

**RULES OF PROCEDURE
ZONING BOARD OF APPEALS
CITY OF ROYAL OAK, MICHIGAN**

**ARTICLE I
Organization**

Section 1. The Zoning Board of Appeals shall be comprised of nine (9) regular members, each to be appointed for three (3) years by the City Commission, or as otherwise established according to the Zoning Ordinance and state statute (P.A. 110 of 2006) and no alternative members.

Section 2. The officers of the Zoning Board of Appeals shall consist of a Chairperson and Vice-Chairperson who shall be members of the Board, and a Secretary, the latter to be the city's Director of Planning or their designated representative.

Section 3. The Chairperson and Vice-Chairperson shall be elected at the first regular meeting of the Zoning Board of Appeals in February and hold office for the period of one year or until their successor shall be elected and qualified.

**ARTICLE II
Duties of Officers**

Section 1. The Chairperson shall preside at all meetings of the Zoning Board of Appeals and co-sign with the Secretary all minutes of meetings of the Board, appoint all committees and perform such other duties as may be necessary or incidental to their office to secure the successful functioning of the Board, in accordance with the intent and the purpose of the provisions of the Zoning Ordinance.

Section 2. The Vice-Chairperson shall perform the duties of the Chairperson in the absence or disability of that officer.

Section 3. In addition to any duties that may be imposed upon the Secretary by the provisions of the Zoning Ordinance or by the provisions of any statute of the State of Michigan, the Secretary shall keep the minutes of the proceedings of the Zoning Board of Appeals; shall have custody of all the records of the Board; shall sign all extra official communications in behalf of the Board; shall generally supervise all the clerical work of the Board and shall perform such other and further duties as may be prescribed by the Board. The Secretary shall keep a record of the decisions rendered by the Board in the form of motions or resolutions. The Secretary shall prepare a calendar of the cases for each meeting. All minutes of the Board shall be signed by the Secretary. The Secretary shall see that proper forms are mailed or given to parties signifying a desire to appeal from a decision or ruling of an administrative official or body and shall see that such information is given to such party as is necessary to take an appeal.

ARTICLE III Meetings

Section 1. Regular meetings of the Zoning Board of Appeals shall be held at 7:00 p.m., on the second Thursday of each month, or at such other time as designated by the Board at a regular meeting. When the regular meeting day falls on a legal holiday, the Board shall select a suitable alternate day in the same month. All hearings before the Board, regular or special, shall be public.

Section 2. Special meeting requests for an appeal may be brought by an appellant. A request to hold a special meeting shall be accompanied by an application fully completed along with the required scaled drawings. A special meeting will only be scheduled if there is sufficient time for notification of adjacent property owners per state statute (P.A. 110 of 2006). Sufficient time shall also be allotted for the Planning Division to compile and transmit the papers constituting the record to the Board. The posting of a notice of a special meeting shall be in compliance with applicable state law. An additional fee as determined by the City Commission shall be charged for a meeting requested by the appellant. The Secretary shall review requests for special meetings for administrative completeness, fee payment, staff availability, and compliance with applicable notice requirements, and shall forward eligible requests to the Chairperson with a recommendation. The decision whether to schedule a special meeting shall rest with the Chairperson or the Zoning Board of Appeals acting through the Chairperson.

Section 3. Special meetings not related to an appeal may be called by the Chairperson at any time or shall be called upon the written request of three (3) members. Notice of special meetings shall be mailed or delivered personally to each member or to the residence of each member at least twenty-four (24) hours before the time set, except that the announcement of a special meeting at any meeting at which all the members are present shall be sufficient notice of such meeting. The posting of a notice of a special meeting shall be in compliance with applicable state law.

Section 4. A quorum of the Zoning Board of Appeals shall consist of five (5) members.

ARTICLE IV Procedure of Meetings

Section 1. Parliamentary procedure in meetings of the Zoning Board of Appeals shall be governed by the procedures for small boards and assemblies of Robert's Rules of Order 9th Edition, as amended, with the following clarifications and exceptions:

- (A) All actions taken by the Board shall require a motion including findings of fact, and all motions shall be seconded.
- (B) The Chairperson shall have a vote but may not offer any motion, and may speak in discussion of an appeal without leaving the chair.
- (C) There is no limit to the number of times a Board member may speak on an appeal.
- (D) Motions to close or limit debate on an appeal shall not be entertained until 30 minutes following the closing of a public hearing and/or a petitioner's concluding comments following the closing of a public hearing.
- (E) Informal discussion of an appeal is permitted while no motion is pending.

Section 2. The Secretary shall prepare an agenda for each meeting and the order of business therein shall be as follows:

- (A) Roll call.
- (B) Approval of minutes from previous meeting(s).
- (C) Unfinished or old business and appeals.
- (D) New business and appeals requiring Board action, including public hearings.
- (E) Other business, reports or communications.
- (F) Public comment from citizens seeking information, desiring to express an opinion on a zoning-related matter not otherwise found on the Board's agenda, or desiring to present matters for a future meeting agenda not related to a specific appeal.
- (G) Adjournment.

