

**BYLAWS OF THE
JACKSON BOARD OF ZONING APPEALS**

ARTICLE I. OFFICERS

1. The Board shall organize and elect a Chairman, Vice-chairman, and secretary annually in the month of June.
2. The Chairman shall preside at all meetings and hearings of the Board; he/she shall decide all points of order and procedure and shall appoint any committee that may be found necessary.
3. The Vice-chairman shall assume the duties of the Chairman in his/her absence.
4. The Secretary shall conduct all official correspondence subject to these rules at the direction of the Board; shall send out all notices required by these rules of procedure; keep the minutes of the Board's proceedings; and keep a file on each case which comes before the Board.

ARTICLE II. MEETINGS

1. A regular meeting of the Board of Zoning Appeals for the hearing of cases shall be held on the 4th Monday of each month at 3:30 p.m., unless no cases are pending, in which case no meeting shall be held.
2. Special meetings may be called by the Chairman (provided that at least 24 hours notice of such meeting is given each member.)
3. A quorum shall consist of 3 members.
4. The order of business at all regular meetings of the Board shall be as follows: (a) roll call; (b) reading of minutes of previous meeting; (c) hearing of cases; (d) unfinished business; (e) new business.
5. The Board may adjourn a regular meeting if all applications or appeals cannot be disposed of on the date set, and no further public notice shall be necessary for such a meeting.

ARTICLE III. RULES OF PROCEDURE

1. Purpose

The purpose of these rules is to provide for the orderly disposition of the business of the City Board of Zoning Appeals (Board) by codifying the means by which that business is to be transacted.

2. Authority

These rules are adopted pursuant to the authority vested in the Board in the Official Zoning Ordinance of the City of Jackson, Article VIII Section C 1.

3. Application

- (A) Appeals to the Board may be taken as provided in the Official Zoning Ordinance of the City of Jackson. Such appeal shall be filed with the Building Official on the form provided. The Building Official will transmit the appeal to the Secretary of the Board along with all papers constituting the record upon which the action appealed from was taken. No application or appeal will be considered by the Board unless it is made on the required form.
- (B) Each application will be assigned a number by the Building Department, and be placed on an agenda for hearing in chronological order unless the Board orders otherwise.
- (C) The applicant shall provide the Building Department with the following information:
 - (1) Applicant's name, address and telephone number;
 - (2) Location sketch of property;
 - (3) Reason for appeal and justification;
 - (4) The names and addresses of all property owners within two hundred (200) feet of the applicant's property;
 - (5) Any other information deemed necessary by the Board.
- (D) All property owners within two hundred (200) feet of the property for which an appeal has been requested will be notified by mail prior to the meeting at which the appeal is to be heard.
- (E) The Building Department shall notify the parties in interest of the time scheduled for the public hearing of the case and give 10 days public notice in the newspaper of general circulation. The time for the hearing shall be within 45 days after filing of notice of appeal or application.
- (F) Withdrawal
 - 1. Any applicant may withdraw his/her application without prejudice at any time prior to the public hearing on the case.
 - 2. If a second application is withdrawn, the withdrawal shall be with prejudice; the Board will not consider, and the Building Department shall

not accept for filing, the same or similar application by anyone relating to the same property for two years from the date of the withdrawal.

3. Case Hearings

- (a) Each case shall be introduced by the Chairman, or his/her designee, including:
 - (1) A brief explanation of why the case is before the board;
 - (2) The sections of the Zoning Ordinance under which the case arises, which shall be judicially noticed by the board, unless the parties object, and the relevant sections will not be read but will be transcribed into the record of the proceedings before the Board upon any appeal to a court of law or equity as if they had been read verbatim;
- (3) A presentation of maps and photographs; if necessary;
- (b) After the Chairman's introduction, the applicant shall present his/her case, including:
 - (1) The applicant's name;
 - (2) A statement of why the applicant believes the relief sought should be granted; and
 - (3) Any witnesses in support of the application.
- (c) Anyone appearing in opposition to the application shall present his/her case immediately following the close of the applicant's presentation, including:
 - (1) The opponent's name;
 - (2) A statement of why the opponent believes the relief sought should not be granted; and
 - (3) Any witness in opposition to the application.
- (d) Any member of the Board may directly question any witness appearing before the Board at any time during his/her testimony.
- (e) All exhibits presented to the Board for consideration by any witness must be submitted as evidence and made a part of the record unless the Board otherwise provides.
- (f) Cross examination of any witness appearing before the Board is permitted to a limited extent as determined by the Chairman.

(g) Upon the conclusion of all the testimony the public hearing will be closed and no further evidence admitted except as the Board may permit on motion or request.

