

Town of James Island Board of Zoning Appeals Rules of Procedure

Article I Organization

Section 1. Rules. These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the Town of James Island Board of Zoning Appeals with 5 members appointed by Town Council for staggered terms.

Section 2. Officers. The officers of the board shall be a chair and vice-chair elected for one year terms at the first meeting of the board in each calendar year. The board shall appoint a member of the staff as secretary of the board.

Section 3. Chair. The chair shall be a voting member of the board and shall:

- a. Call meetings of the board to Order; introduce Board members to the public;
- b. Preside at meetings and hearings; and may swear in witnesses or may request the counsel; or the secretary to administer the oath;
- c. Act as spokesperson for the board;
- d. Authority to sign documents for the board;
- e. Have orders of the board served on parties;
- f. Perform other duties approved by the board;
- g. The Chair is a full voting member of the Board of Zoning Appeals; and
- h. The Chair may make or second any motion or may call a question.

Section 4. Vice-Chair. The vice-chair shall exercise the duties of the chair in the absence, disability or disqualification of the chair. In the absence of the chair and vice-chair, an acting chair shall be elected by the members present.

Section 5. Secretary. The secretary shall:

- a. Provide and publish notice of appeals and meetings;
- b. Assist the chair in preparation of agenda;
- c. Properly post property involved in appeals for variances or special exceptions;
- d. Keep recordings and minutes of meetings and hearings;
- e. Maintain board records as public records;
- f. Serve board decisions on parties;
- g. Attend to board correspondence; and
- h. Perform other duties normally carried out by a secretary.

Section 6. Members. A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, give it to the chair in writing, have it placed in the minutes, and refrain from deliberating or voting on the question.

Section 7. Counsel. The Counsel shall be appointed by the Board upon the recommendation of the Mayor to serve on a year-to-year basis until either the counsel withdraws from the position or is replaced by the Mayor and Town Council. Counsel may assist in the preparation of orders, amendments to the Rules of Procedure, or drafting responses to appeals to Circuit Court.

Section 8. Stipend. Board of Zoning Appeals members shall receive a stipend of \$50.00 for each monthly meeting they attend. Work sessions will be considered a meeting. Stipends will not be given for cancelled meetings.

Article II Meetings

Section 1. Time and Place. An annual schedule of regular meetings shall be adopted, published and posted at the designated Town Hall office in December of each year. Special meetings may be called by the chair upon 24-hour notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices and shall be open to the public.

Section 2. Agenda. A written agenda shall be furnished by the secretary to each member of the board and the news media and shall be posted at least 5 days prior to each regular meeting and at least 24 hours prior to a special meeting. Items may be removed from the agenda or postponed at a meeting by majority vote.

Section 3. Quorum. A majority of the members of the board shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting. A quorum shall include members present even if they are disqualified from voting by law.

Section 4. Rules of Order. *Robert's Rules of Order Newly Revised*, latest edition, shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

Article III Appeals Procedure

Section 1. Form of Appeal. Appeals from administrative decisions, applications for variances and applications for special exceptions shall be filed in person on forms approved by the board and provided to applicants by the Town of James Island Zoning Department (1122 Dills Bluff Road, James Island, SC 29412). The board may require additional information deemed necessary. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

Section 2. Time for Appeal. An appeal from an administrative decision must be filed within 15 days after the decision becomes a matter of public record by denial or issuance of a permit or the filing of a written decision in the office of the zoning administrator. An appeal shall be filed by delivery of the approved appeal form to the secretary of the board who shall notify the official appealed from.

Section 3. Calendar. Appeals and applications shall be marked with the date of receipt and placed on the hearing calendar in the order in which received. Appeals shall be heard in the order on the calendar unless otherwise set by the board for good cause shown.

Section 4. Withdrawal of Appeal. Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the board. An appeal from an administrative decision which is withdrawn may not be re-filed after the 15 day time for appeal has expired. Withdrawn applications for variances and special exceptions may be re-filed after six months and shall be placed on the calendar according to the date re-filed.

Section 5. Continuances. The board may continue an appeal or application hearing one time for good cause shown.

Section 6. Notice. Public notice of a hearing of the board shall be published in a local newspaper and posted on or adjacent to the property affected at least 15 days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected.

Article IV Hearing Procedure

Section 1. Appearances. The applicant or any party in interest may appear in person or by agent or attorney. The board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

Section 2. Witnesses. All persons giving testimony must be sworn in before being called upon by the Chair to speak. Witnesses may be compelled to attend by subpoena requested at least 10 days prior to a hearing and signed by the chair. The board may call its own witnesses when deemed appropriate.

