



CITY OF PHILADELPHIA

DEPARTMENT OF LICENSES & INSPECTIONS
Municipal Services Building - 11th Floor
Philadelphia, PA 19102-1687
(215) 686-2400

CARLTON WILLIAMS SR.
Commissioner

August 27, 2015

Joan Decker, Commissioner
Department of Records
Room 156, City Hall
Philadelphia, PA 19107

Re: Zoning Board of Adjustment Regulations

Dear Commissioner Decker:

Pursuant to section 8-407(a) of the Philadelphia Home Rule Charter, I am submitting an amended regulation related to the rules of procedure for the Zoning Board of Adjustment. The Zoning Board of Adjustment voted to approve this regulation at a public hearing on May 20, 2015.

The proposed regulation has been reviewed by Andrew Ross, Chief Deputy City Solicitor, Law Department, and found to be legal and in proper form.

Please take all necessary steps to advertise this regulation immediately for formal adoption.

Sincerely,

Carlton Williams, Sr.
Commissioner

Attachment

cc: Michael E. Fink, Deputy Commissioner
Elizabeth Baldwin P.E., Executive Director of Development Services

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City of Philadelphia


LAW DEPARTMENT
One Parkway
1515 Arch Street
17th Floor
Philadelphia, PA 19102

MEMORANDUM

Privileged and Confidential Advice of Counsel

TO: Carlton Williams Sr., Commissioner, Licenses & Inspections

cc: Michael Fink, Deputy Commissioner, Licenses & Inspections

FROM: Andrew S. Ross, Chief Deputy City Solicitor 

DATE: August 21, 2015

SUBJECT: Zoning Board of Adjustment Rules and Regulations

The Zoning Board of Adjustment approved amendments to its Rules and Regulations at a public hearing on May 20, 2015. I have reviewed these amendments, pursuant to §3-911 and §5-1006 of the Philadelphia Home Rule Charter and §14-103(4) of The Philadelphia Code.

I find these amendments to be legal and in proper form. In accordance with §8-407(a) of the Home Rule Charter, you may now forward the proposed Regulation to the Department of Records to be made available for public inspection.

**CITY OF PHILADELPHIA
ZONING BOARD OF ADJUSTMENT
RULES & REGULATIONS**

**The following amendments were approved by the Zoning Board of Adjustment at a public meeting
on May 20, 2015**

Strikethrough: item deleted

Italics: item added

CITY OF PHILADELPHIA ZONING BOARD OF ADJUSTMENT

1. DECLARATION OF AUTHORITY

1.1. Authority

The Zoning Board of Adjustment is established by §3-911 of the Philadelphia Home Rule Charter and has those powers set forth in §5-1006 of the Philadelphia Home Rule Charter and §14-103(4) of Title 14 of The Philadelphia Code.

1.2. Prior Regulations Superseded

The regulations heretofore adopted by the Zoning Board of Adjustment are hereby superseded.

2. DEFINITIONS

2.1 Zoning Board. The Philadelphia Zoning Board of Adjustment.

2.2 L&I. The Philadelphia Department of Licenses and Inspections.

2.3 Zoning Code. Title 14 of The Philadelphia Code.

2.4 Interested Person. *The appellant and any person/entity who registered in writing before the Zoning Board on a form provided by the Board.*

3. THE ZONING BOARD

3.1. Composition and Qualifications

The composition of the Zoning Board is set forth in §3-911 of The Philadelphia Home Rule Charter.

3.2. Officers

The Mayor may designate one member of the Zoning Board as Chair and one member as Vice-Chair. In the absence of a designation by the Mayor, the members of the Zoning Board may select from among themselves a Chair, a Vice-Chair, and other officers as the Zoning Board may determine.

3.3. Conflict of Interest

Members of the Zoning Board shall abide by §20-607 of The Philadelphia Code regarding conflicts of interest.

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4. APPEAL PROCEDURES

Public notice requirements and appeal procedures are set forth in the Zoning Code and Title 4, Subcode A (The Philadelphia Administrative Code).

4.1. Registered Community Organizations (RCOs) must be notified of appeals in accordance with the Zoning Code.

4.2. Appeals must be filed on a form provided by the Zoning Board. *Each appellant, whether an individual, corporation or organization, shall be clearly identified by name and address. If the appellant is represented by counsel, identification of counsel shall be separately noted.* All relevant information required on the form must be provided by the appellant, including confirmation of required notice to RCOs.

5. CONDUCT OF HEARINGS

5.1. Hearing Calendar

5.1.1. Public hearings of the Zoning Board shall be held on days and times to be set by the Zoning Board as may be deemed necessary to facilitate the work of the Zoning Board. Special meetings may be held, as needed, upon the call of the Chair or Vice-Chair.

5.1.2. A hearing calendar indicating the day, hour, and place of hearings of the Zoning Board shall be posted on the City of Philadelphia website.

