

**ZONING BOARD OF ADJUSTMENT
CITY OF NEW BRAUNFELS, TEXAS**

RULES and REGULATIONS Bylaws

DUTIES AND RESPONSIBILITIES

The ~~Zoning~~ Board of Adjustment (~~ZBA~~) (“Board”) shall operate in accordance with ~~Sections 211.008 through 211.011~~ Section 211 of the Texas Local Government Code, and Chapters 144 (Zoning), ~~and Chapter 106 (Signage) and~~ Chapter 98 (Planning), of the New Braunfels Code of Ordinances.

The ~~Zoning~~ Board of Adjustment shall render disinterested and diligent service to the public in the interpretation of public needs and necessities and of the desire of the citizens in the development of the City of New Braunfels. It shall expedite the performance of its duties to avoid hardship and ill-will on the part of the citizenship served.

~~The Board shall consist of five members to be appointed by the City Council in May. Members shall serve two-year staggered terms. The City Council shall also appoint four alternate members, any of which shall serve in the absence of one of the regular members when requested to do so by the City Manager or designee. Alternate members shall also serve two-year staggered terms. Both regular and alternate members may be removed from office for cause by the City Council upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member or alternate member.~~

~~These members~~ The Board shall serve the city as a whole; ~~and~~ shall represent no special group or interest. ~~They~~ Members of the Board shall publicly state when they are interested in a matter being considered by the Board and disqualify themselves from participating in said ~~variance~~ request.

~~The Board shall have the following powers:~~

- ~~1. To hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance.~~
- ~~2. To hear and decide special exceptions to the terms of the Zoning Ordinance as specified in the Zoning Ordinance.~~
- ~~3. To authorize in specific cases a variance from the terms of the Zoning Ordinance if the variance is not contrary to the public interest, and, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.~~

APPOINTMENT AND REMOVAL OF MEMBERS

~~Appointments to the Board shall be at the will of the City Council. All members shall be considered to be serving at the will of the City Council and may be removed at any time for any of the following reasons:~~

- ~~1. Absence by a member from three consecutive Board meetings;~~
- ~~2. Conviction of a crime (excluding traffic offenses);~~
- ~~3. Conduct unbecoming a Board member; or~~
- ~~4. Failure of a member to pay city property taxes when due.~~

OFFICERS

1. The Board shall organize and elect a Chair, and a Vice-Chair annually at the ~~regular meeting in June~~ first regular meeting after May prior to hearing any scheduled ~~variance requests~~

agenda items.

2. The Chair shall preside at all meetings and hearings of the Board; ~~he/she~~ the Chair shall decide all points of order of procedure.
3. The ~~vice-chair~~ Vice-Chair shall assume all duties of the Chair in ~~their~~ the Chair's absence.
4. The Planning ~~and Community Development~~ & Development Services Director or designee of the City shall serve as ex-officio secretary for the Board. ~~He/she~~ and shall conduct all official correspondence subject to these rules ~~proceedings~~ at the direction of the Board, ~~shall send out all notices required by these rules~~, keep the minutes of the Board's proceedings, and keep a file on each case which comes before the Board.

MEETINGS

1. A regular meeting of the Zoning Board of Adjustment for the hearing of cases shall be held on the fourth Thursday of each month at 6:00 p.m., unless no cases are pending, in which case no meeting will be held. If the fourth Thursday is deemed incompatible with assembly of the Board, the date of the meeting will be selected at least one month in advance by the City or Board.
2. Special meetings may be called by the Chair provided that at least 72 hours of notice is given to each Board member.
3. A quorum shall consist of four members.
4. The order of business at all regular meetings of the Board shall be as follows: Roll Call, Hearing of Cases, and New Business Adjournment.
5. The Board may recess a regular meeting if all applications or appeals cannot be disposed of on the day set, and no further public notice shall be necessary for continuance of meeting.

