

CEDAR FALLS BOARD OF ADJUSTMENT RULES OF PROCEDURE

Article I General Governing Rules

The Board of Adjustment (hereinafter referred to as the Board) shall be governed by the provisions of Chapter 414 of the Code of Iowa, Chapter 26, Cedar Falls Code, being the Zoning Ordinance of the city, and the rules of procedures set forth herein, as adopted by the Board and approved by the City Council. No rule herein shall be changed or waived without the affirmative vote of four members of the seven-member Board and the concurrence of the City Council.

Article II Officers

1. The Board shall elect a chairperson and vice-chairperson annually in the month of January or the next regularly scheduled meeting. The vice-chairperson shall be acting chairperson in the absence of the chairperson. The chairperson may succeed himself or herself only twice.
2. The chairperson (or in his or her absence the vice-chairperson) shall preside at all meetings and hearings of the Board and decide all points of order and procedure. In the event that the Chair and Vice Chair are absent from the meeting, the remaining Board members shall nominate an acting Chair to preside at that meeting.
3. A secretary (who need not be a member of the Board) shall be designated by the Board. The secretary shall conduct all correspondence of the Board; keep a minute book recording attendance, the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and records or examinations and hearings and other official actions; and shall fulfill such other official duties as may be assigned by the Board.

Article III Meetings

1. THE REGULAR MEETING of the Board shall be held the third Tuesday of the month at 7:00 p.m., unless meeting needs to be rescheduled due to weather or other unforeseen circumstances, as determined by the City. If there is no business scheduled for a regular meeting the secretary shall inform the chairperson who shall determine whether or not a meeting shall be held. The secretary shall inform the members of the Board at least 24 hours in advance whether or not a meeting is scheduled.
2. SPECIAL MEETINGS may be called by the chairperson provided that at least 24 hours notice of such meeting is given each member and to the general public.

3. A QUORUM shall consist of four members of the Board for the transaction of all business including decisions to allow variances and special exceptions.
4. REPRESENTATION, PERSONAL INTEREST. Neither the secretary nor any member of the Board shall appear for or represent any person or entity in any matter pending before the Board. No member of the Board shall hear, discuss, or vote upon an application for a variance, special exception or appeal in which he or she is directly interested in a personal or financial way. Board members shall make every effort to reduce or eliminate any appearance of a conflict of interest before entering into discussion or voting upon a particular request.
5. CONDUCT OF MEETINGS. All meetings shall be open to the public. The chairperson, or in his or her absence, the vice-chairpersons shall preside over the meeting. The order of business at meetings shall be as follows: (a) roll call; (b) review of minutes of previous meetings; (c) unfinished business; (d) hearing of cases; (e) new business; (f) adjourn.
6. ADJOURNED MEETINGS. The Board may adjourn a regular meeting if all business cannot be disposed of on that day. However, the Board shall give public notice of the resumption of said meeting at least 24 hours before said meeting is reconvened.

Article IV Vacancies

Failure to attend three regular consecutive meeting, or five scheduled meetings within one year (except in case of sickness or temporary absence from the City with due explanation), shall be considered automatic resignation from the Board, and upon such resignation by other means, or other vacancies occurring in office, the chairperson shall inform the Mayor and the City Council as promptly as possible, so that the City Council may appoint a replacement to fill out the unexpired term.

Article V Applications: Notice of Hearings; Amendments of Applications

1. Appeals to the Board may be taken by the person affected by any zoning decision of the Zoning Administrator within a reasonable time after the decision involved.
2. Applications for variances, special exceptions, and appeals shall be filed with the Zoning Administrator in a form established by the Board of Adjustment, and all pertinent information required thereon shall be furnished with payment of a fee as determined by the City Council before the application is considered filed.
3. If the applicant elects to withdraw the application before final determination by the Board, this fact shall be noted on the application, with the signature of the applicant attesting withdrawal. The original and one copy shall be retained by the secretary for the files of the Board and one copy shall be returned to the applicant.

4. The public notice shall be published once, not less than seven (7) nor more than fourteen (14) days before the date of hearing, in a newspaper having general circulation in the city.
5. On an appeal of an administrative decision, the appealing party shall submit to the secretary of the Board ten calendar days prior to the hearing a petition signed by adjacent property owners as set out by the Cedar Falls Code of Ordinances, Section 26-62. The notice shall state the name of the appellant, the location of the property, the action requested, and the time and place of the hearing.
6. Amendment of an application by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case substantially different from its description in the notice of public hearing. Substantially different shall mean a change whereby the application request is increased so that the request, if approved, would result in a greater impact upon neighboring properties. If an amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is substantially different from the information set forth in the public notice, the applicant shall pay an additional fee to cover the amended public notice as determined by the Board and City Council. Said amended notice shall be published one time only. If the amended notice can be published five calendar days prior to the hearing originally scheduled, the hearing on the amended application may be held on that date, otherwise the chairperson shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for deferral.

Article VI Hearing

1. An application for variance, special exception, or appeal shall be heard at the next regular meeting of the Board unless the application is withdrawn.
2. At the public hearing, the applicant or any other party may appear on his or her own behalf or be represented by an agent or by an attorney.
3. Order of the hearing shall be:
 - a. Statement of case by city staff.
 - b. Supporting argument by applicant or the applicant's agent or attorney.
 - c. Supporting arguments by others at the hearing.
 - d. Opposing arguments by persons at the hearing.
 - e. Rebuttal by those supporting the application (other than applicant).

- f. Rebuttal by those opposed to the application.
- g. Final rebuttal by applicant.

Witnesses may be called and factual evidence and exhibits submitted.

The chairperson may establish appropriate time limits for arguments, but such time limits shall be equal for both sides. The chairperson may request representatives of each side to speak for the entire group or portion of the group, but shall not require such representation against the wishes of the group involved.

Article VII Decisions

Final decisions by the Board shall be made no later than 14 days following the public hearing at which it was considered. The decision shall be in the form of a resolution, signed by a Board officer and will be posted on the City's website. Any resolution reversing an order, requirement, decision, or determination of the Zoning Administrator or deciding in favor of the applicant on any special exception or variance, shall require the concurring vote of four (4) members of the Board. Failure to pass such resolution with the concurring vote of four (4) members of the Board shall constitute automatic denial of the requested variance, special exception, or appeal.

The resolution shall list the Board's findings of fact and conclusions based on the findings of fact on which the decision was made, and if in favor of the applicant, shall set forth any conditions or safeguards required, or any time limitations prescribed.

Notation concerning the decision shall be made on the original application. The original copy of the application, together with the original resolution, shall remain in the files of the Board. The applicant shall be notified in writing of the decision of the Board.

Article VIII Appeals/Re-Hearing

Final decisions by the Board may be appealed by any interested party to a court of record as outlined in State Code Section 414.15. Applications for re-hearing of the same application before the Board shall be discouraged. Application for re-hearing must be submitted in the original manner including full submittal of nonrefundable fee.

The Board shall not accept an application for re-hearing if the application contains no substantial change in facts, evidence or conditions. An application for re-hearing that contains substantial change in facts, evidence or conditions can be reviewed by the Board only upon a motion and second from the prevailing side at the original hearing. The motion to reconsider the application shall be approved by at least four (4) members of the Board.

These Rules of Procedure are adopted by the Board of Adjustment on the 24th day of FEBRUARY, 2020



Amy Lang, Chair

ATTEST: 
David Sturch, Secretary

Approved by the City Council on 2nd day of March, 2020.


Robert M. Green, Mayor

ATTEST: 
Jacqueline Danielsen, MMC, City Clerk