Section 3. Cross-examination. No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses will not be allowed.

Section 4. Evidence. Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chair will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

Section 5. Conduct of Hearing - Appeals. The normal order of hearing, subject to modification by the chair, shall be:

- a. Call to Order;
- b. Prayer & Pledge;
- c. Compliance with the Freedom of Information Act;
- d. Introduction of Board members by the Chair;
- e. Review and act on Summary of previous meeting;
- f. Brief the public on the Procedures of the BZA;
- g. Administration of Oath for all participants giving testimony;
- h. Statement of matter to be heard (chair or secretary);
- i. Presentation by Appellant (5-minute limit);
- j. Questions to Appellant by BZA;
- k. Presentation by official appealed (5-minute limit);
- l. Questions to Staff by BZA;
- m. Presentation by public in support or opposition (2-minute limit);
- n. Rebuttal by Appellant (2-minute limit);
- o. BZA motions to close the case to the public;
- p. BZA motions stating specific findings of fact and conclusions of law; and

- q. Hear next case; additional business or Adjourn.

The board may question participants at any point in the hearing. All questions shall be posed by members of the board. No person may speak for more than the time limits outlined above without majority consent of the board.

Section 6. Conduct of Hearing - Variances and Special Exceptions. The normal order of hearing, subject to modification by the chair, shall be:

- a. Call to Order;
- b. Prayer & Pledge;
- c. Compliance with the Freedom of Information Act;
- d. Introduction of Board members by the Chair;
- e. Review and act on Summary of previous meeting;
- f. Brief the public on the Procedures of the BZA;
- g. Administration of Oath for all participants giving testimony;
- h. Statement of matter to be heard (chair or secretary);
- i. Presentation by Staff;
- j. Questions to Staff by BZA;
- k. Presentation by Applicant (10-minute limit);
- l. Questions to Applicant by BZA;
- m. Presentation by public in support or opposition (2-minute limit);
- n. Rebuttal by Applicant (2-minute limit);
- o. BZA motions to close the case to the public;
- p. BZA motions stating specific findings of fact and conclusions of law; and
- q. Hear next case, additional business or Adjourn.

The Board may question participants at any point in the hearing. All questions shall be posed by members of the board. No person may speak for more than the time limits outlined above without majority consent of the board.

Section 7. Disposition. The Board may deliberate and make final disposition of a matter by majority vote of members present and qualified to vote. The vote may be taken at the same or a subsequent meeting. A member may not vote on a matter which he or she has not heard. Deliberating and voting shall be done in public.

Section 8. Form of Order. An order shall be issued disposing of a matter by granting or denying relief with such conditions may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in an order.

Section 9. Service of Order. The secretary shall deliver a copy of an order to each party in interest by certified mail immediately upon execution of the order by the chair.

Section 10. Rehearing. The board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within 30 days after delivery of

the order accompanied by new evidence which could not reasonably have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome. Upon vote of the BZA, a member from the prevailing side may make a motion to reconsider a case at the same or next BZA meeting. Any member may second the motion. If the motion to reconsider the case is granted, then the case will be scheduled and heard by the BZA at the next available BZA public hearing. A case may be reconsidered only once. The BZA may vote to consider amending or removing a condition(s) for approved Variances or Special Exceptions within a year from the approval date, only when the applicant/owner can demonstrate to the BZA that the condition(s) is not feasible and/or cannot be reasonably met or if the Planning Director determines that the conditions are not in the best interests of the Town. If a motion to reconsider a condition(s) is granted, it will be scheduled and heard by the BZA at the next available BZA public hearing.

Article V Records

Section 1. Minutes. The secretary shall record all meetings and hearings of the board on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the board at the next regular meeting. Minutes shall be maintained as public records.

Section 2. Transcripts. Any applicant or party in interest may request a transcript to be generated from the recording of the meeting or hearing. The cost of such transcript shall be at the expense of the applicant or party of interest. In the event there is an appeal to Circuit Court the transcript shall be done at the expense of the Town but may be awarded by the Court at the expense against the party or person bringing the appeal.

Section 3. Orders and Documents. The secretary shall assist in the preparation and service of all orders of the board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as public records.

Article VI Amendment and Adoption

Section 1. Amendment. These rules may be amended at any regular meeting of the board by majority vote of the members of the board at least seven days after the written amendment is delivered to all members.

Section 2. Adoption. These rules were adopted by vote of a majority of the members of the board at a regular public meeting on June 18, 2013.

Attest Francis W. Simons
Secretary

Francis H. G. Fry
Chair