PROCEDURE FOR APPLICATION SUBMISSION

- ~~1. Application for a variance or special exception shall be made by the property owner or authorized agent. Appeals may be taken to the Board by any person aggrieved, or by any officer, department, board, or bureau of the City of New Braunfels affected by any decision an administrative officer concerning the interpretation or implementation of the zoning ordinance.~~
- ~~2. The applicant shall provide the Planning and Community Development Department with the following data:
 - a) A completed application.
 - b) The appropriate application fee as set by ordinance.
 - c) A site plan of the property drawn to scale on paper no smaller than 8 ½" x 11" and no larger than 11" x 17". This site plan shall accurately indicate the proposed improvement and any structure affecting it including fences, trees, accessory buildings, etc. It shall also indicate all set backs.~~
- ~~3. Applications for a variance must include a detailed explanation of how the request meets all of the following criteria:
 - a) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the zoning ordinance would deprive the applicant of the reasonable use of the land; and
 - b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
 - c) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and
 - d) That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the zoning ordinance; and
 - e) That an undue hardship exists; and~~

- f) ~~That the granting of a variance will be in harmony with the spirit and purpose of the regulations of the zoning ordinance.~~
4. ~~Applications for a **special exception** shall demonstrate that the request meets the appropriate standards of the zoning ordinance.~~
5. ~~**Appeals** of a decision made by an administrative official must be filed within 45 calendar days after the decision is rendered.~~
6. ~~The Planning and Community Development Department, upon receipt of a complete application for a variance or special exception, shall notify all owners of real property located within 200 feet of the property upon which the variance or special exception is being requested. This letter shall be sent no less than ten (10) days prior to the scheduled hearing. Any response from an interested citizen shall be in written form either on the notice sent or by separate letter. No telephone response will be accepted. The applicant or his agent may not transmit any of these responses.~~
7. ~~The Planning and Community Development Department shall transmit to the particular Board members all papers received from the applicant and any other information which is deemed pertinent to the variance request.~~

PROCEDURE DURING THE HEARING

1. At the time of the hearing the applicant may appear on ~~his/her~~ the applicant's own behalf or may appoint an agent ~~to represent him/her~~ as representative. **It is strongly advised that the applicant attend or be represented at the hearing. The Board may deny requests for which the applicant or agent do not appear.**
2. ~~The Board will conduct the meeting using parliamentary procedure outlined in the latest edition of Robert's Rules of Order and Chapter 2 of the City of New Braunfels Code of Ordinances.~~
- ~~3.~~2. The Board will first call for the City's ~~summary of the applicant's~~ statement on the request followed by the applicant's ~~presentation, statement and testimony on their request.~~ Testimony Statements will then be accepted from any private citizen for the proposal and then from any against the proposal. The applicant will be given an opportunity for a final rebuttal. The Board may, at any time during the hearing, question or compel witness testimony from the City, the applicant or a private citizen in attendance.
- ~~4.~~3. Final decision of the Board on any variance request or special exception shall be in the form of a motion which must be approved by four (4) of the participating Board members. In a motion to approve a variance the Board must make and state a finding of how a requested variance meets the codified hardship criteria.
- ~~5.~~4. When hearing an appeal, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order and make the correct order. A concurring vote of four (4) members is required to reverse an order.
6. ~~If a motion fails, either by failure to receive a "second", or through the vote of the motion, additional motions may be made and considered.~~
7. ~~If a motion is not offered or made on an item before the Board, it shall be deemed a denial of that item.~~
8. ~~No application for a variance will be filed with the City if a hearing on that same request was held during the previous six months. However, if new, relevant and substantial evidence, which could not have been secured at the time set for the original hearing is produced by the applicant, the Chair and the Planning and Community Development Director shall have the authority to waive the six-month provision on behalf of the Board. This hearing will be considered a new hearing requiring a fee and notification of all surrounding property owners as required in the original hearing.~~

RECORDS

1. The Board's decisions shall be ~~filed in~~ kept on file by the Planning and Community &

Development ~~Department Services office~~ in the form of minutes of that particular meeting. Said minutes shall be ~~prepared after the meeting, considered for approval at the next following meeting, and subsequently~~ signed and dated by the Chair or Acting Chair presiding at the meeting. ~~Cases/decisions are considered filed after approval and signing of the minutes.~~

2. A record of the Board's action shall be sent to each applicant following the meeting.
3. A file of all material and decisions relating to each ~~variance~~ request shall be kept ~~on file in the office of the~~ by Planning ~~and Community &~~ Development ~~Department Services~~ as part of the official records of the ~~Zoning Board of Adjustment~~.
4. All records of the Board shall be public record.

~~PETITION TO A COURT OF RECORD~~

~~Any person aggrieved by any decision of the ZBA, or any taxpayer, or any officer, department, board, or bureau of the City, may present, to a court of record, a petition, duly verified setting forth that such decision is unlawful, in whole or in part, specifying the unlawful grounds. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Planning and Community Development Department.~~

Adopted January 24, 1980.
Amended December 15, 1994
Adopted with no amendments July 25, 1996
Adopted as amended February 26, 2004
Adopted as amended September 25, 2008
Adopted as amended December 20, 2018

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