

MINUTES OF THE BUILDING BOARD OF ADJUSTMENTS AND
APPEALS MEETING

Naples, Florida, June 18, 2024

LET IT BE REMEMBERED, the Building Board of Adjustments and Appeals in and for the County of Collier, having conducted business herein, met on this date at 9:00 A.M. in REGULAR SESSION at the Growth Management Department Building, 2800 North Horseshoe Drive, Naples Florida with the following members present:

CHAIRMAN:	Jonathan Walsh
VICE-CHAIRMAN:	John Melton
	Michael Mick
	Eloy Ricardo (Excused)

ALSO PRESENT: Richard Long, Director, Building Plan Review & Inspections
Ronald Tomasko, Assistant County Attorney
Fred Clum, Chief Building Official, Board Secretary
Doug Sposito, Deputy Building Official
Marlene Serrano, Manager, Plan Review & Inspections, Staff Liaison
Anisley SanRoman, Planning & Permitting Tech I, Operations Support

Any persons in need of the verbatim record of the meeting may request a copy of the audio recording from the Collier County Growth Management Community Development Department.

I. Call to Order

II. Roll Call (Determination of Quorum)

Mr. Sposito called the meeting to order at 9:00 a.m. Roll call was taken and a quorum of three was established.

A. Annual Election of Officers

Mr. Sposito asked for a motion to nominate and elect a chairman, at which point the meeting would be turned over to the newly elected chair for nomination and election of a vice-chairman.

Mr. Melton nominated Jonathan Walsh to serve as chairman. Seconded by Michael Mick. The motion passed unanimously, 3-0.

Mr. Walsh asked staff if the chairman could appoint a vice-chair.

Mr. Sposito stated the rules of the board required for the election of a vice-chair.

Mr. Walsh nominated John Melton to serve as vice-chair. Seconded by Michael Mick. The motion passed unanimously, 3-0.

III. Approval of Minutes

Mr. Sposito explained the minutes from the last meeting in 2019 were already approved. Staff was looking for a motion that would allow for approval of the meeting minutes by the chairman in the event there is no future scheduled meeting date.

Mr. Walsh moved to allow the chairman or vice-chairman, in case the chairman is not available, to approve and sign meeting minutes in the event there is no future scheduled meeting date. Seconded by John Melton. The motion passed unanimously, 3-0.

IV. Additions and Revisions to the Agenda

Mr. Walsh asked if anyone had any revisions or additions to the agenda. There having been no additions or revisions from members or staff Mr. Walsh continued.

V. Adoption of Agenda

Mr. Walsh moved to approve the agenda. Seconded by John Melton. The motion passed unanimously, 3-0.

VI. New Business

A. Review/Approval of Building Board of Adjustments and Appeals Rules

Mr. Walsh stated he believed the rules had been taken right out of the ordinance which established the Building Board of Adjustments and Appeals (BOAA or Board).

Mr. Sposito replied that the ordinance which created the board and was adopted by the Collier County Board of Commissioners, allows for the board to create it's own rules. He also pointed out that the ordinance makes the Chief Building Official the secretary for this board.

Mr. Walsh questioned if they wanted to keep the secretary as the building official or if they wanted to include language that allowed for county staff, the deputy building official, or an appointee to fill in as secretary during the meetings as the rules do not define it.

Mr. Sposito stated that they could not change the ordinance which established the Chief Building Official as the secretary and did not specifically state it allows for a designee. The Secretary does have the right to have staff assist but ultimately the secretarial responsibilities remain with the Chief Building Official.

Mr. Tomasko informed the board and staff that it didn't matter as the rules also allow for the board to suspend its own rules in any given situation for that particular issue.

- It was also pointed out that at any meeting where the rules needed to be suspended, it would have to be noted that a specific rule was being suspended and an appointment would have to be made.

