

ZONING BOARD OF ADJUSTMENT

Rules of Procedure

Article 1: Meetings

Rule 1.1 Meetings. Regular meetings of the Zoning Board of Adjustment (the “ZBOA”) are held on the first Wednesday of each month, unless otherwise provided for by the ZBOA, or unless no application for consideration by the ZBOA nor any other request to place an item on the agenda has been submitted in time for the meeting as outlined in the UDC. Special called meetings may be held as requested by city staff or the Chair. The ZBOA may also hold joint meetings with the City Council or other City boards, commissions, committees, and task forces and attend or hold training or retreats/seminars as deemed necessary or beneficial. The Chair or the Director of Planning or his designee(s) (“City staff”) may reschedule any meeting.

Rule 1.2 City Staff. Subject to these Rules of Procedure, applicable law, and the direction of the Chair, City staff shall: conduct all ZBOA correspondence; attend all ZBOA meetings; receive and review all applications for compliance; prepare all agendas, minutes, and files of the ZBOA; post and forward all required notices; maintain the ZBOA’s files; and supervise all administrative and clerical work of the ZBOA.

Rule 1.3 Open Meetings Act. All ZBOA meetings shall be noticed and conducted in accordance with the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Rule 1.4 Other Law. In the event of a conflict with these Rules of Procedure, local, state, and federal law, including the City of Lewisville Code of Ordinances and Unified Development Code (“UDC”), Chapter 211 of the Texas Local Government Code, and other applicable law, shall control.

Article 2: Officers

Rule 2.1 Officers. The officers of the ZBOA shall consist of a Chair and a Vice-Chair. The officers shall be chosen on an annual basis by a simple majority vote of the members at the first meeting occurring after annual appointments to the ZBOA are made by the City Council. The term of office for ZBOA officers shall be one (1) year. An officer may be reelected and there are no term limits for officers. In the event of a vacancy, a simple majority vote of the members may appoint a Chair or Vice-Chair to finish the term.

Rule 2.2 Chair. The Chair shall preside at all ZBOA meetings. The Chair shall have the authority to sign and execute all appropriate documents as the Chair. The Chair shall perform all the duties usually incident to the office of the Chair and shall have all authority

vested in a “presiding officer” of the ZBOA by Chapter 211, Texas Local Government Code. The Chair decides all points of procedure and may request assistance from City Staff on points of procedure.

Rule 2.3 Vice-Chair. The Vice-Chair shall exercise the powers and duties of the Chair during the Chair’s absence or disability. Any action taken by the Vice-Chair in the performance of the powers or duties of the Chair shall be conclusive evidence of the Chair’s absence or disability at the time such action was taken. In the event of vacancy of the Chair (by resignation or other means), the Vice-Chair shall act as Chair until the election of a new Chair.

Rule 2.4 Acting Chair. In the event of the absence of the Chair and Vice-Chair, the member that was recommended for appointment to the ZBOA by the Planning and Zoning Commission or, in their absence, the member with the longest tenure on the ZBOA, may serve as Acting Chair and shall exercise the powers and duties of the Chair during the Chair and Vice-Chair’s absence or disability. Any action taken by an Acting Chair shall be conclusive evidence of the Chair and Vice-Chair’s absence or disability at such time the action was taken.

Article 3: Applications for Hearing, Agendas

Rule 3.1 Application; Filing and Placement on the Agenda. Each application to the ZBOA shall be first reviewed by City Staff, who may request additional documentation or information, and shall send appropriate public notices, if any, and place application items on the agenda for consideration by the ZBOA.

Rule 3.2 Placement of Agenda Items by ZBOA Members. Any ZBOA member may request the placement of any item on the agenda in writing directed to City Staff not later than the 10th day before the next ZBOA meeting.

Rule 3.3 Placement of Agenda Items by City Staff. City staff may place items on the agenda in compliance with these procedures or provide information or updates about other relevant topics to the board.

Article 4: Meeting Procedures

Rule 4.1 Quorum; Votes Required. Quorum and affirmative votes required to approve an item shall be as set forth in state law and the UDC.

Rule 4.2 Alternate Member Voting. If a regular member of the ZBOA is unable to attend a meeting, then an alternate member will serve as a voting member at that meeting, unless no alternate member is available. Alternate members should rotate serving as voting members, if practical.

