

A RESOLUTION


TO AMEND THE RULES OF PROCEDURE OF THE BOARD OF ZONING
APPEALS OF THE CITY OF GREENVILLE

WHEREAS, City Council approved Resolution Number 2001-27 on June 25, 2001, establishing Rules of Procedure for the Board of Zoning Appeals of the City of Greenville; and

WHEREAS, the Board of Zoning Appeals has reviewed the Rules of Procedure and approved amendments reflecting the increase of Board members from five to seven and deleting language that would allow the passage of Motions with less than a majority of members present.

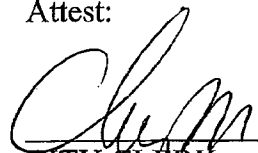
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA that the Rules of Procedure of the Board of Zoning Appeals of the City of Greenville, as provided in the attachment, are amended and approved.

RESOLVED THIS 6TH DAY OF DECEMBER 2004.



MAYOR

Attest:



CITY CLERK

Rules of Procedure
Board of Zoning Appeals
City of Greenville, South Carolina

Article I
Organization

Section 1. Rules

The Rules of Procedure are adopted pursuant to S.C. Code 6-29-790 for the City of Greenville Board of Zoning Appeals which consists of seven members appointed by the City Council. Throughout this document, the word "meeting" shall mean the convening of a quorum of the Board members and specifically excludes meetings by means of electronic equipment.

Section 2. Members and Officers

The Board shall consist of seven members appointed by City Council. At the first regular meeting of the calendar year, the Board shall elect a Chair and Vice-Chair to serve a one-year term. The City of Greenville Zoning Administrator shall serve as secretary of the Board.

Section 3. Chair

The Chair shall be a voting member of the Board and shall:

- A. Call meetings of the Board;
- B. Preside at meetings and hearings; and swear in witnesses;
- C. Act as spokesperson for the Board;
- D. Sign documents for the Board;
- E. Have orders of the Board served on parties;
- F. Compel the attendance of witnesses;
- G. Maintain order; and
- H. Perform other duties approved by the Board.

Section 4. Vice-Chair

The Vice-Chair shall exercise the duties of the Chair in the absence, disability, or disqualification of the Chair. In the absence of the Chair and Vice-Chair, an acting Chair shall be elected by the members present.

Section 5. Secretary

The secretary shall:

- A. Provide and publish notice of appeals and meetings;

- B. Assist the Chair in preparation of agenda;
- C. Verify that property involved in applications for variances or special exceptions is properly posted.
- D. Keep recordings and minutes of meetings and hearings;
- E. Maintain Board records as public records;
- F. Serve Board decisions on parties;
- G. Attend to Board correspondence; and
- H. Perform other duties normally carried out by a secretary.

Article II Meetings

Section 1. Time and Place

An annual schedule of regular meetings with designated date, time, and place, shall be adopted, published, and posted at the designated City office in December of each year. Special meetings may be called by the Chair upon 24 hours notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices, and shall be open to the public, except those meetings or portion thereof held in executive sessions in accordance with the law.

Section 2. Agenda

A written agenda shall be furnished by the secretary to each member of the Board, and shall be posted at least five (5) days prior to each regular meeting, and at least twenty four (24) hours prior to a special meeting. Items may be removed from the agenda or postponed at a meeting by the majority vote.

Section 3. Quorum

A quorum of four members shall be required to conduct business at any meeting.

Section 4. Attendance

After a member of the Board is absent from three consecutive regular meetings of the Board or 30 percent of the Board's meetings in a calendar year, the Chair shall notify the City clerk of the member's number of absences. Absence due to sickness, bona fide emergency, or death in the Board member's family may be excused by the Chair.

Section 5. Rules of Order

Robert's Rules of Order shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

Article III Appeals Procedure

Section 1. Form of Appeal

Appeals from administrative decisions, applications for variances, and applications for special exceptions shall be filed on forms approved by the Board and provided to applicants by the secretary. Applications must be filed and completed at least twenty-one (21) days prior to the Public Hearing. The Board may require additional information when deemed necessary. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

Section 2. Time for Appeal

An appeal from an administrative decision must be filed within ten (10) business days of the decision by delivery of the approved appeal form to the secretary of the Board who shall notify the official whose decision was appealed.

Section 3. Calendar

Appeals and applications shall be marked with the date of receipt and placed on the hearing calendar in the order in which received. Appeals shall be heard in the order on the calendar unless otherwise set by the Board for good cause shown.

Section 4. Withdrawal of Appeal

Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the Board. An appeal from an administrative decision which is withdrawn may not be re-filed after the ten (10) day time for appeal has expired. Withdrawn applications for variances and special exceptions may be re-filed after six (6) months and shall be placed on the calendar according to the date re-filed.