The following points were also made during a discussion of what the board could do in the event of an unruly individual:

- Appellants must conduct themselves in an orderly fashion.
- The board has the authority to run the meeting as they determine to be appropriate.
- Rule 13.6 says no disruptive behavior is allowed.
- If the board determines that there is disruptive behavior from an individual, they can have security remove the said individual.
- Rule 15.8 gives the board the authority to set reasonable time limits

Mr. Melton asked if there were currently any applications filed and the following points were made:

- There are two application requests that have not been returned to staff.
- The application is a very simple one-page document.
- Mr. Sposito explained the application process and the required documents that need to be attached.
- The approved appeal application with supporting documents is then sent to the members before the meeting for review.
- Additional documents may not be presented on the day of the meeting unless the board allows for it.
- Mr. Sposito also explained the hearing process during the meeting which are outlined in the rules.
- Mr. Walsh asked if there is a list of what is considered an acceptable application submittal.
- Mr. Sposito stated there is not and he would recommend there not be one to accommodate for individuals' ability to articulate verbally or in writing.

- The actual application can be simple as there should still be a hearing process with backup documentation.
- The fee to file an application is \$250.00
- There is one application submitted but the fee has not been paid and is not considered complete.
- The completed application, which includes the fee, must be submitted 15 days before the next meeting.

Mr. Walsh asked how the meetings would be scheduled and the following points were made:

- The board rules do not outline a specific date and time due to scheduling issues.
- Once staff has a set date and time for consistent meetings they will come back for an amendment to the rules.
- Once a date and time are set, if no application is received by the 15-day deadline a notice of meeting cancellation will be sent out.

Mr. Mick asked if the board could decide not to hear an appeal after review of the application.

The following points were made:

- Mr. Tomasko stated that rule 6.8 would allow for a vote to dismiss an appeal if they feel that the application is not adequate or sets forth a basis to reverse the building official's decision.
- The vote to dismiss would have to be at a public meeting.
- It may be that an appeal does not make sense in writing but when articulated verbally it does.
- If the board does not hear an applicant within 25 days, they go appeal directly to the state.
- If the board upholds the building official's determination, the appellant can still appeal to the state.
- If the appellant loses at both the county and state level, they can still sue in the circuit court.
- The application was shared with the board members and was explained.
- Appeals can be carried forward into future meetings if more time or information is needed by the board.
- If an appeal is carried forward into a future meeting, the building official's decision will stand until overturned by the board.
- Overturning an interpretation from the building official requires 3 votes in favor of overturning.

Mr. Walsh asked about the current board roster and was informed that there is one vacancy, but staff has chosen an applicant, and their confirmation is set to go before the Collier County Board of Commissioners on Tuesday, June 25th.

Mr. Walsh motioned to approve the rules as written and discussed. Second by Michael Mick. The motion passed unanimously, 3-0.

B. Ethics/Sunshine Law Presentation

A video presentation entitled "Sunshine Law, Public Records and Ethics Law" was shown. The video is available to the public on the Collier County website on the "Sunshine Law Presentation Guide" page.

Mr. Melton asked the Assistant County Attorney if public records requests would or might come to the board members or if they all went through the County Attorney's Office first. Mr. Tomasko informed the board that it is possible that they could personally get public record requests, but they should always communicate them to the staff liaison so that staff can work with the County Attorney's office to complete them

VII. Adjourn

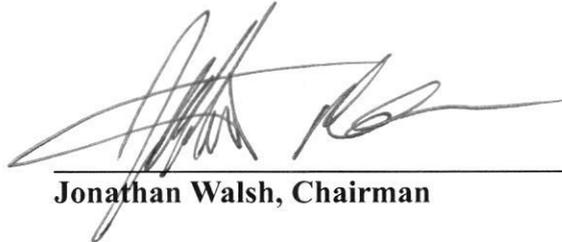
Next Meeting Date:

9:00 a.m. July 18th, 2024

Mr. Walsh made a motion to adjourn the meeting. Second by John Melton. The motion passed unanimously, 3-0.

There being no further business for the good of the County, the meeting was adjourned by the order of the chairman at 9:47 a.m.

**COLLIER COUNTY BUILDING BOARD OF
ADJUSTMENTS AND APPEALS**



Jonathan Walsh, Chairman

These minutes were approved by the Board/Chairman on 7/18/2024,
as presented , or as amended _____.