

Proposed Changes to the Regulations of the Zoning Board of Adjustment

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CITY OF PHILADELPHIA ZONING BOARD OF ADJUSTMENT

Rules & Regulations

Revised January 15, 2025

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~~ §4-607 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1.2 Prior Regulations Superseded.

The regulations heretofore adopted by the Zoning Board of Adjustment are hereby superseded.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

2.1 Appellant.

An individual or entity entitled to consideration by the Zoning Board for a special exception pursuant to §14-303(7), a variance pursuant to §14-303(8), or an appeal of a final order, requirement, decision, or determination made by L&I pursuant to §14-303(15)(a).

2.2 Host.

A member of the Zoning Board's staff who operates the Board's Telecommunications Technology during a hearing.

2.3 Interested Person.

The Appellant and any person or entity who registered before the Zoning Board in the manner specified by the Zoning Board.

2.4 L&I.

The City of Philadelphia Department of Licenses and Inspections.

2.5 Participant.

Appellants, attorneys representing Appellants, and other parties with an interest in a matter before the Zoning Board.

2.6 Telecommunications Technology.

Any interactive technology used to facilitate virtual or hybrid meetings, including telephone and internet communication.

2.7 Zoning Board.

The City of Philadelphia Zoning Board of Adjustment

2.8 Zoning Code.

Title 14 of The Philadelphia Code.

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~~ The members of the Zoning Board ~~may~~ shall 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.

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-Appellant.

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~~, *Appellant*, 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 ~~Three members of the Zoning Board shall constitute a quorum for any hearing.~~ *A majority of the sitting members of the Zoning Board shall constitute a quorum.* No hearing shall be conducted in the absence of a quorum.
- 5.2.3 ~~Where the appellant is the applicant for a zoning permit, the appellant~~ *The Appellant* must submit the following *documentation at least five (5) calendar days prior to the hearing before the Zoning Board in the manner prescribed by 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 Appellant is a joint owner or joint lessee, the 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")~~, *photographs* 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 *To the extent required in connection with the zoning permit application, a plan showing:*

- .1** The dimensions of the lot in question;
- .2** The existing and proposed uses of any structures on the lot in question; and
- .3** The location, elevation and interior and exterior dimensions of all existing and proposed structures on the lot in question.

5.2.3.5 *Proof of tax compliance as required by §14-303(15)(a)(9).*

5.2.3.6 *Proof of compliance with the requirements of §14-303(12)(Neighborhood Notice and Meetings).*

5.2.4 The Zoning Board may determine the order in which evidence shall be presented. Unless otherwise directed by the Board, 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 person or entity.

5.2.6 Pursuant to §14-303(14) of the Zoning Code, an individual may appear before the Zoning Board in person or by an attorney. A partnership may appear before the Zoning Board by one of its partners or by an attorney. Where an ~~applicant~~ Appellant appearing before the Board is a ~~corporation, business entity~~, including a corporation, nonprofit corporation, religious organization, 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.

5.2.7 The Zoning Board may require the submission of proposed findings of fact, conclusions of law, and/or memoranda of law, ~~and such law~~. 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 Hybrid Hearings.

5.3.1 *The Zoning Board may conduct its hearings in a "hybrid" format, allowing some Participants to appear virtually via Telecommunications Technology while other Participants appear in person.*

5.3.2 *Appellants shall notify the Zoning Board whether they, their counsel, and/or their witnesses will appear virtually via Telecommunications Technology or in person in advance of the hearing, in the time and manner as prescribed by the Zoning Board. Any change should be communicated to the Zoning Board as early as possible.*

5.3.3 *Appellants and attorneys who appear virtually via Telecommunications Technology shall present exhibits or other documents by sharing their screen with the Zoning Board.*

- 5.3.4 Appellants and attorneys who appear in person may bring with them to the hearing an electronic device capable of sharing documents via Telecommunications Technology and may use such device to present exhibits or other documents by sharing their screen with the Zoning Board.*
- 5.3.5 When it is not practical, as determined by the Board, for an Appellant or attorney to share documents via Telecommunications Technology, the Host may display exhibits or other documents. The Host shall not be responsible for arranging and identifying documents or exhibits. The Appellant or attorney shall identify each document or exhibit displayed by the Host for the record.*
- 5.3.6 Court reporters and interpreters are permitted to participate virtually via Telecommunications Technology.*
- 5.3.7 Board Members shall participate in hearings in person absent exigent circumstances as determined by the Board Chair.*
- 5.3.8 In the event of any extraordinary circumstance that would otherwise prevent the Zoning Board from conducting its hearing in a hybrid format, the hearings may, at the Zoning Board's discretion, be conducted solely in a virtual format via Telecommunications Technology or solely in person. Extraordinary circumstances preventing conduct of a hybrid hearing may include but not be limited to: acts of God, fires, casualties, natural disasters, wars, terrorism, insurrections, riots, civil unrest/disturbances, labor strikes, lockouts, or other work stoppages, accidents, epidemics, pandemics, power or City internet outages, applicable governmental orders or laws, or any other cause beyond the reasonable control of the Zoning Board and any Interested Person.*

5.4 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)~~ a majority of the members of the Board, present at the time of the vote, concur.
- 6.2.3** 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 on the record that they have watched the recording of the hearing or read the transcript~~ before participating in the decision.

- 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.

6.3 Reconsiderations.

- 6.3.1** 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~~ *emailed to the Appellant and all Interested Persons* 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 final determination of the Zoning Board may be initiated as follows:
- 6.3.2.1** Within ten (10) days of a final determination, 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 *by the Interested Person*.
- 6.3.2.4** The Zoning Board Administrator shall keep on file contact information for all parties of record.
- 6.3.3** 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 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 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~~ *Provide for* 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; *or*
 - ~~**6.4.2.5** Do not conflict with any Zoning Board provisos; or~~
 - ~~**6.4.2.6** Would not require a zoning review.~~
 - 6.4.2.5** *Make comparable changes that reduce the intensity of the proposed use.*
- ~~**6.4.3** 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:~~
- ~~**6.4.3.1** The adjustment requested does not increase the number or degree of variances or special exceptions requested in the original appeal; and~~
 - ~~**6.4.3.2** The adjustment requested results in no additional off-site impact beyond what was approved in the original appeal.~~
- ~~**6.4.4** If any adjustment requested is approved, notice in writing shall be mailed to all interested persons. The Zoning Board Administrator shall keep on file contact information for all interested persons. Within 14 days of the date of such notice, any such 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.~~
- ~~**6.4.5** 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~~ *emailed to the Appellant and all Interested Persons* 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~~ *Appellant* and to all ~~other interested persons~~ *Interested Persons*.

- 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 ~~person/entity~~ *person or entity* taking the appeal shall serve notice of the appeal on all Interested Persons 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, *unless the Appellant is a Registered Community Organization (RCO) as provided for in §14-303(15)(b)(2)*.