

DEKALB COUNTY ZONING BOARD OF APPEALS
RULES OF PROCEDURE ADOPTED 4/12/2017
(Effective June 14, 2017)

ARTICLE 1. PREAMBLE

1. The board of zoning appeals (ZBOA) shall adopt rules of procedure (ZBOA Rules) governing the conduct of its meetings. The ZBOA Rules are supplemental to all other provisions of the Ordinance. If any of the ZBOA Rules conflict with any provision of the Ordinance, the Ordinance shall prevail.
2. In any case where the ZBOA Rules do not address a procedural issue which arises before the ZBOA, the Robert's Rules of Order shall govern.
3. The ZBOA may from time to time amend the ZBOA Rules by majority vote. A copy of the adopted ZBOA Rules and any subsequent amendment thereto shall be filed by the Secretary of the ZBOA Appeals with the Clerk to the Chief Executive Officer and the Board of Commissioners, and copies of the Rules shall be made available to the public by the Secretary of the ZBOA and the Clerk to the Chief Executive Officer and the Board of Commissioners.
4. These ZBOA Rules have been adopted by the DeKalb County ZBOA (the "ZBOA") under the authority of Section 7.2.2.E.5 of the Zoning Ordinance of DeKalb County, Georgia effective September 1, 2015 (the "Ordinance").

ARTICLE 2. ROLES AND RESPONSIBILITIES

2.0 General

1. In accordance with the Ordinance there shall be a Chairperson and Vice Chairperson of the ZBOA who shall be elected in the first meeting of the year as provided in the Ordinance and a Secretary of the ZBOA who shall be the Director of Planning and Sustainability or his/her designee.
2. In electing the Chairperson and Vice Chairperson of the Board, if after two votes no candidate receives votes from a majority of the ZBOA membership the Chairperson shall be determined by a coin flip between the two leading candidates and the other leading candidate shall become the Vice Chairperson.
3. At any ZBOA meeting at which the Chairperson and Vice Chairperson are absent or unavailable, the ZBOA may elect another attending Board member to chair the meeting.
4. Members shall recuse themselves from voting on any application or appeal in the event of a conflict of interest pursuant to the DeKalb County Code of Ethics.

2.1. Chairperson

1. The Chairperson shall preside at all meetings and shall have duties normally conferred by parliamentary procedure for such officers. The Chairperson shall decide all points of order and procedures unless directed otherwise by a majority of the ZBOA members at that meeting.
2. During meetings the Chairperson shall enforce order and decorum among ZBOA members, applicants and the public and adherence to the ZBA Rules and the Ordinance.

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3. The Chairperson shall have the privilege of voting and may yield the Chair to the Vice-Chair to take part in the debate in any matter before the board
4. The Chairperson may adjourn a meeting without a vote in the event of danger or an emergency.

2.2 Vice Chairperson

The Vice Chairperson shall act for the Chairperson in the absence or unavailability of the Chairperson. When acting for the Chairperson, the Vice Chairperson shall have the same powers and duties as the Chairperson.

2.3 Secretary

1. The Director of Planning & Sustainability or his/her designee shall serve as secretary to the ZBOA.
2. The Planning and Sustainability Department staff shall make audio or video recordings and keep minutes of the proceedings of the board, showing the vote of each member upon each item, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions and evidence submitted, all of which shall be filed in the office of the Planning and Sustainability Department and shall be a public record.
3. Planning and Sustainability staff shall notify the Board of Commissioners and the ZBOA when any Board member exceeds the allowed number of unexcused absences.

