

**AGENDA  
CITY OF STURGEON BAY  
ZONING BOARD OF APPEALS**

Tuesday, July 14, 2020  
12:00 Noon  
Council Chambers, City Hall  
421 Michigan Street

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from May 26, 2020.
4. Public hearing:       Petition from Brian Hesprich to modify the northerly lot line creating a lot width of 66 feet measured at the front yard setback line, located at 526 N Hudson Avenue.
5. Consideration of:    Petition from Brian Hesprich to modify the northerly lot line creating a lot width of 66 feet measured at the front yard setback line, located at 526 N Hudson Avenue.
6. Consideration of:    Rules of Procedure.
7. Adjourn.

*NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.*

ZBA Board Members  
William Murrock, Chair  
Dave Augustson  
Wayne Spritka  
Bill Chaudoir  
Nancy Schopf  
Morgan Rusnak, 1<sup>st</sup> Alternate

7/9/20  
3:00 p.m.  
CN

ZONING BOARD OF APPEALS  
Tuesday, May 26, 2020

The City of Sturgeon Bay Zoning Board of Appeals meeting was called to order at 12:00 Noon by Chairperson William Murrock in the Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members William Murrock, Nancy Schopf, Dave Augustson, Bill Chaudoir, and Alternate Morgan Rusnak were present. Mr. Chaudoir appeared virtually via Zoom. Excused: Member Wayne Spritka. Also present were Community Development Director Marty Olejniczak, Planner/Zoning Administrator Chris Sullivan-Robinson, and Community Development Secretary Cheryl Nault.

**Adoption of agenda:** Moved by Mr. Augustson, seconded by Ms. Rusnak to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from February 25, 2020.
4. Public hearing: Petition from Robert Jennerjohn to construct a deck that would encroach 8 feet into the street right-of-way setback, located at 425 Quincy Street.
5. Consideration of: Petition from Robert Jennerjohn to construct a deck that would encroach 8 feet into the street right-of-way setback, located at 425 Quincy Street.
6. Election of officers.
7. Adjourn.

Carried.

**Approval of minutes from Tuesday, February 25, 2020:** Moved by Ms. Schopf, seconded by Ms. Rusnak to approve the minutes from February 25, 2020. All ayes. Carried.

**Public hearing: Petition from Robert Jennerjohn to construct a deck that would encroach 8 feet into the street right-of-way setback, located at 425 Quincy Street:** Chairperson Murrock opened the public hearing at 12:03 p.m.

Robert Jennerjohn, 4981 Bechtel Road, explained that he owns the rental property at 425 Quincy Street. He intends to build a detached garage, which has no zoning issues. But, he also wants to build a deck in front of his house that would encroach 8 feet into the street right-of-way setback. There are several other houses in the neighborhood that are built close to the street. A deck would improve the aesthetics of the home. His sidewalk is crumbling and plans to replace it. The deck will be constructed with composite material with railings and two steps. The existing concrete steps would be removed. There would be no roof over the deck.

Mr. Sullivan-Robinson pointed out on the site plan that there are several other properties on the same block that encroach the setback. The deck would be pretty much in line with the other homes. There would be no negative impacts to the City.

Mr. Olejniczak added that originally all residential districts had to be 25 feet from the setback for everything. Approximately 15 years ago the City changed the setback from 25 feet to 17 feet for unenclosed decks and porches in the older parts of the City. Most of the buildings were non-conforming and changing the setback was appropriate from an aesthetic standpoint. If this request would get approved, Mr. Jennerjohn would not be able to enclose the deck.

No one spoke in favor of the request. There were no letters of correspondence in favor.

Wendy Bolduc, 415 Quincy Street, spoke against the variance request. She said there was room in the back of the house to build a deck and there was no reason to put it on the front of the house. She also complained about past and present tenants.

There were no letters of correspondence in opposition.

Chairperson Murrock offered rebuttal testimony.

Mr. Jennerjohn stated that when he retires in about 6 or 7 years, he would like to move into the house and become a permanent resident of the City. He felt that the deck placed on the front of the house would improve the aesthetics. The back of the house needs some remodeling and he has plans to do that in the future. A 6-foot deck seemed too small. His plans are to build the garage sometime this year.

Mr. Augustson added that the distance between the deck and the sidewalk would be 9' 6".

Ms. Bolduc repeated that there is still room for a deck and a garage in the back of the house depending where the garage is located.

Chairperson Murrock closed the public hearing at 12:23 p.m.