Section 5. Continuance

The hearing of an appeal or application may be continued one time by the Board for good cause shown; thereafter, only upon a showing of extraordinary circumstances.

Section 6. Notice

Public notice of a hearing of the Board shall be published in a local newspaper and posted on or adjacent to the affected property at least fifteen (15) days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected. At least 15 days prior to the hearing, the Board shall mail written notice to all property owners of record within 150 feet of the affected property. The Board shall not cause the application's Public Hearing notice to be advertised unless the application is complete

and all required fees and supporting documents have been submitted.

Article IV Hearing Procedure

Section 1. Appearances

The applicant or any party in interest may appear in person or by agent or attorney. The Board may postpone or proceed to dispose of a matter on the record before it in the applicant's or agent's absence. During the Board meeting, no person other than Board members may participate in discussions unless requested by the Board.

Section 2. Witnesses

Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena requested at least ten (10) days before the Hearing and signed by the Chair. The Board may call its own witnesses when deemed appropriate.

Section 3. Cross-examination

No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses will not be allowed.

Section 4. Evidence

Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The Chair will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

Section 5. Conduct of Hearing

The normal order of the Hearing, subject to modification by the Chair, shall be:

- A. Statement of conflict of interest
- B. Presentation of staff report
- C. Presentation by applicant
- D. Presentation by official appealed
- E. Presentation by opponents
- F. Rebuttal by applicant
- G. Unsworn public comment when appropriate
- H. The Board may question participants at any point in the hearing
- I. Matters in which additional time is granted may be moved to the end of the agenda.

The time for presentations and rebuttal may be limited, at the discretion of the Board.

Section 6. Conflict of Interest

No sitting Board member should be involved in making or assisting in the making of any presentation, site plan, or application to the Board of Zoning Appeals on any application that comes to the Board for approval, whether the sitting Board member is being paid or not. A Board member shall abstain from all discussion and voting on an application in which s/he, a member of her/his immediate family, a person with whom s/he is associated, or a business with which s/he is associated would have an economic interest that would be affected by the Board member's participation and action. The member with a conflict of interest shall state for the record the basis for the abstention and complete a Statement of Potential Conflict of Interest form.

Section 7. Voting

Each member shall vote, and shall not abstain from voting unless the member claims a conflict of interest; the member with a conflict of interest shall be excused from voting consistent with Section 6, Conflict of Interest.

Voting on applications, including special exception and variance applications, shall be by roll call; voting on all other matters shall be by voice vote or roll call, at the option of the Chair.

No absentee voting or proxy voting is permitted. No member of the Board shall vote on an application unless the member was in attendance at the Public Hearing on the application. The Board may postpone voting on an application to a later time designated at the time of deferral.

If there are only four Board members present at the Board's regular or special meetings and one of these members must abstain from voting or discussing a particular item on the agenda, then the Chair shall inform the applicant that the applicant can withdraw the application before the Hearing. The applicant shall have the right to wait until the next regular meeting of the Board for a full Board.

Section 8. Disposition

The Board may deliberate and make a final disposition of a matter by majority vote of members present at the hearing and qualified to vote; provided, that not less than a quorum are qualified to vote. The vote may be taken at the same or subsequent meeting. A member may not vote on a matter which the member has not heard. Deliberations and voting shall be conducted in public.

Section 9. Form of Order

An order shall be issued disposing of a matter by granting or denying relief with any conditions that may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction or prosecution.

Findings of fact and conclusions of law shall be separately stated in the order.

Section 10. Service of Order

The secretary shall provide staff assistance to the Board and shall notify the applicant in writing of the Board's decision within 30 days of its vote on the application.

Section 11. Rehearing

No application which has been denied shall be reconsidered for a period of six (6) months from action thereon. However, the Board may grant a rehearing of a denied application sooner than this six month period if, within fifteen days of mailing the order, a written request is filed with the secretary indicating new evidence which could not reasonably have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome. New fees will be required.

**Article V
Records**

Section 1. Minutes

The secretary shall record all meetings and Hearings of the Board on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the Board at the next regular meeting. Minutes shall be maintained as public records.

Section 2. Orders and Documents

The secretary shall assist in the preparation and service of all orders of the Board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as public records, except as otherwise provided by law. The Board shall be governed by the Freedom of Information Act and its requirements for meetings and records of public bodies.

**Article VI
Adoption and Amendment**

Section 1. Adoption

These rules were adopted by vote of a majority of the members of the Board at a regular public meeting on May 24, 2001.

Section 2. Amendment

These rules may be amended at any regular meeting of the Board by majority vote of the

members of the Board at least five (5) days after the written amendment is delivered to all members.

Notes and revisions:

1. Accepted by City Council on June 25, 2001 (Resolution No. 2001-27).
2. Revised by the Board of Zoning Appeals November 18, 2004.