5.1.3. Each case shall be listed on the hearing calendar by calendar number, zoning permit application number, applicant, owner, address of the subject property, and date and time for which such case has been set for public hearing.

5.1.4. Except in extraordinary circumstances as determined by the Zoning Board, no hearing scheduled by the Zoning Board may be continued more than twice.

5.2. Conduct of Business

5.2.1. Hearings shall be conducted in accordance with §14-303(14) of the Zoning Code.

5.2.2. ~~Hearings shall be conducted in the presence of a quorum of the Zoning Board. In the absence of a quorum, the hearing shall proceed unless any party shall object. Three members of the Zoning Board shall constitute a quorum for any hearing. No hearing shall be conducted in the absence of a quorum. In the event of objection, all hearings to which an objection is made shall be rescheduled, with due notice given.~~

5.2.3. Where the appellant is the applicant for a zoning permit, the appellant must submit the following at the hearing before the Zoning Board:

5.2.3.1 Proof of legal or equitable interest in the property in question, such as a fully signed deed, agreement of sale, lease or other similar instrument.

5.2.3.2 If the ~~applicant~~ *appellant* is a joint owner or joint lessee, the ~~applicant~~ *appellant* must present written evidence of authority signed by owners or lessees representing a majority ownership or leasehold interest.

5.2.3.3 Clear photographs, not less than four inches by six inches (4" x 6"), of each side of the premises with which the appeal is concerned. The photographs must show the posted zoning notice(s) and the entirety of all structures on the premises, along each street frontage, and any structures on the immediately abutting properties, and interior photos. In appeals involving changes to the side(s) or rear of premises, photographs showing the entire affected side(s) or rear must also be submitted. Each photograph shall be dated, with a brief description of the photograph.

5.2.3.4 A plan showing:

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- .1 The dimensions of the lot in question;
- .2 ~~If required by the Zoning Board, the~~ existing and proposed uses of these any structures on the lot in question; and
- .3 ~~If relevant to the appeal as determined by the Zoning Board, the~~ location, elevation and interior and exterior dimensions of all existing and proposed structures on the lot in question; and .

5.2.4. ~~The Zoning Board may determine the order in which evidence shall be presented. Unless otherwise directed by the Board, Whenever practicable,~~ the appellant's evidence shall be presented first; thereafter other interested persons will be heard.

5.2.5. All exhibits introduced into evidence at the hearing shall be marked to identify the offering party person or entity.

5.2.6 Pursuant to §14-303(14) of the Zoning Code, ~~a party an individual~~ may appear before the Zoning Board in person or by an attorney-at-law authorized to practice within the Commonwealth of Pennsylvania. ~~In the case of any A partnership having an interest in any matter, one of its partners~~ may appear before the Zoning Board by one of its partners at the hearing or by an attorney-at-law authorized to practice within the Commonwealth of Pennsylvania. ~~Where an applicant appearing before the Board is a corporation, including a nonprofit corporation or an LLC, it must be represented by an attorney. An attorney representing any interested person before the Zoning Board must be authorized to practice law within the Commonwealth of Pennsylvania.~~

5.2.6. The Zoning Board may require the submission of proposed findings of fact, conclusions of law, and/or memoranda of law, and such submissions shall be filed with the Zoning Board within 10 days of the date of the request, unless otherwise specified by the Zoning Board.

5.3. Record of Official Vote

The Zoning Board shall keep records of its decisions showing the vote of each member upon each appeal, or each member's absence or failure to vote, indicating such fact, and shall keep records of its hearings and other official actions, all of which shall be immediately filed in the office of the Zoning Board and shall be a public record.

6. DECISIONS OF THE ZONING BOARD

6.1. Criteria

In making its decisions, the Zoning Board shall evaluate the criteria set forth in the Zoning Code at §14-303(7) and (8).

6.2. Decisions

6.2.1. A decision of the Zoning Board shall relate only to the zoning law and shall not be construed to apply to any other law, except insofar as authorized by statute or ordinance.

6.2.2. ~~No action shall be taken by the Zoning Board unless at least three (3) members of the Board, present at the time of the vote, concur.~~

6.2.3 ~~In matters where the hearing proceeded in the absence of a quorum, a~~Any members not present during the hearing, or any session of a hearing where such hearing is conducted over multiple sessions, who participate in the decision shall certify in writing that they have read the full record before participating in the decision.

~~6.2.3-6.2.4.~~ 6.2.4. Decisions of the Zoning Board shall be in writing in a manner designated by the Zoning Board. The written decision shall document the reasons for the Zoning Board's determination in accordance with the relevant sections of the Zoning Code.