(G) In any case wherein the applicant has failed to appear, the Board shall dismiss the application for lack of prosecution.

4. Hearing Procedure

(A) Generally

1. Every meeting of the board shall be open to the public.
2. The presence of three members of the Board shall constitute a quorum and a quorum must be present to vote on any case. Two members of the board are sufficient to conduct a public hearing.
3. The witnesses appearing before the Board in public hearings shall not be required to testify under each.
4. Conflict of Interest
 - a. Any member of the board who has a direct or indirect interest in any property which is the subject matter of or affected by, a decision of the Board shall be disqualified in participating in the discussion, decision, or proceedings of the board in connection therewith.
 - b. Any Board member who may have some interest in the issues in a given case shall publicly state that on the record so that either party or a member of the Board might object to his/her further participation in the case.

(B) Public Hearing Session:

1. General
 - (a) The public hearing session of each meeting shall consist of a public hearing of each case, which is to be considered by the Board on that day.
 - (b) Each case shall be taken up in the order listed on the agenda, unless upon motion or request the Board provides otherwise, and each will be presented as provided in Rule 4(B) (2), Case Hearings.

- (c) After each individual case is heard, the public hearing on that case shall be closed and the Board will act on the appeal.
- (d) A set of minutes shall be prepared by the Staff to reflect each public hearing item presented to the Board for consideration.
- (e) The Chairman is authorized to place time limits on the presentation of testimony and proof in any and all cases.

(C) Action on the Appeal

1. At the conclusion of each case/agenda item, the Board shall proceed with discussion and resolution of said case.
2. After discussion by the members and upon motion an application shall be granted or denied if it received a majority vote of the members present for approval or denial.
3. Where an application does not receive a majority vote of the members present for approval or denial, the application shall be considered at the next meeting. At such time, a member may change his/her vote or a member not present at the original hearing on the case may add his/her vote if he/she has listened to the tape recording of the public hearing and reviewed the entire file. If after thirty days, the application has not received a majority vote of the members present for approval or denial, the application shall be denied.
4. If any decision made by the Board on an application:
 - (a) For a variance:
 - (1) The Board shall indicate the specific section of the Ordinance under which the variance is being considered, and shall state its findings beyond such generalities as “in the interest of public health, safety, and general welfare”.
 - (2) In cases pertaining to hardship, specifically identifying the hardship warranting such action by the Board.
 - (b) For a conditional use permit the board shall indicate the specific section of the Ordinance under which the permit is being considered and shall state its findings beyond such generalities as “in the interest of public health, safety, and general welfare”, and shall state clearly the specific conditions imposed in granting such permit.

5. Post Hearing Request

(A) Request for Rehearing

1. Any aggrieved party may, within sixty (60) days of the entry of an Order, in the case he/she participated in, request a rehearing.
2. No such request to grant a rehearing shall be considered unless new evidence is submitted which could not have reasonably been presented at the previous hearing.
3. The request must be in writing and it must give specifically the reasons for the request.
4. The request must be duly verified and accompanied by the necessary plans and diagrams.
5. A request for rehearing shall be granted upon the receipt of a majority vote of the members present.
 - (a) If the request is denied, an appropriate Order shall be prepared by Staff.
 - (b) If the request is granted, the case will be set for another public hearing, notice to be sent to the public, and an opportunity for the public to testify will be granted.

B. Reconsideration

1. Within sixth (6) days of the entry of the order in a case, a member of the Board who voted in the majority as to disposition of the case, may move for reconsideration of the decision.
2. The affirmative of the majority vote of the members present is required to carry the motion.
3. No public hearing will be held, and no new evidence will be considered.

C. Request for a Special Hearing

1. An applicant may request a special hearing on his case.

2. All requests must be in writing and state the reasons such a meeting is deemed to be necessary.

6. Entry of Orders

- (A) As soon as possible after the decision of the Board in a particular case, the staff shall enter an Order describing the action taken, the reasons therefore and the vote.
- (B) The Order will be dated and signed by the Chairman, and or the Vice chairman.
- (C) After the Order has been duly executed, a copy shall be placed in he Board's file and in the Building Department.

ARTICLE IV. RECORDS

- 1. A file of all materials and decisions relating to each case shall be kept by the Secretary as part of the records of the Board of Zoning Appeals.
- 2. All records of the Board shall be a public record.

ARTICLE V. INTERPRETATION OF THE BOARD'S RULES

- 1. The Board is the final authority as to the meaning of these rules.
- 2. The Board may, from to time, make an exception in these Rules for extraordinary cases, setting out the reasons therefore.

ARTICLE VI. FILING

Upon Adoption, these Rules shall be filed with the City Recorder's Office.

DATE: 5/11/1982

CHAIRMAN

SECRETARY

