

**RULES OF PROCEDURE
FOR
THE CITY OF DECATUR ZONING BOARD OF APPEALS¹**

Adopted by the ZBA on February 13, 2023 (and amended on March 13, 2023)
Approved by the City Commission on March 20, 2023

Section 1. Regular Meetings.

Regular meetings of the Zoning Board of Appeals (“Board”) shall be scheduled on a monthly basis. Such meeting shall be held in Decatur City Hall or at such other public place in the City of Decatur designated by the Board. Meetings shall be convened at such specific time as may be determined by the Chair. The Chair may cancel the Board’s regular meeting for any given month when there is no business that needs to be acted on by the Board, including when no application for Board action is submitted by the relevant application deadline.

Section 2. Special Meetings and Workshops.

The Board may hold special meetings and workshops with the Zoning Administrator, the UDO Administrator, and other staff of the Community and Economic Development Department as needed for technical and other assistance to the Board and related matters so long as no action is to be taken on variance applications, administrative appeals, or any other official action. Such special meetings and workshops shall be held at a time and place designated in the notice of such meeting.

Section 3. Officers.

At the first meeting of the Zoning Board of Appeals in a calendar year, the Board shall elect a Chair and a Vice-Chair from among the members. Following the election of these two positions, the Chair shall appoint a Secretary from among the members. The Chair, Vice Chair and Secretary shall serve for the remainder of the calendar year. In the event of a vacancy to the Chair or Vice-Chair positions during the calendar year, the Board shall conduct an election from among its members to fill the vacancy for the remainder of the calendar year. In the event of a vacancy to the position of Secretary during the calendar year, the Chair shall appoint a replacement to fill the vacancy for the remainder of the calendar year.

¹ These Rules of Procedure are adopted and approved pursuant to Section 11.1.3.A.3 of the Unified Development Ordinance of the City of Decatur, Part IV of the Code of Ordinances (the “UDO”). These Rules of Procedure supplement the procedural rules and requirements set forth in Sections 11.2.9 and 11.2.10.

Section 4. Duties and Functions of Officers.

The duties and functions of the officers of the Board are as follows:

A. Chair.

1. To preside at all meetings of the Board and to maintain order and decorum during the course thereof;
2. To administer oaths and compel the attendance of witnesses;
3. To call all meetings of the Board in accordance with these rules and applicable law and to verify that public notices and advertisements for all such meetings are in proper form;
4. To execute official documents on behalf of the Board and to conduct all correspondence on behalf of the Board;
5. To determine that all actions taken by the Board are, in form and substance, properly taken, and to appropriately seek assistance of Decatur city staff, officials, and/or representatives in such respect and, particularly, to obtain opinions from the city attorney where questions of law appear to be involved in any such determination.
6. To accept service of legal process on behalf of the Board;
7. To accept service on behalf of the Board of a petition for review, as described in Chapter 3 of Title 5 of the Official Code of Georgia, during normal business hours at City Hall.
8. To perform all duties delegated to the Chair by the City Commission.

B. Vice-Chair.

1. During any period of absence, disability or disqualification of the Chair, the Vice-Chair shall perform all the duties and functions of the Chair.
2. In the event of absence, disability, or disqualification of both the Chair and Vice-Chair, the Board, by majority vote of those present shall select an Acting Chair who shall then have authority to perform all the duties and functions of the Chair for the duration of that meeting.

C. Secretary.

1. To record, transcribe and publish minutes and summaries of all meetings of the Board in appropriate form as required by applicable law and to maintain an appropriate public record thereof;
2. To prepare and mail, post, publish, and communicate all notices required by these rules or by any other applicable law;
3. To prepare and distribute the agenda for all meetings of the Board;

4. To act as custodian of all written records and other documents of the Board;
5. To respond to correspondence directed to the Board under the direction of the Chair and to assist the Chair and the members of the Board responding to all such correspondence.
6. To serve as the “clerk” of the Board for purposes provided in Chapter 3 of Title 5 of the Official Code of Georgia;
7. To certify or attest all official documents or actions of the Board;
8. To give immediate notice to the Board and the City Commission of any vacancy that occurs among the members of the Board;
9. To utilize the expertise and assistance of employees of the Community and Economic Development Department and other Decatur city staff in carrying out the foregoing duties and functions, as applicable.

Section 5. General Rules for Meetings and Public Hearings.

1. The Chair of the Board, or Vice-Chair if the Chair is absent, calls the meeting to order.
2. A quorum for purposes of taking action by the Board shall require that a majority of the members of the Board be present and the existence of such a quorum shall be determined and then noted in the minutes.
3. The Chair shall explain the procedure that will be followed in addressing all of the items on the meeting agenda.
4. Board action of any type shall be taken only on a motion made by a Board member, which motion has been seconded by another Board member. The Chair of the Board may not make or second a motion, unless only three members of the Board are present, in which event the Chair may second a motion but not make a motion. After a motion has been made, the Chair shall ask all in favor of the motion to signify by saying “Aye” and shall then ask all who oppose the motion to signify by saying “Nay”. The Chair shall then vote “Aye” or “Nay” and announce whether the motion has been approved or denied, indicating the number of ayes, nays and abstentions. The minutes shall reflect which Board members voted “Aye,” “Nay” or abstained.
5. A majority vote by the members of the Board present in a meeting shall be required to approve any motion made or other actions taken by the Board.
6. In cases where the adopted rules of procedure of the Board do not address a particular procedural issue, Roberts Rules of Order (simplified version) shall be followed with respect to that issue.
7. After all agenda items have been addressed, the meeting shall be adjourned.