ARTICLE 3. CONDUCT OF MEETINGS

3.0 General

1. A member's failure to attend a ZBOA meeting shall be considered an excused absence if (i) due to an expected or unexpected conflict (such as, but not limited to illness, funeral, vacation, business meetings, family emergency) and (ii) the absent member has contacted the Chairperson and/or the Secretary no later than 11:00 am local time on the day of the scheduled meeting. Any other failure to attend a Board meeting shall be considered an unexcused absence, except for absences resulting from Acts of God or other unforeseen incidents beyond the ZBOA member's control.
2. All actions by the ZBOA shall begin with a motion by any ZBOA member (other than the chair), which is properly seconded by any other ZBOA member, and may be based on the Department of Planning and Sustainability findings as well as the ZBOA's independent findings.
2. No official action of the ZBOA, including but not limited to variances and appeals, shall be taken except upon the affirmative vote of a majority of the total number of ZBOA members then in office, whether or not present at the meeting, but not less than four (4) members of the ZBOA. Decisions of parliamentary procedure shall be decided by the affirmative vote of a majority of the members present at a meeting assuming a quorum is present at the time of the vote. "Affirmative vote" means a vote in

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favor of the matter presented for a vote. An abstention, whether or not expressed as such, shall not be counted as an affirmative vote.

ARTICLE 4. DATE, TIME AND PLACE OF MEETINGS

4.0 Date, Time and Place of Meetings

1. The ZBOA shall meet on the second Wednesday of each month at 1:00 p.m. local time in the Auditorium of the Manual J. Maloof Auditorium, 1300 Commerce Drive, Decatur, Georgia; provided that if the regular meeting date, time or place is in conflict with a major federal or religious holiday or another event beyond the control of the ZBOA the meeting shall be rescheduled by the Secretary, who shall determine the date, time and place of the rescheduled meeting.
2. If the location of a meeting is changed, the new meeting place shall be posted by 11 a.m. of the date of the rescheduled meeting on the entrance to the originally scheduled meeting place and the new meeting location.
3. Agenda. All business to be acted upon by the ZBOA shall appear on the agenda.

ARTICLE 5. ORDER OF BUSINESS

5.0 Order of Business. The order of business at ZBOA meetings shall be:

1. Determine whether a quorum is present (if not, applications shall be deferred to the next scheduled meeting).
2. Call the meeting to order.
3. Read preamble as to purpose and procedures of the ZBOA
4. Public Hearings
5. Old business, including approval of minutes of previous meetings
6. New business
7. Adjournment

5.1 Procedures Concerning Variances and Appeals Hearings. Applications for variances and appeals shall be heard and acted on by the ZBOA using the following procedures:

1. The Chairperson or the Secretary, if requested, shall call the matter before the ZBOA.
2. The Chairperson shall then call the interested party(s) .Proponents shall present first; opponents shall present second.

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3. The proponent and the opponent each shall have five (5) minutes to present their interest. The presentation and/or discussion by either or both parties may exceed the time limit equally if deemed necessary by the Chairperson or determined by a vote of the ZBOA. If a proponent does not use the full five (5) minutes for his/her initial presentation he/she may use the remaining time for rebuttal. No further discussion by proponent(s) or opponent(s) shall be allowed except as specifically allowed by the Chairperson.
4. Each presenter shall be required to provide their name, address, whether they are proponents, or opponents, their interest in the application, and the substantive testimony they wish to present.
5. Immediately following the procedures outlined above, the Chairperson shall close the public testimony and the ZBOA shall discuss the application/appeal. All discussion shall take place in public and shall be recorded. No Board member shall be allowed to have the floor more than twice on any one application/appeal during the discussion period.
6. After the completion of its discussion the Board shall vote to decide the variance/appeal.
8. If a vote on a variance or appeal decision is evenly tied, then it will be deferred to the next regularly scheduled Board meeting, unless it is withdrawn before the next meeting.

ARTICLE 6. WITHDRAWALS

Any appeal of an application for a variance, or request for a special exception may be withdrawn prior to the hearing at the discretion of the person or agency initiating such an appeal. Withdrawals shall be submitted by written notice to the Department of Planning and Sustainability. The Secretary shall promptly notify the members of the ZBOA of any withdrawal, and there shall be no refund of application fees after an application has been advertised. If a request for withdrawal of an application for a variance or special exception is received after the application has been advertised, then the withdrawal shall require a public hearing with approval from the ZBOA

ARTICLE 7. AMENDMENTS

The provisions contained herein may be amended in accordance with the Ordinance.

ADOPTION

These Rules of Procedure have been adopted unanimously by the entire membership of the Board at their regularly scheduled meeting on April 12, 2017.