



Collier County

Growth Management Community Development
Operations & Regulatory Management Division

Building Board of Adjustments and Appeals

Tuesday, June 18, 2024

9:00 am

2800 N. Horseshoe Dr.

Naples, FL 34104

Growth Management

Community Development Department

Conference Room 609/610

**If you have any questions or wish to meet with staff,
please contact,**

Marlene Serrano at (239) 252-2422

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Building Board of Adjustments and Appeals

Agenda

Tuesday, June 18, 2024

9:00 am

2800 N. Horseshoe Dr., Naples, FL 34104

Growth Management Community Development, Conference Rooms 609/610

NOTICE:

All persons wishing to speak on a specific appeal must register prior to the start of the meeting. All registered speakers will receive up to three minutes unless time is adjusted by the Chair. Additional minutes can be ceded to an in-person speaker by other registered speakers who must be present at the time the speaker is heard. Appellants will have a total of 15 minutes to explain/present their evidence supporting the application. The appellants may appear with or without legal counsel.

Board Members:

John A Melton

Michael A Mick

Eloy Ricardo

Jonathan D Walsh

VACANT

Legal Counsel:

Ronald Tomasko,

Assistant County Attorney

Secretary:

Fred Clum, Chief Building Official

Staff Liaison:

Marlene Serrano, Staff Liaison

Anisley SanRoman, Operations Support

AGENDA


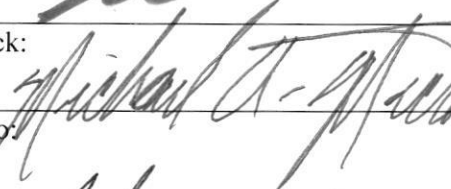
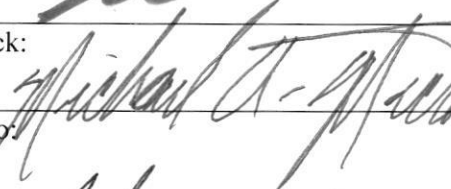

- I. Call to Order
- II. Roll Call
 - a. Election of Chairman and Vice-Chairman
- III. Adoption of Minutes
 - a. Motion: To allow the chairmen to approve and sign meeting minutes after all committee members have reviewed them by email and have no objections, in the event there is no future scheduled meeting date.
- IV. Additions and Revisions to the Agenda
- V. Adoption of Agenda – Meeting of June 18, 2024
- VI. New Business
 - a. Review/Approval of Building Board of Adjustments and Appeals Rules
 - b. Ethics/Sunshine Law Presentation (Video Shown)
- VII. Adjourn

Page 4

Collier County Building Board of Adjustments and Appeals
Attendance Roster – Date: June 18, 2024

BOAA Members

****Must have (3) members for a quorum****

John Melton:	
Michael Mick:	
Eloy Ricardo:	
Jonathan Walsh:	
Vacant	

Staff Members

James French
Deputy Department Head, GMCD

Ronald Tomasko
Assistant County Attorney

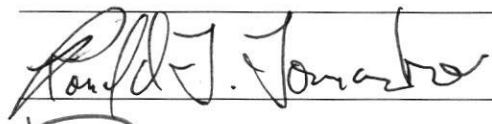
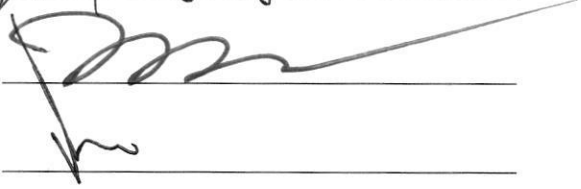



Fred Clum
Chief Building Official, Secretary

Doug Sposito
Deputy Building Official

Rich Long
Director, Building Plan Review & Insp.

