

Rules and Regulations of the Board of Zoning Appeals City of Westerville

The Board of Zoning Appeals of the City of Westerville, Ohio, constituted pursuant to Section 1107.03 of the Planning and Zoning code, adopts these Rules and Regulations to govern its proceeding in accordance with Section 1107.03(a).

SECTION I. MEETINGS

- A. The Board of Zoning Appeals shall hold one regularly monthly meeting on the second Thursday of each month. If a holiday occurs in the second week of the month, the meeting may be held on another date acceptable to the Board. Meetings may be cancelled if no new applications are filed or there are no applications for the Board to consider.
- B. Each regular meeting shall be held at 6:30 p.m. in City Council Chambers at 21 South State Street unless otherwise specified at least seven (7) days prior to the meeting.
- C. All meetings of the Board shall be open to the public and records of the Board meeting shall be available for public inspection at reasonable times.
- D. All meetings shall be generally conducted in accordance with the most recently published edition of Robert's Rules of Order, except as otherwise provided in these Rules and Regulations or at the discretion of the Chair.
- E. Work sessions of the Board of Zoning Appeals shall be held as determined by the Board. The sessions shall be held at a time, date, and place determined by the Board and notice shall be given in accordance with applicable state statutes.

SECTION II. PROCEDURES.

- A. The Zoning Officer of the Department of Planning and Development or his/her designee shall serve as Secretary to the Board. The Secretary shall maintain a record of the Board's proceedings.
- B. The Secretary shall not include on the agenda or submit to the Board for consideration any application that is incomplete or for which there has not been sufficient time for Staff to complete its review and prepare a staff report. The staff report and all relevant information shall be available to the Board no later than 5:00 p.m. on the Friday preceding the Board meeting.
- C. All individuals speaking before the Board shall be sworn in. The Chair of the Board shall swear in Staff at the start of the meeting. Then, before each item on the agenda, the Chair will swear in all applicants and members of the audience intending to comment for the record regarding that item. As people step forward to make comments, the Chair will confirm that each individual has been sworn in. If not, the individual will be sworn in at that time.
- D. All applicants will be granted a maximum of 10 minutes to make their presentation. Additional time may be granted at the discretion of the Chair.

With respect to applications that do not require a public hearing, any public comment is subject to the complete discretion of the Chair.

- E. Public Hearings: During public hearings, any member of the public will be granted up to 5 minutes to speak, after which the Chair will allow questions from the members of the Board. This policy is adopted by the Board to provide for the orderly discussion of business scheduled for consideration. Such time schedule would prevail unless altered by the Chair without opposition by a Board member. Everyone addressing the Board will approach the podium and state his or her name and address for the record. The Chair is authorized to direct any member of the public to stop speaking in the event that a) such person's comments exceed five minutes; b) such person's behavior becomes disruptive to the orderly progression of the meeting; or c) such person fails to adhere to the agenda item under discussion.
- F. Advisory Opinions: When considering a request for an Advisory Opinion under City Code section 1107.03(e) or an appeal of the decision of the Zoning Officer under City Code section 1107.04(d)(1), the Board shall conduct a hearing in the following manner. The parties shall be strictly limited to the person or entity requesting an Advisory Opinion or appealing the Zoning Officer's decision and the City, except that the parties may appear in person and/or through legal counsel licensed in Ohio. The parties shall receive notice of the hearing at least 7 days prior to the hearing date. The parties may offer as evidence their own testimony, the testimony of witnesses, and exhibits. Any person offering testimony shall do so under oath and shall be subject to cross examination by the opposing party and questioning by members of the Board. Testimony and exhibits shall be limited to relevant matters. The City shall present first. Public comment shall not be permitted. A decision of the Zoning Officer shall be presumed to be correct, unless overruled by the concurrence of four members of the Board based on a preponderance of the evidence.
- G. The Chair of the Board of Zoning Appeals shall in written entry form sign all decisions, findings, or recommendations by the Board.
 - a. Upon application of the Applicant or written request of the Secretary of the Board of Zoning Appeals, the Chair of the Board may amend any Entry to remedy any omission or ambiguity provided that such Amended Entry is filed in the office of the Secretary of the City of Westerville Board of Zoning Appeals by the next regularly scheduled Board meeting.
 - b. Upon application of the Applicant or written request of the Secretary of the Board of Zoning Appeals, the Chair of the Board may amend any Entry to remedy any error at any time provided that such Amended Entry is filed in the office of the Secretary of the City of Westerville Board of Zoning Appeals as soon as practical.
- H. The Secretary shall notify the Board of any Board decision that is under consideration by City Council as the result of an appeal.

SECTION III. CONDUCT OF BUSINESS

- A. The Board may table an agenda item with the consent of the applicant. Unless otherwise specified, a tabled item shall be considered at the next regularly scheduled meeting.
- B. Any motion of reconsideration must be made in accordance with Robert's Rules of Order, which restrict the opportunity for reconsideration to the same meeting as the vote for which reconsideration is being sought.

SECTION IV. ORGANIZATION

- A. The Board of Zoning Appeals shall annually, at its first meeting of the year, choose from its membership a Chair and Vice-Chair. The Vice-Chair shall act as Chair in the event the Chair is absent and while acting as Chair, shall have and exercise the same powers and duties, as are herein granted to the Chair.
- B. If a vacancy shall occur in the office of Chair or Vice-Chair, the Board shall choose a new Chair or Vice-Chair at the next regularly scheduled Board meeting.
- C. In the absence of both the Chair and Vice-Chair of the Board, the Board may appoint from its members a Temporary Chair who shall perform the duties of the Chair until the arrival of the Chair or Vice-Chair.

SECTION V. AMENDMENTS

- A. These rules shall not be altered except by a vote of the majority of all members of the Board, and at a regular meeting. The proposition to make amendment shall be in the form of an application and shall be submitted and read to the Board at a meeting preceding the one at which it is to be acted upon.

Adopted by the Westerville Board of Zoning Appeals on March 8, 2007.