

LAND DEVELOPMENT

VARIANCE REVIEW BOARD

RULES OF PROCEDURE

Effective June 9, 2009

Effective May 8, 2018

1.0 BOARD NAME; PURPOSE; CITATION; JURISDICTION; DEFINITIONS

- 1.1 The name of this Board is the City of Tampa Land Development Variance Review Board, hereinafter referred to as the "Board."
- 1.2 The rules of procedures of the Board shall be cited herein as the "Rules." For procedures not covered by the Rules the Board shall follow the rules set forth in the current edition of Robert's Rules of Order, except that the Robert's Rules of Order which allow reconsideration and rescission of motions granting or denying applications shall not apply.

2.0 MEMBERS; OFFICERS; ELECTIONS; TERMS OF OFFICERS; DUTIES

- 2.1 **Members.** The Board shall consist of seven (7) members appointed by the Mayor and City Council, the composition and terms of which are provided in City of Tampa Code, Section 27-77.
- 2.2 **Alternate Members.** Two alternate members shall be appointed as provided in City of Tampa Code, Section 27-77. An alternate member shall sit only when a member is unable to attend a meeting of the Board.
- 2.3 **Officers.** Officers of the Board shall be Chair and Vice-Chair.
- 2.4 **Elections.** At the first regularly scheduled meeting in February, Board members shall make nominations for the election of Chair and Vice-Chair. A majority vote of the Board members present shall elect the two officers. The election shall be conducted by the Legal Department.
- 2.5 **Terms of Officers.** The Chair and Vice-Chair shall hold office for a period of one year. The Board shall elect a replacement to complete the unexpired term of any officer who resigns from such position or otherwise cannot complete his or her term of office. A majority vote of the Board members present shall elect the replacement officers.
- 2.6 **Duties of Officers.** The Chair shall preside at all meetings of the Board. If the Chair is absent, the Vice-Chair shall preside at the meeting.
- 2.7 **Chair Pro Tem.** In the event both the Chair and Vice-Chair are absent, a Chair Pro Tem

shall be elected at that meeting, and shall preside at the meeting until such time the Chair or Vice-Chair presents himself or herself. A majority vote of the Board members present shall elect the Chair Pro Tem.

2.8 Applications or Appeals Involving Member. In accordance with applicable Florida Statutes (Chapter 112) and City of Tampa Code (Chapter 2, Article VIII), no Board member shall appear before the Board on behalf of any person other than himself or herself.

2.9 Impartiality required. No Board member shall, in any manner, discuss any application or appeals with any person other than staff or the Board's Attorney prior to the Board's deliberations on such application or appeal.

Members of the Board shall not express individual opinions on any application or appeal with any persons prior to the determination of that application or appeal, except in accordance with these Rules.

2.10 Familiarity with laws. Each member of the Board shall be thoroughly familiar with all statutes, laws, codes and Rules relating to the Board.

3.0 ADMINISTRATOR; BOARD ATTORNEY

3.1 Administrator. The Zoning Administrator, or designee, shall be responsible for supervising the preparation of materials for meetings, the maintenance of all records and the preparation of correspondence. The Administrator shall also be responsible for scheduling meetings and workshops.

3.2 Board Attorney. The City Legal Department shall provide the legal advisor to the Board.

4.0 MEETINGS; CONDUCT OF MEETING

4.1 Scheduling of regular meetings. The Board shall meet at least once a month at a regularly scheduled time. Additional meetings may be called by the Chair or upon the request of five (5) Board members.

4.2 Workshop. A workshop shall be held for the purpose of the Board being informed on one special matter of concern, but not on any specific application or appeal.

No official action by the Board may be taken during the workshop.

4.3 Designation of another meeting place. In the event it is impossible or impractical to meet in the Council Chambers, the Chair may designate another meeting place in the City of Tampa. Notice of such designation shall be posted at the entrance to the Council chambers or on the bulletin board on the first floor of City Hall prior to such meeting.