Marlene Serrano
Staff Liaison

Anisley SanRoman
Operations Support

Board of Adjustments and Appeals

DATE: _____

APPLICANT'S NAME: _____

ADDRESS: _____

TELEPHONE #: _____

EMAIL ADDRESS: _____

IN ACCORDANCE WITH PROVISIONS OF THE COLLIER COUNTY CODE OF LAWS AND ORDINANCES, 2009-31 "BUILDING BOARD OF ADJUSTMENTS AND APPEALS" ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS, I HEREBY APPEAL TO THE BOARD OF ADJUSTMENTS AND APPEALS FOR:

DESCRIPTION OF APPEAL:

PETITIONER MUST PROVIDE SPECIFIC CODE ARTICLES AND/OR STATUTORY PROVISION, RULE OR ORDER SEEKING INTERPRETATION AND APPLICATION OF FLORIDA BUILDING CODE 8TH EDITION. APPLICATION, PAYMENT, AND ALL MATERIALS MUST BE SUBMITTED NO LESS THAN 15 DAYS PRIOR TO A MEETING FOR THE APPEAL TO BE ADDED TO THE NEXT AVAILABLE AGENDA.

PETITIONER'S NAME PRINTED

PETITIONER'S SIGNATURE

FEE: \$250 CHECKS PAYABLE TO "BOARD OF COUNTY COMMISSIONERS"

STAFF USE ONLY

DOCUMENTATION REVIEW:

APPROVED:

MEETING DATE: _____

(TO BE ESTABLISHED BY THE STAFF LIAISON OF THE BOARD OF ADJUSTMENTS AND APPEALS)

**RULES OF PROCEDURE OF
THE BUILDING BOARD OF ADJUSTMENTS AND APPEALS
OF COLLIER COUNTY, FLORIDA**

These rules were approved by the Building Board of
Adjustment and Appeals on:

As Presented

As Amended

**Collier County Board of Adjustment
and Appeals**

Chairman,

Table of Contents

DEFINITIONS	3
RULE 1 – DUTIES	3
RULE 2 – ORDER OF BUSINESS; CONDUCT OF HEARINGS.....	4
RULE 3 – HEARINGS OF THE BOARD OF ADJUSTMENTS AND APPEALS	4
RULE 4 – PUBLIC NOTICE OF HEARINGS.....	4
RULE 5 – AGENDA.....	4
RULE 6 – ATTENDANCE OF MEMBERS OF THE BOARD AT HEARINGS; QUORUMS	5
RULE 7 – VOTING PROCEDURES	5
RULE 8 – RECORD KEEPING	5
RULE 9 – MINUTES OF BOARD HEARINGS.....	6
RULE 10 – CONDUCT DURING HEARINGS.....	6
RULE 11 – CHANGE OR SUSPENSION OF RULES.....	6
RULE 12 – RULES OF ORDER	7
RULE 13 – STANDARDS OF CONDUCT-ATTENDEES	7
RULE 14 – APPEALS AND APPLICATIONS TO THE BOARD OF ADJUSTMENTS AND APPEALS	7
RULE 15 – ORDER OF PROCEEDING.....	8
RULE 16 – FLORIDA SUNSHINE LAW.....	9
RULE 17 – STANDARDS OF CONDUCT-BOARD MEMBERS.....	9

RULES OF PROCEDURE OF THE BUILDING BOARD OF ADJUSTMENTS AND APPEALS OF COLLIER COUNTY, FLORIDA

These rules shall govern the procedure of the Board of Adjustments and Appeals of Collier County, Florida.

DEFINITIONS

“Agenda” includes but is not limited to a general statement of the major issues expected to be discussed at a public hearing or meeting, as well as a statement of intent to hold an executive session and the specific ground or grounds therefor.

“Building Board of Adjustments and Appeals” or **“Board”** means the Building Board of Adjustments and Appeals of Collier County Florida.

“Chairman” means the Chairman of the Board of Adjustments and Appeals.

“County” means Collier County, Florida, unless otherwise specified.

“Hearing” means the formal or informal gathering of a quorum of the members of the Building Board of Adjustments and Appeals for the purpose of discussion or taking action on public business.

“Presiding Officer” means the Chairman of the Board of Adjustments and Appeals, or such other person who presides over the meetings of the Board of Adjustments and Appeals, pursuant to the Rules of the Board of Adjustments and Appeals.

“Public business” means any matter over which the Building Board of Adjustments and Appeals has supervision, control, jurisdiction or advisory power.

“Secretary” means the Secretary of the Board of Adjustments and Appeals.

