. Filing and Processing of Appeals and Applications

Section 1. Every appeal from a decision of the Zoning Administrator or application for a variance or exception, or application for other action by the Board shall be submitted to the Secretary of the Board on official forms available from the Zoning Administrator's Office. Such forms shall be completed in compliance with instructions contained thereon and shall include all information necessary for a clear understanding by the Board, including the grounds upon which such application is made.

Section 2. An appeal or application to the Board shall be filed in accordance with general law.

Section 3. An application to the Board shall be accompanied by a receipt for payment of an application fee in accordance with the following schedule. Such fee shall be paid to the Office of Zoning Administration of the City and shall be deposited into the treasury of the City.

- (a) Any application not otherwise specified below: five hundred dollars (\$500.00).
- (b) Application for a variance or special exception involving a single-family or two-family dwelling, except as specified in paragraph (c): one hundred seventy-five dollars (\$175.00).

- (c) Application for a variance or special exception involving any use where a zoning violation resulted because construction was not completed in accordance with approved plans, and where (1) a certificate of use and occupancy or a certificate of zoning compliance is required for such construction, but has not been issued, or (2) where neither a certificate of use and occupancy or a certificate of zoning compliance is required for such construction, and the owner of the property at the time of application also owned the property at the time of construction: seven hundred fifty dollars (\$750.00).
- (d) Appeal of a decision of the Zoning Administrator: two hundred fifty dollars (\$250.00).
- (e) Request for a continuance of any case: one hundred fifty dollars (\$150.00).
- (f) No fee shall be required if the Zoning Administrator determines that the purpose of a variance or special exception application is to authorize the continued use of property or the continued existence of a feature which is determined by the Zoning Administrator to be prohibited, but for which a building permit, certificate of use and occupancy or certificate of zoning compliance was previously issued.
- (g) No fee shall be required if the Zoning Administrator determines that the purpose of an application is to remedy a situation resulting from an event for which there has been an official “declaration of local emergency”, provided that the application is filed within one year of such event.

If the Secretary determines that delinquent real estate taxes assessed against the subject property are owed to the City, the Secretary shall notify the Zoning Administrator in writing and the Zoning Administrator shall not approve any permit implementing the granting of a variance or special exception until the applicant has

produced satisfactory evidence that any delinquent real estate taxes owed to the City have been paid.

Section 4. Each appeal or application to the Board, properly filed, shall be numbered serially and placed on the docket of the Board for public hearing. Such numbers shall begin anew as of the first meeting of each calendar year, and shall be hyphenated with the number of the year in which such appeal or application is to be heard.

Section 5. No case shall be heard by the Board prior to twenty seven days from the date when the appeal or application was filed, and each case shall be docketed for hearing at the first regular meeting of the Board after such twenty seven-day period.

Section 6. Cases shall be heard in the order in which they appear on the docket, except by order of the Board for good cause shown, provided, however, that no case shall be heard prior to the time specified in the public notice.

Section 7. If less than four (4) members of the Board qualified to act in a case are present when it is called, the appellant or applicant shall be entitled to have such case continued until the next regular meeting of the Board.

Section 8 Any appeal or application may be withdrawn by the appellant or applicant at any time prior to the decision of the Board by notifying the Secretary in writing, or in some other manner acceptable to the Secretary.

Section 9. The Secretary shall transmit to each member of the Board, at least five (5) days prior to each meeting, a copy of each appeal or application to be considered, and of each paper filed therewith containing information relative thereto; and also shall transmit

a map or plat indicating the location of each property involved and showing its relationship to neighboring properties.

Article V. Notice of Public Hearing

Section 1. The Secretary shall see that public notice of each hearing before the Board is published in accordance with general law.

Section 2. The Secretary shall send written notice of the public hearing in accordance with general law to the last known address of each such property owners, as shown on the records of the Assessor of Real Estate of the City. If no address is so shown, the notice may be omitted.

Article VI. Disposition of Appeals and Applications

Section 1. The form and scope of decisions by the Board shall be as specified in the Code of Virginia and the Charter of the City of Richmond.

Section 2. The final disposition of each appeal or application shall be in the form of a resolution, either affirming, reversing or modifying the order, requirement, decision or determination appealed from, or granting or denying the application. Said resolution shall specifically set forth the variation, exception or modification permitted by such action and shall include any conditions imposed by the Board.

Section 3. If a resolution to modify or reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of any applicant fails to receive three (3) affirmative votes, such failure shall be deemed equivalent

to a denial, and a resolution denying such appeal or application shall be entered in the record.

Section 4. The Secretary shall notify the appellant or applicant of the action of the Board.

Section 5. All building permits, certificates of occupancy and other official permits necessary for the implementation of any permission granted by the Board must be obtained within two (2) years from the date of such action by the Board; otherwise, the Board's action shall be considered void. A statement to this effect shall be included in the notification of the Board's action sent to the appellant or applicant. Notwithstanding this provision, the Zoning Administrator shall not be precluded from taking any necessary action to bring about compliance with the zoning ordinance.

Section 6. No appeal or application on which the Board has taken final action shall again be considered by the Board within one (1) year from the date of such action.

Section 7. In the case of a continuance granted by the Board at the request of the appellant or applicant, payment of an additional application fee shall be required unless waived by a vote of the Board. An additional application fee shall not be required when a continuance is initiated by the Board or as a result of the provisions of Article IV, Section 7 of these rules. The Secretary shall see that public notice of each continued case is given as provided in Article V.

Article VII. Reconsideration

Section 1. No reconsideration of any appeal or application shall be granted except on motion made by a member of the Board not later than the first regular meeting following the meeting at which the original hearing was held. At least three (3) affirmative votes shall be required to carry such motion.

Section 2. All requests for reconsideration by an applicant shall be submitted to the Secretary in writing and shall state the reasons for the request.

Section 3. If reconsideration is granted, the case shall be placed on the docket of the Board for the first succeeding regular meeting. The same procedure relating to the payment of the application fee and the giving of notice shall be followed as in the case of the original appeal or application.

Article VIII. Docket and Minute Books

Section 1. The Secretary shall be provided with a docket book, which he or she shall keep current, and in which he or she shall enter the number of each appeal or application, the name of the appellant or applicant, a short description of the subject premises, the nature of the application and the final action of the Board.

Section 2. The Secretary shall keep minute books in which the findings of fact and resolution related to each case shall be recorded, together with the vote of each member of the Board present and designation of those members being absent. The minute book shall also contain all other pertinent information on official actions of the Board.

Article IX. Amendment of Rules

Section 1. These rules may be amended, modified or suspended at any regular or special meetings of the Board by the affirmative vote of not less than three (3) members of the Board.