

# City of Alexandria, Virginia

## MEMORANDUM

DATE: OCTOBER 4, 2018

TO: CHAIRMAN ALTENBURG AND MEMBERS OF BOARD OF ZONING APPEALS

FROM: KARL MORITZ, DIRECTOR  
DEPARTMENT OF PLANNING AND ZONING

SUBJECT: RULES OF PROCEDURE

---

At the September 13, 2018 Board of Zoning Appeals meeting, staff proposed amending the Rules of Procedure to change the regular meeting day and time to address a scheduling conflict. At the hearing members of the Board proposed additional changes to the Rules of Procedure to correct conflicting information regarding the Secretary of the Board. Staff has reviewed the proposed changes and suggests that the Board vote only on the changes to the proposed day and time of the meeting at the October 11, 2018 meeting and that a subcommittee, consisting of two members of the Board, be created to work with staff on additional updates to the Rules of Procedure.

Amending the Rules of Procedure is, of course, entirely within the purview of the Board and staff understands the important goal of clarifying the conflicts within the existing Rules. Staff is looking forward to supporting the Board's review of the Rules of Procedure and making sure that the Board has all of the information it needs for its review

Staff suggests a comprehensive review and update to the Rules of Procedure is warranted because while the Board's proposed changes do correct conflicting portions of the Rules of Procedure, there are also questions related to the duties of the Secretary, record keeping responsibilities and FOIA requirements. The creation of a subcommittee and the dedication of appropriate staff time and resources will ensure the amendments to the Rules of Procedure are consistent with the State Code, City Charter and Zoning Ordinance requirements.

Staff suggests the following timeline (subject to change once the subcommittee is established) for the process to update the Board of Zoning Appeals Rules of Procedure:

October 11	Subcommittee (2 members) established by the Board at the hearing
Week of October 22	Subcommittee and staff meeting #1
Week of October 29	Staff prepares draft amended Rules of Procedure and circulates to subcommittee for review
Week of November 5	Subcommittee and staff meeting #2

# **Board of Zoning Appeals**

## **City of Alexandria**

### **Rules of Procedure**

Adopted by the Board of Zoning Appeals, City of Alexandria, Virginia, at its meeting of February 11, 1993, and amended on November 14, 2008, May 12, 2016, ~~and~~ April 7, 2017 and October 11, 2018 to govern the conduct of such business as may come before the Board.

#### **I. Organization**

##### **A. Officers**

The Officers of the Board of Zoning Appeals (hereinafter “the Board”) shall consist of a Chairman, a Vice-chairman and a Secretary. The Director of Planning and Zoning shall be the Secretary of the Board ex officio.

##### **B. Election of Officers**

Officers of the Board shall be elected for a term of one year at the regular meeting of the Board in January of each year. If an officer resigns, a successor shall be elected to fill the vacancy for the unexpired balance of the term. The election shall be held at the next meeting following the resignation.

##### **C. Eligibility**

All officers of the Board shall be members of the Board. All members of the Board are eligible to serve as officers. No member may hold more than one of the offices named above simultaneously.

##### **D. Duties of Officers**

The Chairman shall preside at all meetings of the Board at which he is present. In the absence of the Chairman, the Vice-Chairman shall preside and shall exercise the duties of the Chairman. In the absence of both the Chairman and the Vice-Chairman, a temporary Chairman will be elected by those members present and shall exercise the duties of the Chairman.

##### **E. Clerical and Support Personnel**

Subject to the availability of funds, the City Manager shall designate other support and clerical personnel as may be necessary for it to perform its functions. The Secretary of the Board shall prepare and sign the minutes of the meetings of the Board and shall keep accurate records of all proceedings of the Board; recording the vote of each member on each matter voted upon. The Secretary of the Board shall be the custodian of the records of the Board, assisted by such clerical support personnel as may be assigned to the Board.

## **II. Meetings**

### **A. Regular Meetings**

Regular meetings shall be held at 7:300 p.m. on the second ~~Thursday~~ Monday of each calendar month except August.

### **B. Special Meetings**

Special meetings may be held only for good cause shown, and only after notice to all members by telephone, confirmed no less than seventy-two hours before such meeting, subject to the public notice requirement in paragraph VIII here. Special meetings may be called, subject to the above, by the Chairman with the approval of two other members, or by four members exclusive of the Chairman. Special meetings shall be governed by the same procedural rules as regular meetings.

### **C. Attendance**

All meetings shall be open to the public at all times, except as noted in paragraph D, below. The record of any meeting, except as noted in paragraph D, below, shall be made available to any member of the public on request.

### **D. Executive Sessions**

The Board on the affirmative vote of four members may exclude the public from its deliberations or briefings pertaining to a pending litigation or for one of the reasons stated in the Virginia Freedom of Information Act.

### **E. Quorum**

Four (4) members of the Board shall constitute a quorum.

### **F. Voting**

The concurring affirmative vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer in the administration or enforcement of the City Zoning Ordinance or to decide in favor of the applicant in any matter. On other matters, all actions of the Board shall be by a majority vote of those members present at the meeting unless such members shall constitute less than a quorum or unless otherwise provided by law. Each member shall enter one vote.

## **III. Business at Meetings**

### **A. Rules of Order**

Meetings shall be guided by Robert's Rules of Order, Revised, except where such would be inconsistent with provisions of law.

B. Order of Business

The following shall be the order of business at the meetings, except that such order may be changed by unanimous consent of the members present:

1. Call to order.
2. Call of rolle.
3. Unfinished business.
4. New business.
5. Reading of minutes of previous meeting(s), amendments, thereto; adoption thereof.
6. Additional business.
7. Adjournment.