RULE 1 – DUTIES

- 1.1 The Chairman shall preside at all hearings or meetings of the Board, decide all points of order or procedure, and perform all duties required by law or these rules.
- 1.2 The Building Department shall conduct, at the discretion of the Board, all official correspondence of the Board, send out all notices required by law and by these Rules of Procedure, keep records of each examination of other official action of the Board and perform all duties required by law and these Rules of Procedure.
- 1.3 In the absence of the Chairman, the presiding officer, with all powers and duties of the Chairman enumerated herein, shall be the Vice-Chairman as elected from its membership by a majority vote of all of the members of the Building Board of Adjustments and Appeals. In the absence of the Vice Chairman, the presiding officer, shall be such other member of the Building Board of Adjustments and Appeals as is elected by a majority vote of the members of the Building Board of Adjustments and Appeals present.

- 1.4 At each first meeting annually, the Board shall select members to serve as Chairman and Vice Chairman.
- 1.5 The Building Official shall act as Secretary of the Board. The secretary shall perform those duties as set forth in Art. 8 Div. 22 Sec. 2-1185 (b) of the Collier County Ordinances and shall supervise the clerical work of the Board.

RULE 2 – ORDER OF BUSINESS; CONDUCT OF HEARINGS

- 2.1 The of business at each hearing of the Building Board of Adjustments and Appeals shall be as follows:
- I. Call to Order
 - II. Roll Call of Members
 - III. Adoption of the Minutes
 - IV. Additions and Revisions to Agenda
 - V. Adoption of Agenda
 - VI. New Business
 - VII. Adjournment

RULE 3 – HEARINGS OF THE BOARD OF ADJUSTMENTS AND APPEALS

- 3.1 Regular hearings shall be held in room 609/610 located in the Collier County Growth Management Building or such other location as designated by majority vote of all the members of the Board.
- 3.2 **Regular hearings shall convene at a Time and Day**
- 3.3 All hearings shall be open to the public.
- 3.4 Minutes of all hearings shall be kept and made available for public inspection. At a minimum, the minutes shall include the notice of appeal, an agenda, a record of attendance, and a record by individual members of the Board of each vote taken.

RULE 4 – PUBLIC NOTICE OF HEARINGS

- 4.1 Public notice of all hearings shall be posted in the County Administrative Building on the Administration's main public bulletin board, and on the official Collier County website.
- 4.2 Public notice of hearings shall be mailed to an appellant or applicant (or attorney or agent of the appellant or applicant) at least ten (10) calendar days before the date of the hearing.

RULE 5 – AGENDA

- 5.1 The agenda for the Board hearings shall be available to members of the Board at least one week prior to the scheduled hearing.

- 5.2 The Secretary shall be responsible for the preparation and contents of the agenda. Any member of the Board may place items on the agenda by contacting the Building Official, either verbally or in writing, prior to the posting of the agenda.
- 5.3 Items which arise at the time of the Board’s hearing may be added to the agenda, and items may be deleted from the agenda, by a majority vote of all the members of the Board present.

RULE 6 – ATTENDANCE OF MEMBERS OF THE BOARD AT HEARINGS; QUORUMS

- 6.1 Members of the Board shall not be absent from scheduled hearings or from other official duties without cause. When unable to attend a scheduled hearing, a member of the Board shall be responsible for notifying one of the following: The Building Official, another Board member, or a staff member of the Building and Permitting Department.
- 6.2 A member shall be removed from the Board prior to the end of their terms only for cause. Any member with continued absence from the regular meeting of the Board may be removed by majority vote of the Board present.
- 6.3 The presence of no less than three (3) members of the Board shall constitute a quorum.
- 6.4 When a quorum is not present at any properly called hearing, the members of the Board present may adjourn the hearing.
- 6.5 If no members of the Board are present, any staff member of the Building and Permitting Department may adjourn the hearing.
- 6.6 Three (3) affirmative votes shall be required to modify or reverse any decision, ruling or determination of an official charged with enforcement of the Florida Building Code or the Collier County Code of Ordinances. Failure to receive three (3) affirmative votes shall be deemed to disapprove the matter.
- 6.7 Any other matter may be decided by majority vote of the Board members present. A tie vote is a lost vote since it is not a majority.
- 6.8 The burden of proof in any proceeding initiated in accordance with these rules is on the party who initiated the appeal.
- 6.9 The building official shall take immediate action in accordance with the decision of the board.