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6.3. Reconsiderations

~~6.3.1. No later than 30 days after a final determination by the Zoning Board, reconsideration may be permitted by majority vote of the Zoning Board under special circumstances that were not known, and could not reasonably have been known, by the requestor at the time of the hearing. The grant of a new hearing for reconsideration shall not act as a stay of any enforcement action by L&I. A request for reconsideration of a final determination by the Zoning Board may be permitted by majority vote of the Zoning Board under special circumstances that were not known, and could not reasonably have been known, by the requestor at the time of the hearing. The date on which a decision of the Zoning Board is mailed shall be conclusively presumed to be the date of final determination, and the time for a reconsideration request shall run from that date.~~

6.3.2. A request to reconsider a decision ~~final determination~~ of the Zoning Board may be initiated as follows:

~~6.3.2.1 A party of record may submit a written request for reconsideration to the Zoning Board and shall forward copies of the request to all parties of record Within ten (10) days of a final determination, a party of record an interested person may submit a written request for reconsideration.~~

6.3.2.2 The written request shall state the special circumstances that were not known, and could not reasonably have been known, at the time of the hearing.

6.3.2.3 A copy of the reconsideration request shall be sent to all parties of record.

6.3.2.2 4 The Zoning Board Administrator shall keep on file contact information for all parties of record.

~~6.3.3. L&I shall mail notice to all other parties of record of the hearing date at which the Zoning Board will consider the request for reconsideration at least 21 days prior to the scheduled hearing. The Zoning Board may by majority vote, grant the reconsideration. The Board's determination shall be made within thirty (30) days after a final determination and shall be recorded at a public session of the Board.~~

6.3.4. If a reconsideration is granted, a public hearing will be scheduled on the matter and the subject property will be posted with the hearing date in compliance with §14-303(13)(c)(.3). The Zoning Board Administrator shall mail notice to all other parties of record of the hearing date to all other interested persons at least twenty-one (21) days prior to the scheduled hearing.

6.3.5 The filing of a request for reconsideration shall not stay any enforcement action by L&I; nor shall it stay the time for taking an appeal from a decision of the Zoning Board.

6.3.6 The Zoning Board's decision on a request for reconsideration shall be appealable in accordance with the Zoning Code's provision for appeals from the Zoning Board.

6.4. Administrative Review

6.4.1. The applicant of a case previously approved by the Zoning Board may request in writing to L&I an minor administrative adjustment to the approval, provided the approval has not expired as set forth in §14-303(10) of the Zoning Code.

6.4.2. The Zoning Board's authority to approve minor administrative adjustments is delegated to L&I. Such minor adjustments may not substantially alter the character of the structure originally approved but may include adjustments which:

6.4.2.1 Include minor changes to reduce the footprint, gross floor area or height of the approved structure.

6.4.2.2 Lessen the degree of impact related to dimensional variances;

6.4.2.3 Lessen the number of approved dwelling units where applicable;

6.4.2.4 Lessen the number or size of approved signs;

6.4.2.5 Do not conflict with any Zoning Board provisios; or

6.4.2.6 Would not require a zoning review.

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6.4.2-3. The Zoning Board's authority to act on administrative review requests *not approved by L&I* is delegated to the Chair. L&I shall forward the administrative review request to the Chair for review and approval. The Chair may approve the request only if he finds all of following:

6.4.23.1 The adjustment requested does not increase the number or degree of variances or special exceptions requested in the original appeal; and

6.4.23.2 The adjustment requested results in no additional off-site impact beyond what was approved in the original appeal.

6.4.34. If ~~the any~~ adjustment requested is approved, notice in writing shall be mailed to all ~~parties of record before the Zoning Board~~ *interested persons*. The Zoning Board Administrator shall keep on file contact information for all ~~parties of record~~ *interested persons*. Within 14 days of the date of such notice, any such ~~party~~ *person* may request in writing a hearing on the adjustment approved. An approved adjustment does not become effective until the expiration of the 14-day period or, if a hearing is requested, the conclusion of the hearing.

6.4.4-5. Upon approval of an administrative adjustment by *L&I or the Zoning Board*, L&I shall issue the applicant an Administrative Review Permit.

7. APPEALS FROM THE ZONING BOARD

7.1 The date on which a decision of the Zoning Board is mailed shall be conclusively presumed to be the date of adjudication, and the time for appeal shall run from that date. The Zoning Board shall give prompt written notice of its decision to the applicant and to all *other interested persons* ~~parties who entered an appearance~~.

7.2 A request for reconsideration shall not stay the time for taking an appeal from a decision of the Zoning Board. If reconsideration is granted by the Zoning Board, any appeal taken before that date shall have no effect. In such cases, the time for appeal shall run from the date of the issuance of the Zoning Board's decision following the reconsideration.

7.3 In all appeals from the Zoning Board, the *appellant person/entity taking the appeal* shall serve notice of the appeal on *all interested persons* ~~the parties~~ and within the time limits specified in Philadelphia Civil Rule 320 or such other local rule or court order as governs appeals from administrative agencies. Such notice must include a copy of the Zoning Board's letter announcing the decision from which the appeal is taken. *The appellant is responsible for ordering and paying for a transcript of the hearing from the court reporter, as required by Philadelphia Civil Rule 320.*

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