C. Applicant, Appellant or Other Person Aggrieved, and Staff

Persons presenting business to the Board shall be permitted to present evidence and argument orally. The Board shall offer the applicant, appellant or other person aggrieved under City Zoning Ordinance, Section 11-1008, and the staff of the local governing body five (5) minutes to present their case to the Board. The Chair has the discretion to allot additional time to each person but such time allotted shall be equal for each person.

D. Public Participation

Any member of the public may be heard on any matter before the Board. Such person before being heard shall state for the record his name and address, the nature of interest in the matter and whom he or she represents. A member of the public will have five (5) minutes to present his or her comments on the case to the Board. The Chair has the discretion to allot additional times.

**IV. Minutes**

- A. Minutes shall include findings and reasons for the decision of the Board. In addition, a verbatim record; by electronic recording or otherwise, shall be maintained of all meetings of the Board. In addition, all papers or documents of any kind filed or maintained in connection with any matter before the Board shall be preserved and shall be a public record available for public inspection.

**V. Annual Report**

- A. Not later than the meeting in January of each year, the Board shall submit to the City Council a report of the Board's elected officers, meetings held, attendance record, abstentions record, its activities during the preceding calendar year, including as appropriate, suggestions for action by Council. The Secretary shall supervise and direct the preparation of such annual report and circulate in advance a draft for approval by the Board. "Submittal of draft Annual Report" and "Election of BZA Officers" shall be docketed under "Additional Business".

**VI. Deferrals and Continuances**

- A. On an affirmative vote, an applicant may be granted a deferral.

**VII. Notice**

- A. Notice of any matter to be heard by the Board shall comply with all the requirements of the City Zoning Ordinance, Section 11-300.

**VIII. Appeals from Board Decisions**

- A. Refer City Zoning Ordinance, Section 11-1008.

Per the City Zoning Ordinance, when a suit is filed regarding a decision of the Board, the Secretary is authorized to accept service of process. The Secretary shall promptly notify all members of the Board of any such process.

**IX. Amendments**

- A. Except where to do so would be inconsistent with law, these rules of procedure may be amended at any meeting by an affirmative vote of a majority of the Board present and voting, provided that notice in writing of such proposed amendment is given to all Board members at the previous meeting to be docketed for consideration at the next meeting.

Week of November 12	Staff prepares amended Rules of Procedure and circulates to subcommittee for review and approval
December 3*	Docket Delivered to Board members with proposed amendments to the Rules of Procedure
December 10*	Regular Board of Zoning Appeals meeting- Notice in writing of proposed amendments to the Rules of Procedures given as required by Section IX of the Rules of Procedure.
January 7*	Docket Delivered to Board members with proposed amendments to the Rules of Procedure
January 14*	Regular Board of Zoning Appeals meeting- Vote on amendments to the Rules of Procedure

\* Dates if amended day/time change is approved at October 11 meeting.

Staff is fully committed to working with the subcommittee and the Board to update the Rules of Procedure and will make this a priority in the coming months.

Attachment:

Proposed Amendments to the Rules of Procedure as drafted for the September 13, 2018 meeting

cc:

Christina Brown, Assistant City Attorney  
Tony LaColla, Land Use Division Chief  
Mary Christesen, Zoning Manager  
Shaun Smith, Urban Planner



# 2018 Board of Zoning Appeals Filing Deadlines and Hearing Schedule



Recommended Submission Date for Completeness Review	Deadline for Submission of a Complete Application	Board of Zoning Appeals Hearing Date	Public Notice Period Time period in which the legal notice must be posted and sent.
November 13, 2017	November 27, 2017	January 11, 2018	December 12 – December 30, 2017
December 11, 2017	December 27, 2017	February 8, 2018	January 9 – January 29
January 8, 2018	January 22, 2018	March 8, 2018	February 6 - February 26
February 12, 2018	February 26, 2018	April 12, 2018	March 13- April 2
March 12, 2018	March 26, 2018	May 10, 2018	April 10 – April 30
April 16, 2018	April 30, 2018	June 14, 2018	May 15-June 4
May 14, 2018	May 29, 2018	July 12, 2018	June 12- July 2
<b>The Board of Zoning Appeals is in recess for the month of August.</b>			
July 16, 2018	July 30, 2018	September 13, 2018	August 14 - September 1
August 13, 2018	August 27, 2018	October 11, 2018	September 11 - October 1
September 10, 2018	September 24, 2018	November 8, 2018	October 9 - October 29
<b>October 12, 2018</b>	<b>October 26, 2018</b>	<b>December 10, 2018</b>	<b>November 10 – November 30</b>

- Application packages must be reviewed for completeness and formally accepted by Planning and Zoning staff before the request will be scheduled for a hearing before the Board of Zoning Appeals. Upon submitting the application package, the applicant will be given a receipt to acknowledge that the application has been submitted for completeness review only. Payment of filing fees is due upon submission for completeness review and all fees must be paid before the application will be scheduled for a hearing.
- Once the application has met all of the submission requirements, the applicant will receive a letter of acceptance with confirmation of their scheduled hearing date and noticing instructions.
- An application package that is submitted on the deadline for submission of a complete application (second column) will be reviewed for completeness for the anticipated hearing date. In a case where an anticipated hearing date cannot be achieved due to the extent of missing information, staff will work with the applicant to determine the appropriate timing for consideration before the Board of Zoning Appeals.
- The scheduled hearing date is subject to change if additional information is needed after the application has been deemed complete.

\*Appeals of the Director’s decision do not follow the schedule above. Appeals will be reviewed by staff for completeness and validity before it is scheduled for public hearing.