

Article 16. Zoning Board of Appeals

16.1 Organization

Establishment and membership. There is hereby established a Zoning Board of Appeals in accordance with the city ordinances. The Board shall consist of three (3) members, each to be appointed by the city council for a term of three (3) years. One member of the board shall be a member of the Planning Commission.

16.2 Rules, meetings, minutes.

The Zoning Board of Appeals shall adopt rules and regulations as it may deem necessary to carry out the provisions of this article. The Board shall choose its own chairman. All meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be held at a regularly designated place and shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member on every question or, if absent or failing to vote, indicating such fact, and the final disposition thereof shall be by recorded motion indicating the reasons of the Board therefor.

16.3 Duties and Powers

The Zoning Board of Adjustment shall have the following duties and powers:

16.3.1 Hear and decide appeals.

16.3.2 To hear and make decisions on special exemptions.

16.3.3 To make decisions on variance requests. (See §14.9.)

16.3.4 Make a decision on temporary building for business or industry in the residential district provided the building is incidental to the residential development and that permit is not issued for more than one calendar year.

16.4 Procedure for Requesting a Hearing Before the Board of Zoning Appeals

16.4.1 Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer, department, or board of the city affected by the decision.

16.4.2 An appeals application must be submitted in writing to the City Clerk, who shall within ten (10) days after receiving such an application send the application, with any comments he may deem necessary added thereto by the Zoning Compliance Officer, to the Zoning Board of Appeals.

16.4.3 An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Compliance Officer. At a minimum, the site plan shall contain the following:

16.4.3.1 Lot dimensions with property line monuments located thereon;

16.4.3.2 Location and size of existing and proposed structures;

16.4.3.3 Yard dimensions and the use of structures;

16.4.3.4 Easements (private and public);

16.4.3.5 Water courses;

16.4.3.6 Existing and proposed fences, street names and street right-of-way lines; and,

16.4.3.7 Such other information regarding abutting as directly affect the application.

16.4.4 The applicant shall pay an administrative fee, as determined from time to time by Mayor and Council. Said fee shall be due and payable on the date the appeal is filed. However, the fee is waived if the appeal is filed by the City.

16.4.5 Any petition for a hearing before the Board may be withdrawn without prejudice prior to action thereon by said Board at the discretion of the applicant upon written notice to the City Clerk. The withdrawal must be requested at least twenty-four (24) hours prior to the scheduled hearing on the application.

16.4.6 No application for appeal shall be filed on the same property more often than once every twelve (12) months.

16.5 Hearing and Notification of Adjacent Property Owners

- 16.5.1** The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, by publication in the newspaper of general circulation in the city at least fifteen (15) but not more than forty-five (45) days prior to the date of the hearing, as well as written notice to the parties in interest. The published notice and written notice shall state the time, place, and purpose of the hearing. All property owners within a 300-foot radius of the property in question shall be notified by registered mail of the hearing, including the time, place, and purpose of the hearing.
- 16.5.2** Should the hearing involve questions of rezoning which have been initiated by a party other than the city, then the notice, in addition to the requirements provided in Section 16.4.1 shall include the location of the property and the present and proposed zoning classification of the property. The party initiating the hearing shall cause a sign containing the purpose, date, time, and location of the hearing to be posted in a conspicuous location on the property not less than fifteen (15) days nor more than forty-five (45) days prior to the hearing.

16.6 Order of Board of Appeal

- 16.6.1** In exercising its power, the Board may, in conformity with the provision of this article, reverse or affirm wholly or partly or may modify the order, requirement, decisions or determination appealed from. The concurring vote of three (3) members of the Board shall be necessary to grant a variance or special exception or to overturn the decision of the Zoning Compliance Officer.
- 16.6.2** Following the hearing, the Board has thirty (30) days to render its decision or the application is deemed approved.
- 16.6.3** Every order, requirement, decision or determination of the Board shall immediately be filed in the office of the City Clerk and shall be a public record.

16.7 Appeal from the Board to the Court

- 16.7.1** Any person aggrieved by any decision of the Zoning Board of Appeals, any taxpayer or any officer, department, or city board may appeal to the Elbert County Superior Court by filing and serving upon the chairman of the Board a petition, duly verified, setting forth that the decision of the Zoning Board of Appeals is illegal, in whole or in part, and specifying the grounds of the illegality. Decisions of the Board may be appealed on questions of law only. Such appeal shall be filed within ten (10) days after service of the decision of the Board upon the party desiring to appeal.
- 16.7.2** The Zoning Board of Appeals shall be required to file a return and the original papers acted upon by it with the Clerk of the Superior Court within fifteen (15) days. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be authenticated by the chairman of the Board or by the City Clerk.