

Board of Zoning Appeals Standards – for Administrative Appeal

The Board of Zoning Appeals functions like a court, and must follow State laws and local zoning ordinances. The Board of Zoning Appeals cannot change or ignore any part of the zoning ordinance or State laws, but must apply the laws as written.

The Board may only grant an administrative appeal if the applicant provides evidence showing that they meet **all** of the legal standards for that decision. The burden of proof falls on the variance applicant, not the Board of Zoning Appeals. The legal standards the Board will use to decide on an administrative appeal are shown below.

REVIEW STANDARDS

- ☐ 1. **Is the Ordinance Ambiguous?** Is the ordinance clear? If so, then use the clear meaning, If ambiguous, proceed to step two.
- ☐ 2. **Determine Intent.** What is the legislative intent or primary purpose of the ordinance?
- ☐ 3. **Plain Meaning.** What is the plain meaning of the words of the ordinance?
- ☐ 4. **Harmonizing.** Give words the meanings that would harmonize their meaning with the legislative intent or primary purpose of the ordinance. Unreasonable interpretation must be avoided.
- ☐ 5. **Conflicting Provisions.** When two provisions conflict, they should be interpreted to give effect to the legislative intent or primary purpose.
- ☐ 6. **No Surplus Language.** Every word and provision should have a meaning and effect. Meaningless words or provisions should be avoided.

Board of Zoning Appeals Procedure Handout – for Administrative Appeal

- 1) You, or someone speaking on your behalf, should arrive at 4:00 p.m. for the meeting even if you are not listed first on the agenda.
- 2) Neighbors within 100 feet of the property will receive a copy of the meeting notice. They may appear before the Board to speak for or against your appeal or they may write a letter in support of your appeal or against your appeal and submit it to the City Clerk's office. You may contact your neighbors and share your proposal with them so they are aware.
- 3) The Board will have received a copy of the materials you have submitted. Any presentation to the Board is limited to written materials, diagrams and photographs. No electronic devices for presentations will be allowed. This restriction does not apply to the presentation by Building & Inspections. Public hearings before the Board may be limited to ten (10) minutes for the proponents, ten (10) minutes for the opponents and a three (3) minute rebuttal for each side. The Board reserves the right to extend these time limits as it determines.
- 4) The applicant has the burden of proof to demonstrate that there was an error in the administrative decision.
- 5) If the Board grants your appeal, after you receive your letter of the Board's decision, you may apply for your building permit. The letter will be mailed to you within a week, after the meeting has taken place.