

ZONING BOARD OF ADJUSTMENT BYLAWS

ARTICLE I – Identification and Purpose

The Zoning Board of Adjustment was established by the City Council of Colleyville, Texas, by Ordinance number 500 on March 8, 1966; however, several amendments to this ordinance have been approved and codified through the Colleyville Charter and the Colleyville Code of Ordinances. The purpose of the Zoning Board of Adjustment is to consider requests for a variance of a zoning regulation or to hear an appeal from an administrative decision on a regulation in Chapter 3 – Land Use Regulations; Chapter 4 – Landscaping and Buffering; and Chapter 6 – Building Design (except for requests regarding tree mitigation requests which are considered by the Planning and Zoning Commission). The Zoning Board of Adjustment shall additionally have the authority to consider requests for an interpretation of any regulation or definition contained in the Land Development Code.

ARTICLE II – Membership

- 2.1 The Zoning Board of Adjustment shall consist of five (5) members and two (2) alternates, who shall be appointed by the City Council for a two (2) year term. Places on the Zoning Board of Adjustment shall be numbered one (1) through five (5), and Alternates one (1) and two (2).
- 2.2 Members must be residents of Colleyville, Texas unless City Council waives the residency requirement.
- 2.3 Members shall serve without compensation and until their successors are appointed.
- 2.4 Members and alternates of the Zoning Board of Adjustment may be removed from office by the City Council for just cause upon receipt of written charges and after public hearing.
- 2.5 Vacancies which are created by resignation, or for any other reason, shall be filled by the City Council for the remainder of the term of the member or alternate affected.
- 2.6 If a member of the Zoning Board of Adjustment fails to maintain a seventy-five percent (75%) attendance record for all regularly scheduled meetings, the Chair or staff liaison will notify the City Secretary. City Council may, at its discretion, declare a vacancy,

advertise the open position, or appoint a replacement without advertising.

ARTICLE III – Officers

- 3.1 The officers of the Zoning Board of Adjustment shall be the Chairman and the Vice-Chairman.
- 3.2 The Zoning Board of Adjustment shall elect the Chairman and Vice-Chairman from among the members once a year, at its first regular meeting following the appointment of its new members, or as deemed necessary.
- 3.3 The Chairman shall preside at all meetings and be a voting member.
- 3.6 The Vice-Chairman shall preside at Zoning Board of Adjustment meetings in the absence of the Chairman, and shall fulfill all of the duties of the Chairman. Should the Chairman resign, or that office become vacant for other reasons, the Vice-Chairman shall act as Chairman until the election of a new Chairman.
- 3.7 The Zoning Board of Adjustment shall appoint a Recording Secretary to record the minutes of the proceedings of every meeting. The Recording Secretary shall be the custodian of the minutes and other official records, shall attend to the correspondence of the Zoning Board of Adjustment, and shall cause to be given such notices as are required and in the manner prescribed by law. The Recording Secretary appointment shall be made at the time of the election of the officers. The Recording Secretary is usually a staff member.

ARTICLE IV – Duties and Responsibilities

- 4.1 Zoning Board of Adjustment shall consider requests for a variance of a zoning regulation or to hear an appeal from an administrative decision on a regulation in Chapter 3 – Land Use Regulations; Chapter 4 – Landscaping and Buffering; and Chapter 6 – Building Design (except for requests regarding tree mitigation requests which are considered by the Planning and Zoning Commission).
- 4.2 The Zoning Board of Adjustment shall additionally have the authority to consider requests for an interpretation of any regulation or definition contained in the Land Development Code.

- 4.3 The Zoning Board of Adjustment members will take the Attorney General Texas Open Meetings Act on-line training course, available at this link: http://www.oag.state.tx.us/open/og_training.shtml#22; or the member may obtain a DVD of the training course from the City Secretary, and provide a copy of the Certificate of Course Completion to the City Secretary. The training must be completed no later than the 90th day, after the date the member takes the oath of office, or otherwise assumes responsibilities as a member of the governmental body.
- 4.4 The Zoning Board of Adjustment shall follow these bylaws, and these bylaws shall govern the procedures of the Zoning Board of Adjustment unless otherwise provided for by statute.