RULE 7 – VOTING PROCEDURES

- 7.1 On each motion duly made and seconded, the presiding officer shall call the roll or determine the vote in some other manner and announce the results.
- 7.2 A written record shall be made by the Clerk of the vote by each member of the Board on each vote taken. Said record shall reflect the number of “aye” votes, the number of “nay” votes and the number of “abstaining” votes.

RULE 8 – RECORD KEEPING

- 8.1 A file shall be kept in the Building and Permitting Department of all Board Hearings. The file

shall include copies of hearing notices (including the time, date, and place where they were posted), the agenda, and the minutes of the hearing.

RULE 9 – MINUTES OF BOARD HEARINGS

- 9.1 Minutes shall be taken of each hearing of the Board and shall reflect the following:
- a. Kind of hearing.
 - b. Date, place, and time of hearing.
 - c. Name of the presiding officer.
 - d. Members of the Board present.
 - e. The proceedings of the Board briefly and accurately stated. The minutes shall record what was done rather than what was said. However, a member of the Board may request that a statement or written material be attached to the minutes and made part thereof.
 - f. All motions voted upon and the results of said motions.
 - g. Names of members of the Board making motions and those making secondary motions.
 - h. A record by individual members of the Board, of each vote taken and action agreed upon.
 - i. Time of convention and adjournment.
- 9.2 Minutes shall be taken and prepared by the Clerk of Courts and presented by a staff member of the Building and Permitting Department in written form, for approval as written or amended. The minutes as approved by the Board shall be kept with the appeal file. Copies of the approved minutes shall be made available to the general public, except as otherwise authorized by law.

RULE 10 – CONDUCT DURING HEARINGS

- 10.1 When a member of the Board desires to speak, that member shall address the presiding officer and shall not proceed until recognized and granted the privilege of the floor. The presiding officer shall recognize the member of the Board who is the first to address the presiding officer.
- 10.2 No member of the Board shall interrupt another in debate without the consent of the other. To obtain such consent, the member shall first address the presiding officer.
- 10.3 If any member of the Board, in speaking or otherwise, transgresses the Rules of the Board of Adjustments and Appeals, the presiding officer shall, or any member of the Board may, call the errant member to order. When a member shall be called to order, that member shall not proceed without the permission of the presiding officer.

RULE 11 – CHANGE OR SUSPENSION OF RULES

- 11.1 Any rule of the Board may be changed or suspended by the approval of a majority of all of the members of the Board.

RULE 12 – RULES OF ORDER

- 12.1 These rules have been established to provide an orderly procedure for matters coming before the Board. However, these rules shall be interpreted and applied to afford substantial justice and to promote a fair but efficient hearing procedure. Consequently, strict adherence to these rules shall not be required but the Board may modify and digress from these rules for reasonable cause as the situation may demand. In the event that any rule herein contradicts State Law or County Ordinance, such rule shall be construed in compliance with such statute or ordinance. In the event that any of the foregoing rules is declared illegal or unenforceable by any court of competent jurisdiction, the balance hereof shall remain in full force and effect.
- 12.2 All rules of parliamentary procedure not covered or provided for by the RULES OF PROCEDURE OF THE BUILDING BOARD OF ADJUSTMENTS AND APPEALS OF COLLIER COUNTY, FLORIDA, or by the laws of the State of Florida, shall be decided in accordance with Roberts Rules of Order.

RULE 13 – STANDARDS OF CONDUCT-ATTENDEES

- 13.1 Persons attending Building Board of Adjustments and Appeals hearings shall observe appropriate dress standards and standards of conduct. Attire that may distract from the proceedings shall not be permitted.
- 13.2 Persons attending Building Board of Adjustments and Appeals hearings may wear one (1) “cause supporting sign” affixed to their clothing. The size of such “sign” may not exceed three (3) inches by five (5) inches. Signs offensive to the members of the Board or to participants, and signs that may distract from the proceedings shall not be permitted. No placards shall be permitted at any meeting of the Board of Adjustments and Appeals.
- 13.3 The County Administrator may, from time to time, prescribe by policy reasonable and appropriate attire and conduct for persons attending hearings of the Board of Adjustments and Appeals.
- 13.4 Members of the news media shall conduct themselves in such a manner as to not be disruptive of the proceedings of the Board of Adjustments and Appeals.
- 13.5 Persons attending Building Board of Adjustments and Appeals hearings shall at all times conduct themselves in an orderly manner and follow the direction of the presiding officer. Growth Management Department Security personnel or other person designated by the presiding officer shall be responsible for ensuring that reasonable and appropriate dress standards and standards of conduct are observed at meetings of the Board of Adjustments and Appeals.
- 13.6 No applause or other disruptive behavior shall be permitted. All cellular phones, pagers, and other electronic devices which emit noise shall be turned off or placed on silent mode for the duration of the hearing.