4.4 Cancellation of meetings. Prior to a meeting, whenever, there is no business for the

Board or there are not members available to establish a quorum, the Chair may dispense with a regular meeting by giving notice to all the members not less than twenty-four hours prior to the time set for the meeting.

4.5 Quorum. A quorum shall consist of four (4) members of the Board.

No meeting shall commence or continue unless a quorum is present. After a reasonable period of time has elapsed and a quorum is not present, all remaining matters on the agenda shall be rescheduled for the next meeting.

4.6 Order of Business. The order of business shall be by Agenda. Changes to the Agenda may be made by motion and affirmative vote of the majority of the members present at the hearing.

4.7 Agenda. The Agenda for regular meetings shall be limited to thirteen (13) applications. Applications which are out of order to be heard, including misnoticed applications, are continued automatically by staff prior to the meeting, to the next available space for a new application.

4.8 Minutes. The staff shall keep minutes of all Board proceedings. The minutes shall show the vote of each member on each question, or if a member is absent or fails to vote because of potential conflict of interest, indication of such fact. The minutes of each meeting shall be filed in the Land Development Coordination office and shall be public record.

An electronic recording of all deliberations will be made and said recording may be utilized for the filing of a petition for review.

4.9 Reading and Amending of Minutes. Minutes from the previous Board meeting need not be read unless the reading is requested.

4.10 Continuance of cases. If only four (4) members of the Board are available to take action, then any applicant shall have the right to continue the matter until there are a minimum of five (5) members. If there are less than seven (7) members present, then an applicant may request to continue an application, but it will not be as a matter of right. In the event that the Board does not have seven voting members, an applicant may request a continuance of his or her case prior to the case being heard. Any cases continued by the Board at the request of the applicant, for any reason, shall be continued for two months.

5.0 VOTING AND ABSTENTION

5.1 Votes Required as to Certain Measures. A simple majority vote of those Board members present shall be sufficient to conduct routine business, to deny any application, and to decide on an Administrative Official Determination appeal. However, the vote of at least four (4) members of the Board shall be required to

approve an application.

- 5.2 **Insufficient or Tie Vote.** When a matter is considered by the Board and an insufficient or tie vote is obtained, the Board's action becomes a nullity, and the matter shall be automatically carried over for consideration at the Board's next meeting as unfinished business.
- 5.3 **Abstention.** In accordance with applicable Florida Statutes (Chapter 112) and City of Tampa Code (Chapter 2, Article VIII & Chapter 27, Article IX), any Board member who has a conflict of interest due to a "special private gain" must abstain and file any required documents.

6.0 APPLICATIONS, GENERAL

- 6.1 **Applicants.** Only the bona fide owner or authorized agent of the owner, of a specific piece of real property may apply for a variance.
- 6.2 **Form of Applications.** Applications to the Board shall be made in the form prescribed by the City of Tampa.
- 6.3 **Site Visits by Members of the Board.** Prior to a hearing, members of the Board may independently visit properties to be considered at the hearing.
- 6.4 **Site plans.** Prior to being heard, applications to the Board shall include a legible, to scale site plan which accurately reflects all development on the property and shows the dimensions from all property lines, wetlands and trees (if applicable). All trees within 20' of the property shall be shown. If the variance requested is for existing conditions, including for work done without permits, a sealed survey accurately reflecting conditions on the property shall be required.
- 6.5 **Revisions to applications.** Any submitted application may be revised by the applicant prior to notice being provided per Section 27-149 of the City Code of Ordinances. Any application revision which alters the requested variance to seek a greater reduction in the required yard or adds a request after that date for notice will require a new notice to a subsequent public hearing.
- 6.6 **Revisions to site plans.** Any submitted site plan can be revised no less than three weeks prior to the public hearing. If a revision is submitted less than three weeks prior to the public hearing, the request will be continued in accordance with these rules of procedure.