ARTICLE V – Meetings

- 5.1 Regular meetings shall be held on the 2nd Tuesday of each month at 7:00 p.m., at City Hall, unless otherwise provided for by the Zoning Board of Adjustment, or unless no application has been scheduled for consideration by the Zoning Board of Adjustment.
- 5.2 Special meetings for any purpose may be held (1) on the call of the Chairman, or (2) on request of three or more regular members, and by giving written notice to all members deposited in the mail at least 72 hours before the meeting, or (3) as may be scheduled by a majority of the Zoning Board of Adjustment at any previous meeting.
- 5.3 Except as legally permitted executive session discussions, all deliberations of the Zoning Board of Adjustment shall be conducted, and all of its decisions shall be made, at a meeting that is open to the public.
- 5.4 All meetings shall be held in full compliance with the provisions of state law, the Zoning Ordinance of the City, and these bylaws. Any party in interest shall appear before the Zoning Board of Adjustment in person, by agent, or by attorney.
- 5.3 A quorum shall consist of four (4) members. If a regular member is absent, the senior alternate will fill the position. If two regular members are absent, the second alternate will fill in as a regular member. Prior to the opening of the public hearing on the first application request being considered, the Zoning Board of Adjustment shall indicate the voting

members to the audience by show of hands. Any regular or alternate member arriving after the opening of a public hearing shall not make motions, seconds, or vote on the agenda item being considered, but may participate in the discussion.

- 5.4 Meeting agendas will be posted on the City Hall bulletin boards, and the City's website 72 hours prior to a meeting. Meeting agenda packets will be available to the public on the City's website 72 hours prior to a meeting.
- 5.5 Additionally, the approved meeting minutes will be included in the City Council agenda packets under Reports.
- 5.6 The Chairman shall secure from staff all such materials and analyses as may be useful to the Zoning Board of Adjustment in considering any matter before it.

ARTICLE VI – Official Records

- 6.1 Definition:
The official records shall include these bylaws, and minutes of the Board, together with all findings, decisions, and other official actions. Notes of the Recording Secretary and recordings of proceedings and discussions shall constitute the official record of the Board.
- 6.2 Recording of Vote:
The minutes of the Board's proceedings shall show the vote of each member on each decision of the Board, or if absent or failing to vote shall indicate that fact.
- 6.3 Notice of Decision:
All decisions of the Zoning Board of Adjustment shall be in writing, in a format provided by the City Secretary, and shall be filed in the Board's office immediately after the meeting in which the matter was decided. For the purpose of this rule, the Office of Community Development shall be designated as the Board's office.
- 6.4 Files – Retention:
All appeals and other matters coming before the Board shall be filed in the City's records. Original papers of all appeals shall be retained along with other special matters as the Recording Secretary deems essential for permanent record.

6.5 Public Record:

The official records, appeals accepted for filing, and other matters presented to the Board in regular or special meeting shall be on file in the City Hall, and shall be open to public inspection during customary working hours.

ARTICLE VII – Appeal Procedures

7.1 Refusal Required:

No appeal shall be taken to the Board until and unless the Enforcing Officer has first refused a permit for plans submitted or has rendered an interpretation of the Zoning Ordinance. When needed and at the Chairman's request, the city manager and/or appointed official shall be present at the public hearing. The Board may consider a waiver of this requirement when the Board determines that the cost of such plans would be an unnecessary burden.

7.3 Application Requirements:

Every appeal shall be filed on application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property under appeal or shall be accompanied by a letter from the owner acknowledging taking of appeal. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

7.4 Guidelines for Application:

Every appeal shall be prepared by the applicant according to the guidelines continued in the Appendices for the type of appeals by statutes or ordinances. Where two or more different types of appeals are included in the same application, each set of guidelines shall apply.