RULE 14 – APPEALS AND APPLICATIONS TO THE BOARD OF ADJUSTMENTS AND APPEALS

- 14.1 Appeals and applications to the Board, as permitted by State Law and County Ordinances, shall be submitted to the Building Official in writing and shall be accompanied with the proper fee. Appeals and applications shall be signed by any person authorized by law to make such an appeal or application, or an agent or an attorney of such person.
- 14.2 All appeals and applications to the Board shall state the nature of what is being appealed and the reasons for requesting an appeal hearing.
- 14.3 All communication and correspondence with the Board shall be submitted through the Building Department. Telephone, email, verbal, or written communication to an individual Board member regarding a case is prohibited.
- 14.4 A completed application form, along with all the applicants supporting documentation shall be submitted to the Building Official who, without modification will attach the disputed interpretation and any supporting documentation for that interpretation. The combined documents will be considered a complete application.
- 14.5 Appellants/Applicants shall be required to submit to the Building Official their exhibits and other supporting materials with the application for appeal, a minimum of fifteen (15) calendar days prior to the hearing. No new documents or exhibits may be introduced at the meeting.
- 14.6 Appeals and applications shall not be amended after public notice of the appeal hearing has been posted.
- 14.7 During the presentation of an appeal or application to the Board, persons addressing the Board shall identify themselves by name and place of residence.
- 14.8 Following a decision by the Board on an appeal or application, a copy of the written decision shall be sent to the appellant or applicant, or the agent or attorney for the appellant.
- 14.9 The Board may impose conditions with respect to the granting of an application or appeal pursuant to the Florida Building Code and/or Collier County Code of Ordinances. Whenever such condition is imposed by the Board, the condition should be stated in the decision of the Board. Such decision shall remain valid only as long as the condition(s) imposed by the Board are adhered to.

RULE 15 – ORDER OF PROCEEDING

- 15.1 The order of presentation shall generally be as follows subject to modification by the Chairman for reasonable grounds.
- 15.2 The Secretary shall identify the application number, the governing code and /or code section, the name of the filing party, and the general nature of the appeal.
- 15.3 The Applicant / Appellant will be afforded fifteen (15) minutes to explain their evidence supporting the application. The Applicant / Appellant may appear with or without legal counsel.
- 15.4 Upon the conclusion of each witness' initial statement, members of the Board or the Secretary

shall have an opportunity to ask questions of the Applicant / Appellant and its witnesses and counsel.

- 15.5 After the Applicant / Appellant has presented their petition to the Board, the Building Official, or the Building Official delegate may choose to explain and/or provide justification for the Interpretation.
- 15.6 Before a final ruling, the presiding officer shall grant any persons desiring to make a statement either in support or opposition of the application an opportunity to do so. Any persons desiring to make such a statement shall identify themselves by name and address. Such statements will be limited to three (3) minutes.
- 15.7 Upon conclusion of all evidence and public statements, if applicable, the Applicant / Appellant shall be given three (3) minutes for any closing statements.
- 15.8 The Board shall have the authority to set reasonable time limits on all parties and speakers appearing before it.
- 15.9 The presiding officer shall have the authority to terminate or limit any statements or questioning which is irrelevant or unduly repetitive or provocative.

RULE 16 – FLORIDA SUNSHINE LAW

- 16.1 All procedures of the Building Board of Adjustments and Appeals shall comply with the Florida Sunshine Law, as contained in section FS 286.011 Florida Code, as amended. To the extent that any provision herein shall conflict with the provisions of the Standards of Conduct, as set forth in Collier County Ordinance, the more restrictive provision shall apply.

RULE 17 – STANDARDS OF CONDUCT-BOARD MEMBERS

- 17.1 Members of the Building Board of Adjustments and Appeals shall be subject to the Collier County Public Servants Standards of Conduct, as set forth in Collier County ORD. Chap. 2 ART. X Sec. 2-2056