7.0 HEARINGS ON APPLICATIONS

- 7.1 **Appearance by Applicant.** The applicant or his authorized agent shall appear in support of the application at the public hearing. If the applicant or authorized agent fails to appear, the Board may allow the application to be carried over to the next available

Agenda. Failure to appear at the second hearing shall be automatic grounds for denial of the application.

7.2 Who May be Heard. The applicant and the public may appear in person, or by agent or attorney.

7.3 Hearing Procedures:

7.3.1 Call to order by the Chair.

7.3.2 Swearing in of all persons who will be testifying and/or presenting evidence to the Board.

7.3.3 Order and time allotment for hearing:

(1) Staff will give a brief introduction to the application;

(2) Applicants appearing before the Board shall have the right to give testimony, and to present witnesses and documentation. Applicants shall be limited to ten (10) minutes for their presentation. The Applicant should present all evidence during this presentation.

(3) The public will then be given an opportunity to speak in support of, or in opposition to, the application before the Board. The public shall be limited to three (3) minutes each.

(4) The Board shall have an opportunity to ask questions on the application.

(5) The Applicant will have five (5) minutes for final rebuttal.

(6) The Board will have discussion.

(7) The Board will make a motion to approve, approve with conditions, deny, or continue the application.

7.3.4 The time limitations for speaking or presentations may be waived by a majority vote of the Board members for good cause shown.

7.3.5 The Board may question participants in the hearing as it feels necessary. The Board Attorney may question participants to assist the Board.

7.3.6 The Chair may call to order any person before the Board who is deemed out of order. Such a person who fails to comply with said request shall be asked to leave by the Chair. The Chair may request security

assistance as may be required.

- 7.3.7** Voting may be postponed only if necessary to allow the Board to obtain additional evidence before making a decision. The Board shall state what additional evidence is needed and the matter will be continued, unless otherwise specified, to the next available Agenda.
- 7.3.8** After the Board has heard all testimony from the applicant, interested parties, and witnesses, the Chairperson shall close public hearing on the matter.
- 7.3.9** The Board shall orally issue an order granting or denying the application. The Board shall issue findings when approving or denying an application. Said order shall be reduced to writing and furnished to the applicant within one week of the hearing.
- 7.4** **Effect of Approval.** If an application is approved, the Land Development Coordination office shall transmit a letter to the applicant describing the nature of the variance approved. The effective date of approval shall be the date of the public hearing at which the approval was issued.
- 7.5** **Effect of Denial.** If an application is denied, the Land Development Coordination office shall transmit a letter to the applicant describing the nature of the variance denied. The letter shall state the applicable portions of the City of Tampa Code as the basis for the denial of the application. The effective date of the denial shall be the date of the public hearing at which the denial occurred. Denial of an application shall preclude acceptance and consideration of any application substantially the same as the original application for a period of twelve (12) months from the date of such denial, unless the Board determines otherwise, as set forth in City of Tampa Code section 27-83 using the procedure set forth below.
- 7.6** **Substantially Different Application Determination.** An applicant may request the Board to hear a substantially different variance request within twelve (12) months of any denial by the Board only if the applicant is able to present a substantially different request which addresses the grounds for denial identified during the original public hearing.

 - 7.6.1** Upon receipt of a substantially different application request, the Board shall first hear a summary of any new evidence or of any other factors which may indicate that the application constitutes a substantially different request. No testimony in opposition will be heard at this time.
 - 7.6.2** The Board must find the application to be a substantially different request by a majority vote of the Board members present.
 - 7.6.3** If the Board finds the application to be substantially different, the

request shall be scheduled for the next available Agenda that allows time for proper notice.

7.6.4 Hearings for substantially different requests shall be conducted in the same manner as initial hearings, and public notice shall be given in the same manner as required for the initial hearing.

7.7 Appeal. Any appeal of a Board decision shall be in accordance with City of Tampa Code section 27-61.

8.0 MISCELLANEOUS

8.1 Rule Changes. These Rules may be altered in a manner not inconsistent with the City of Tampa Code during a regular meeting by the affirmative vote of at least four (4) members of the Board.