7.5 Filing Deadline:

An appeal shall be filed with the Board within ten (10) days after the date of decision of the Enforcing Officer. Every appeal shall be filed with the Recording Secretary of the Board no less than twenty (20) days prior to the scheduled meeting date of the Board. Appeals filed after the deadline shall be scheduled for the next regular meeting. When the filing

deadline falls on a city holiday the following workday shall be observed as the filing deadline.

7.6 Notice:

A. Public notice of any appeal affecting a specific property shall be given as prescribed in the Land Development Code by means of a written notice deposited in the United States Mail, postage prepaid, not less than fifteen (15) days prior to the date of the scheduled hearing. The notice shall identify the applicant, the location of the property in question, and the nature of the request.

B. All property owners within two hundred (200) feet of the property seeking the appeal shall be notified.

C. Public notice of any appeal seeking an interpretation on applicable Land Development Code regulations which would apply throughout the City, shall be given by means of a legal advertisement appearing in the official newspaper of the city not less than fifteen (15) days prior to the date of the scheduled hearing. Written notice shall also be given to the applicant and his agent. The notices shall identify the affected provisions of the Land Development Code.

7.7 Submission of Evidence:

Evidence supporting the grant or denial of an appeal shall be submitted only through the Recording Secretary or to the Board in public meeting.

7.8 Withdrawal of Appeal:

Any appeal may be withdrawn upon written notice to the Recording Secretary; but no appeal shall be withdrawn after giving of public notice and prior to the Board action thereon without formal consent of the Board.

7.9 Expiration of Time:

In each decision of appeal, the Board will include a specific expiration time for compliance.

ARTICLE VIII – Hearing and Decisions

8.1 Public Hearings:

Hearings on all matters on which a decision of the Board is required by law shall be open to the public. The applicant may appear on his own behalf or be represented by counselor agent.

8.2 Order of Business:

The Chairman shall call the Board to order and the Recording Secretary shall record the members present and absent. The Chairman shall publicly advise those present of the procedures followed in the hearing and disposition of appeals; the Chairman shall call each appeal and shall announce the name of the applicant, the location of the property involved, and the nature of the request. Each case may be taken under advisement until all have been heard.

8.3 Procedure for Hearing:

A. The Chairman shall ask staff to outline the applicant's request, advise the Board of any communications received, and present copies of any supporting evidence for or against each case.

B. The Chairman shall call upon the applicant to present his case and all evidence supporting his plea.

C. The applicant shall then have the right of rebuttal to arguments presented by the opposition. Following the rebuttal, the Chairman shall order the hearing closed.

D. Each side shall proceed without interruption by the other and all arguments and pleading shall be addressed to the Board. No questioning or arguments between individuals will be permitted.

E. The Board may not hear an appeal when the applicant fails to appear unless the applicant has requested that the Board act without the applicant's presence at the hearing; provided, however, the Board may hear those persons appearing in response to the notice of hearing.

8.4 Board's Questions:

The Chairman may direct any question to the applicant or any persons speaking in order to bring out all relevant facts, circumstances, and conditions affecting the appeal, and will call for questions from other members of the Board and from the staff.

8.5 Decision:

After all appeals have been heard, each appeal shall be reviewed and acted upon. The Board shall make such findings as required by law.

8.6 Disposition of Appeals:

The Board may approve, approve with modifications, or deny an appeal. The Board may also defer action on any appeal whenever it concludes that additional evidence is needed or that alternate solutions need further study. An appeal may be dismissed when the Board finds that the appeal has been improperly filed or upon notification by the Enforcing Officer that permits have been issued for a conforming use or development of the property.

8.7 Vote Required:

The concurring vote of four members shall be necessary to approve, or to approve conditionally, any matter appealed to the Board. When a motion in favor of an applicant fails to receive a second or four affirmative votes, the Recording Secretary shall record that fact and shall include in the minutes an entry stating that the Board has denied the appeal.