Section 3. The procedure of hearing appeals shall be as follows:

- (A) Reasons of the administrative official or body for refusing or granting the permit in question, or a statement from the Planning Division summarizing the appeal.
- (B) Statement by the appellant or its authorized agent and others on its behalf. Such statements are limited to ten (10) minutes, unless otherwise permitted by the Chairperson.
- (C) Public hearing for statements from interested members of the public, and information pertinent to the case from any other person who may be called upon. Such statements are limited to three (3) minutes, unless otherwise permitted by the Chairperson.
- (D) Rebuttal by the appellant.

Section 4. Every appeal shall be made to the Zoning Board of Appeals in accordance with the form prepared by the Planning Division which can be secured at the office of the Secretary. All appeal forms must be completed to the fullest and the required scaled drawings and sketches submitted prior to said appeal form being given consideration. Depending upon the nature of the appeal, a site plan, floor plan, and elevations may be necessary. Submitted information shall be accurate with no conflicts of information included on the appeal form and drawings. Written notices of the appeal shall be filed with the Secretary by the parties aggrieved by any order or decision or ruling of an administrative official or body. The Secretary shall not be required to accept appeals within forty-two (42) days before the meeting of the Board at which such appeal is to be considered. The Board will limit appeals to a maximum of eight (8) new appeals for its regular meeting, provided that the Planning Division may schedule additional appeals at its discretion.

Said appeal shall contain, in addition to filling out the blanks on the said form, an explicit, clearly written statement setting forth:

- (A) The principal points upon which the appeal is made.
- (B) A clear and accurate description of the proposed work or use, including drawings noted above.
- (C) If requested by the Board, the names and addresses of all property owners legally required to be notified; said list to be compiled in a manner acceptable to the Board.

Section 5. Every complete appeal shall be filed within thirty (30) days from the date of any refusal of a Certificate of Occupancy or use by the Building Official, or the date of any order, ruling, decision or determination of such administrative official or body from which the appeal is taken.

Section 6. Any communications purporting to be an appeal shall be regarded as mere notices to seek relief until it is made on the required form.

Section 7. Upon receipt of any such communication, the writer shall be supplied with the proper forms for presenting the appeal; and if they fails to file said forms with the Zoning Board of Appeals, properly filled out and executed, and to supply the required data within thirty (30) days from the date of refusal of a permit by the Building Official, or from the date of any order or decision of an administrative official or body, their case may be dismissed for lack of prosecution.

Section 8. Upon proper showing to the Zoning Board of Appeals that failure to take an appeal within the required time was due to no fault of the appellant, and that they were not guilty of laches, the above time may be extended by the Board at their discretion.

Section 9. All appeals heard by the Zoning Board of Appeals must originate with the Planning Division.

Section 10. Notice of the hearing of an appeal or any other matter up for determination shall be given to the appellant by electronic mail or mailing same to the appellant at the address stated in the appeal, or by personal service not less than three (3) days prior to the date of hearing.

ARTICLE V

Disposition of Appeals

Section 1. The Zoning Board of Appeals shall not grant a non-use (dimensional) variance in excess of the requested relief described in the public notice and supported by the record before the Board. The Board may grant the requested relief, or a reduced form of relief, for a non-use (dimensional) variance. If a motion to grant the requested relief fails, the Board may, by a majority vote of members present, elect to continue deliberation for the sole purpose of considering a specifically identified lesser form of relief. If no such motion is made or if it fails, the failure of the motion to grant the requested relief shall stand as the final disposition of the appeal. The final disposition of any appeal by the Zoning Board of Appeals shall be in the form of a resolution or motion. The Board may set out in the resolution or motion the conditions upon which the certificate or permit may be issued in order to carry out the spirit of the Zoning Ordinance and to secure public safety and do substantial justice.

Section 2. Any appellant may withdraw his appeal at any time prior to the decision of the Zoning Board of Appeals thereon by filing notice of withdrawal with the Secretary in the Planning Division.

Section 3. Unless an appeal be prosecuted to hearing within sixty (60) days after date of filing of same, the Zoning Board of Appeals may dismiss said appeal for want of prosecution.

Section 4. Upon the final disposition of any appeal by the Zoning Board of Appeals, no new appeal substantially identical in nature to a former appeal upon which disposition has been made by the Board shall be received by the Secretary for one year after the date of said disposition by the Board.

ARTICLE VI Amendments

Section 1. These rules may be repealed, or modified, at any regular meeting by the concurring vote of two-thirds (2/3) of the members of the Zoning Board of Appeals.

ARTICLE VII Resolutions and Motions

Section 1. The concurring vote of a majority of the members of the Zoning Board of Appeals, or five (5) members, shall be necessary to reverse any order, requirement, or decision, or a determination of any administrative official or body, or to decide in favor of the applicant any matter upon which the Board is required to pass under the Zoning Ordinance or to effect any variation in such ordinance, except that a concurring vote of two-thirds (2/3) of the members of the Board, or six (6) members, shall be necessary to grant a variance from uses of land permitted in such ordinance. The decision of the Board shall not become final until the expiration of five (5) days from the date of entry of such order, unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

The decision of the Zoning Board of Appeals on any matter heard by it shall be final as it involves discretion or the finding of facts.

All other decisions by the Zoning Board of Appeals shall require a simple majority of the quorum, including, but not limited to, election of officers, approval of minutes, and amending the order of business items on a meeting agenda

ARTICLE VIII Records

Section 1. The record of appeals to the Zoning Board of Appeals shall be kept in the office of the Secretary, in such manner as to be accessible to the public during the normal business day.