Rule 4.3 Procedure for Public Hearings. Public hearings will generally follow the following procedures, unless modified by the Chair:

1. Opening of the Public Hearing. The Chair shall open the public hearing.
2. Presentation by City Staff. City staff may give a presentation addressed to the ZBOA. This presentation may include, but is not limited to, the facts of the case and the recommendation of city staff.
3. Presentation by the Applicant. The applicant may give a presentation addressed to the ZBOA. The applicant bears the burden of demonstrating that his or her application satisfies the required criteria or findings. The applicant may appear in person or through their attorney or other representative.
4. Public Comments. The Chair shall call upon any members of the public in attendance who wish to speak on the matter before the ZBOA to address the ZBOA without interruption from those in attendance. All comments should be addressed to the ZBOA. No questioning or arguments between individuals in opposition to or in favor of the request will be allowed. Public comments are limited to five (5) minutes per speaker.
5. Rebuttal by City Staff and the Applicant. After public comments have concluded, the applicant and then City staff may address any comments. Rebuttal comments are limited to five (5) minutes each for the Applicant and City staff.
6. Closing of the Public Hearing. Following rebuttals (if any), the Chair shall call for a motion to close the public hearing. Upon receiving a motion and a second, the Chair shall call the vote to close the public hearing.
7. Motion to Vote. The Chair shall call for a motion. Upon receiving a motion and a second to either approve the application or continue the item to the next meeting, the Chair shall open discussion.
 - a. If no motion is made, the application is denied.
 - b. If a motion to approve the application is made, but fails to receive a second, the motion fails and another motion may be made.
 - c. If a motion to continue the item to the next meeting is made, but fails to receive a second or fails upon vote, the motion fails and the Chair shall again call for a motion on the item.
8. Discussion. After receiving a motion and second, the Chair shall open discussion, and the ZBOA shall conduct any discussion necessary among themselves regarding the motion before them. As part of its discussion, the ZBOA members may ask questions to City staff, the applicant or applicant's representative, any person that made public comments on the item, or any person that may have knowledge of the case. During the discussion, the member who made the motion may withdraw or amend the motion without permission. If the maker of the motion withdraws the motion, no further action may be taken on that motion. If the maker of the motion amends the motion, the member seconding the original motion may withdraw the second, and the Chair shall call for a new second to the amended motion.
9. Vote. Following discussion, if any, the Chair shall call the vote on the motion.

In no event shall failure to adhere to the procedures set forth above cause any action of the ZBOA to be void or voidable.

Rule 4.4 Public Comments on Agenda Items Which Are Not Public Hearings. Any member of the public in attendance may speak on any item on the agenda prior to the consideration of that item, provided that such comments are limited to five (5) minutes, and the individual fills out and presents a speaker card identifying the agenda item on which the individual intends to speak.

Rule 4.5 Public Comments on Topics Not on the Agenda. Any member of the public in attendance may speak on any item that is not posted on the agenda provided that such comments are limited to five (5) minutes, and the individual fills out and presents a speaker card identifying the subject on which the individual intends to speak. In accordance with the Texas Open Meetings Act, the members of the ZBOA may not engage in discussion of matters not posted on the agenda, but members and/or City staff may provide factual information. Speakers may be heard at any point in the meeting as determined by the Chair.

Rule 4.6 Withdrawal or Continuance of Application. An applicant may, in writing or on the record at a meeting, withdraw their application or request to continue it to a future meeting prior to the ZBOA's final decision on the application, subject to the ZBOA's approval.

Rule 4.7 Closed Session. The ZBOA reserves the right to adjourn into closed session at any time during the course of a meeting to discuss any matter posted on the agenda, as authorized by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended. Upon the conclusion of a closed session, the ZBOA shall reconvene into regular session to take action, if any. All closed sessions shall be recorded in the minutes in conformity with Section 551.001, *et seq.* of the Texas Government Code, as amended.

Rule 4.8 Minutes and Records. City staff shall take minutes and keep records of examinations and other official actions at all meetings in accordance with Texas Local Government Code Section 211.008(f), as amended. Such records and, following approval by the ZBOA, minutes shall be maintained in accordance with the City's document retention policies and local, state, and federal law.

Article 5: Final Disposition

Rule 5.1 Conditions of Approval. As part of the approval of an application for a variance or special exception, the ZBOA may impose such conditions on the approval as it may deem appropriate under the circumstances. If any such condition is not fulfilled within the prescribed time, the decision remains in effect but is subject to reversal or modification by the ZBOA without additional notice or hearing.

Rule 5.2 Notice of Decision. Each decision by the ZBOA shall be reduced to writing, shall set forth the action taken and the conditions imposed, if any, and shall be signed by the

Chair and filed in accordance with the City's document retention policies. The decision will be considered filed in the ZBOA's office on the next business day following the meeting at which the decision was made.

Article 6: Maintenance of the Rules of Procedure

Rule 6.1 Approval and Amendment. These Rules of Procedure may be reaffirmed each year at the first meeting occurring after annual City Council appointments to the ZBOA are made. The initial Rules of Procedure and any amendments thereto require an affirmative vote of four (4) ZBOA members, and must be approved by the City Council before taking effect.

Rule 6.2 Suspension. Any of these Rules of Procedure may be suspended, for any single meeting or matter, by the affirmative vote of four (4) members, except where these Rules of Procedure specify that the Chair may modify rules or procedures.

Rule 6.3 Construction; Failure to Comply. The procedural rules set forth herein shall be construed liberally, and failure to comply with these Rules of Procedure shall not void or render voidable any action of the ZBOA.