ARTICLE IX – Appeal from the Board

9.1 Review of Decision:

Any person or persons, or any board, taxpayer, department, commission, or agency of the City aggrieved by any decision of the Zoning Board of Adjustment may seek review by a court of record of such decision, and under the time limit specified within Section 211.011 Texas Local Government Code. If no appeal has been taken from the Zoning Board of Adjustment ruling within the time limit specified under the above mentioned Article, the Board's ruling shall be final.

ARTICLE X – Certification and Amendments

10.1 Certified Copy:

A certified copy of these bylaws, and of any amendments thereto, will be placed on record in the office of the City Secretary within ten (10) days following their day of adoption.

10.2 Repealing Clause:

All previously adopted rules and regulations of the Board shall be and the same are hereby expressly repealed.

10.3 Amendment Procedure:

Amendments to these bylaws may be made by the Board at any meeting, upon the affirmative vote of four members; however, Chapter 211 of the Local Government Code requires the regulations be adopted by the governing body.

**APPENDIX A
TO THE ZONING BOARD OF ADJUSTMENTS
BYLAWS:**

INTERPRETATION APPEALS

A-1. INTERPRETATION: BASIS FOR FILING

Whenever it is alleged that there is an error in any determination or application of the requirements of an applicable section of the Land Development Code, an appeal for interpretation of the regulations, or map designations may be filed with the Board.

A-2. INTERPRETATION: PAPERS REQUIRED

An appeal shall include a STATEMENT by the applicant describing the way it is alleged the Regulation should be interpreted, together with diagrams and charts illustrating the erroneous and the proper application of the map or text provisions.

A-3. INTERPRETATION: ADDITIONAL PAPERS REQUIRED

A letter by the administrative official shall be forwarded in the packet giving the section and page number of the Colleyville Land Development Code that was used as a basis for the denial of the request.

**APPENDIX B
TO THE ZONING BOARD OF ADJUSTMENT
BYLAWS:**

SPECIAL EXCEPTIONS

B-1. SPECIAL EXCEPTION: BASIS FOR FILING

Whenever the Land Development Code requires specific approval by the Board for the development or use of property, an application for a special exception shall be approved by the Board before the Enforcing Officer shall issue a permit for the proposed construction or use.

B-2. SPECIAL EXCEPTION: PAPERS REQUIRED

An application for a special exception shall include a site plan, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements.

B-3 INTERPRETATION: ADDITIONAL PAPERS REQUIRED

A letter by the administrative official shall be forwarded in the packet giving the section and page number of the Colleyville Land Development Code that was used as a basis for the denial of the request.

**APPENDIX C
TO THE ZONING BOARD OF ADJUSTMENT
BYLAWS:**

VARIANCES

C-1. VARIANCE: BASIS FOR FILING

Whenever, owing to exceptional and extraordinary conditions, the literal enforcement of the provisions of a zoning regulation will result in unnecessary hardship in the development of the property, an appeal for a variance may be filed with the Board of Adjustment.

C-2. VARIANCE: PAPERS REQUIRED

An appeal for variance shall include:

- 1) A site plan, drawn to scale, showing the location and dimension of the lot and of all existing and proposed improvements; and
- 2) A statement of facts and reasons why the zoning regulation should not be applied to the property in question.

C-3. INTERPRETATION: ADDITIONAL PAPERS REQUIRED

A letter by the administrative official will be forwarded in the packet giving the section and page number of the Colleyville Land Development Code that was used as a basis for the denial of the request.

C-4. VARIANCE: SPECIAL INFORMATION REQUIRED

When an appeal is based upon hardship resulting from shape changes in topography or unusual terrain features, the site plan shall include topographic information related to known base points or surveys, and profiles of the particular problem involved, including relationship to topographic features of adjoining properties.