Section 6. Rules for Public Hearings on Variance Applications and Administrative

Appeals.²

1. When an agenda item is called, the applicant for a variance or appellant of an administrator's decision shall present their data, evidence, opinions, and arguments to the Board and shall be subject to questioning by the Board members.
2. The Chair shall open public comment by asking if anyone present wishes to speak in support of the variance application or appeal of an administrator's decision.
3. Anyone who wishes to speak in support of the variance application or appeal of an administrator's decision shall be allowed to address the Board and shall be subject to questions from the Board members.
4. After all persons who wish to speak in support of the variance application or appeal of an administrator's decision have addressed the Board, the Chair shall ask if anyone wants to speak in opposition to the variance application or appeal of an administrator's decision or has questions about the variance application or appeal of an administrator's decision.
5. Anyone who wishes to speak in opposition to the variance application or appeal of an administrator's decision - or who has questions about the variance application or appeal of an administrator's decision - shall be allowed to address the Board and shall be subject to questions from the Board members.
6. After all persons who wish to speak in opposition to the variance application or appeal of an administrator's decision - or who have questions about the variance application or appeal of an administrator's decision - have addressed the Board, the public comment portion of the hearing on the variance application or appeal of an administrator's decision shall be closed.
7. The Chair shall have the right in the interest of the efficient use of time to impose reasonable limitations on the amount of time that a person who speaks in favor of or in opposition to a variance application or appeal of an administrator's decision shall have to address the Board.
8. The minimum time period for presentation of data, evidence, and opinion by proponents of the variance application or appeal of administrator's decision and opponents shall be no less than ten minutes per side and the minimum time period shall

² The rules set forth in this Section 6 apply to all public hearings before the Zoning Board of Appeals on: (1) requests for variances from the Zoning Board of Appeals provided for by the UDO; (2) appeals to the Zoning Board of Appeals provided for in the UDO, including but not limited to decisions of the UDO Administrator, decisions of the Zoning Administrator, determinations of code violations, and issuance and denials of permits; (3) other determinations and adjudications to be made by the Zoning Board of Appeals pursuant to the UDO. These rules are intended to supplement and expand upon the procedural provisions set forth in UDO Sections 11.2.9.E.2 and 11.2.10.F.2.

be equal for both sides.

9. Before addressing the Board, all such persons shall state their name and residence address for the record. All comments by such persons to the Board shall be limited to the issues before the Board and on which the Board is authorized by the applicable law to act.
10. The Board shall discuss the merits of the variance application or appeal of an administrator's decision and then vote on whether to approve the variance application or grant³ the appeal of an administrator's decision.
11. During the discussion of the merits of the variance application or appeal of an administrator's decision, the Board shall have the right to ask additional questions of the applicant or appellant or anyone who has previously spoken in favor of or in opposition to the variance application or appeal of an administrator's decision.
12. The Board has the authority to add special conditions to any variances that are approved when it deems them necessary to mitigate negative impacts to surrounding properties.⁴
13. At the request of the applicant or appellant, the Board may table or defer a particular variance application or appeal of an administrator's decision until a future meeting of the Board.
14. Until there is a vote by the Board on a particular variance application the applicant shall have the ability to withdraw, amend, modify, or supplement their application.
15. Until there is a vote by the Board on a particular appeal of an administrator's decision the appellant shall have the ability to withdraw their appeal.
16. A tie vote on a variance application shall result in the matter in question being deferred until the next scheduled meeting of the Board. A tie vote on an appeal of an administrator's decision shall result in the administrator's decision being affirmed.
17. Withdrawal of a variance application triggers the one year restriction for submitting a substantially similar application contained in Section 11.2.9.C of the Unified Development Ordinance.

Section 7. Controlling Law.

The intent of these Rules of Procedure is to set forth standards and requirements for the conduct of the business of the Zoning Board of Appeals that supplement and align with all standards and requirements of the Charter and Code of Ordinances of the City of Decatur and the laws of the State of Georgia, specifically including, but not limited to the Zoning Procedures Act, O.C.G.A. § 36-66-1, et seq., the Open Meetings Act, O.C.G.A. §50-14-1, et seq., and Sections 11.2.9 and 11.2.10 of the Unified Development Ordinance of the City

³ See UDO Section 11.2.10.G ("reverse, defer, affirm, or modify").

⁴ See UDO Section 11.2.9.F.

of Decatur, Part IV of the Code of Ordinances. To the extent any of the rules set forth herein conflict with such provisions of the City Charter, the City Code or Georgia law, the provisions of the City Charter, the City Code or Georgia law shall control.

Section 8. Amendment.

These rules of procedure may be amended at any time, subject to the approval of the City Commission, by a majority vote of the members of the Board that are present in a meeting of the Board.

Section 9. Prior Rules Repealed and Superseded.

Any prior rules of procedure adopted by the Zoning Board of Appeals of the City of Decatur are hereby repealed and superseded by these Rules of Procedure of the Zoning Board of Appeals of the City of Decatur.