**Consideration of: Petition from Robert Jennerjohn to construct a deck that would encroach 8 feet into the street right-of-way setback, located at 425 Quincy Street:** The Board discussed the variance request. Moved by Ms. Schopf, seconded by Mr. Murrock to approve the variance request. The deck would improve the appearance of the house and the neighborhood. It matches a lot of the older homes in the neighborhood. Driving within a five block radius in this area will find that every street has 40-50% of the homes with front porches are 3 - 4 feet from the sidewalk. Mr. Jennerjohn's intention is to move into the house in the future.

Roll call vote: All ayes. Carried.

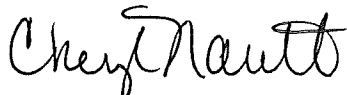
**Election of officers:** Mr. Murrock nominated Mr. Chaudoir for vice-chair. There were no other nominations. All ayes. Carried.

Mr. Olejniczak presented an option for election of secretary. The ZBA Rules of Procedure dates back to the 1960's when the secretary actually signed letters, sent mailings, etc. Currently, the City has staff that takes care of performing those duties. The only functions of the secretary is to read the public hearing notice at each meeting and perform roll call. The Rules of Procedure could be changed to no longer have a secretary and have the Zoning Administrator or Community Development Secretary be the secretary of the ZBA as well. The Rules of Procedure would have to be amended at the next meeting and recommended to Council.

Moved by Mr. Chaudoir, seconded by Mr. Augustson to hold off on election of secretary and direct staff to come back to the next meeting with a change to the Rules of Procedure. All ayes. Carried.

**Adjourn:** Moved by Mr. Augustson, seconded by Ms. Schopf to adjourn. Carried. Meeting adjourned at 12:29 p.m.

Respectfully submitted,



Cheryl Nault  
Community Development Secretary

**CITY OF STURGEON BAY  
VARIANCE APPLICATION  
ZONING BOARD OF APPEALS**

Date Received:	<u>6/3/20</u>
Fee Paid	\$ <u>300 + 50 signider</u>
Received By:	<u>CN</u>

	APPLICANT/AGENT	LEGAL PROPERTY OWNER (if different)
Name	Brian B & Lori J. Hesprich	Brian B & Lori J Hesprich Trust
Company		
Street Address	526 N. Hudson Ave	
City/State/Zip	Sturgeon Bay, WI 54235	
Daytime Telephone No.	(920) 680-8231	
Fax No.		
STREET ADDRESS OF SUBJECT PROPERTY: <u>526 N. Hudson Ave.</u> Location if not assigned a common address: <u>Sturgeon Bay WI</u>		
TAX PARCEL NUMBER: <u>2816 455 000 301</u>		
CURRENT ZONING CLASSIFICATION: <u>R-2</u>		
CURRENT USE AND IMPROVEMENTS: <u>Single Family Dwelling Detached Building</u>		
IDENTIFY MUNICIPAL CODE SECTION PERTINENT TO REQUEST AND STATEMENT OF SPECIFIC ITEM BEING REQUESTED FOR REVIEW: <u>20.27 Height and area regulations</u>		
ZONING AND USES OF ADJACENT SURROUNDING PROPERTIES: North: <u>R-2</u> South: <u>R-2</u> East: <u>N/A</u> West: <u>R-1</u>		

**VARIANCE STANDARDS**

Please address how the proposed variance meets each of the three required standards for authorizing variances. (Attach additional sheets, if necessary)

1. Unnecessary hardship: There is currently a lot line discrepancy with the neighbor to the north which we would like to resolve.
2. Unique physical property limitation: The property is undersized with non-uniform lot lines.
3. Protection of public interest: This fixes an issue between neighbors and has no negative impact on surrounding properties.

HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? No IF YES, EXPLAIN: \_\_\_\_\_

Attach an 8-1/2" X 11" detailed site plan (if site plan is larger than 8-1/2" x 11", also include 15 large sized copies), full legal description (preferably on disk), 8-1/2 x 11" location map, construction plans for the proposed project, and Agreement for Reimbursement of expenses. Site plan shall include dimensions of property, pertinent structures and buildings, proposed site improvements, signature of person who drew plan, etc.

Brian B. Hesprich  
Property Owner (Print Name)

Brian B. Hesprich  
Signature

6/3/20  
Date

Brian B. Hesprich  
Applicant/Agent (Print Name)

Brian B. Hesprich  
Signature

6/3/20  
Date

I, Brian B. Hesprich, have attended a review meeting with at least one member of staff and understand that I am responsible for sign placement and following all stages listed on the check list in regard to the applicant.

\_\_\_\_\_  
Date of review meeting

B B Hesprich  
Applicant Signature

\_\_\_\_\_  
Staff Signature

**Attachments:**

Procedure & Check List

Agreement For Reimbursement of Expenses

**STAFF USE ONLY**

Application conditions of approval or denial:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Community Development Director

# SITE PLAN

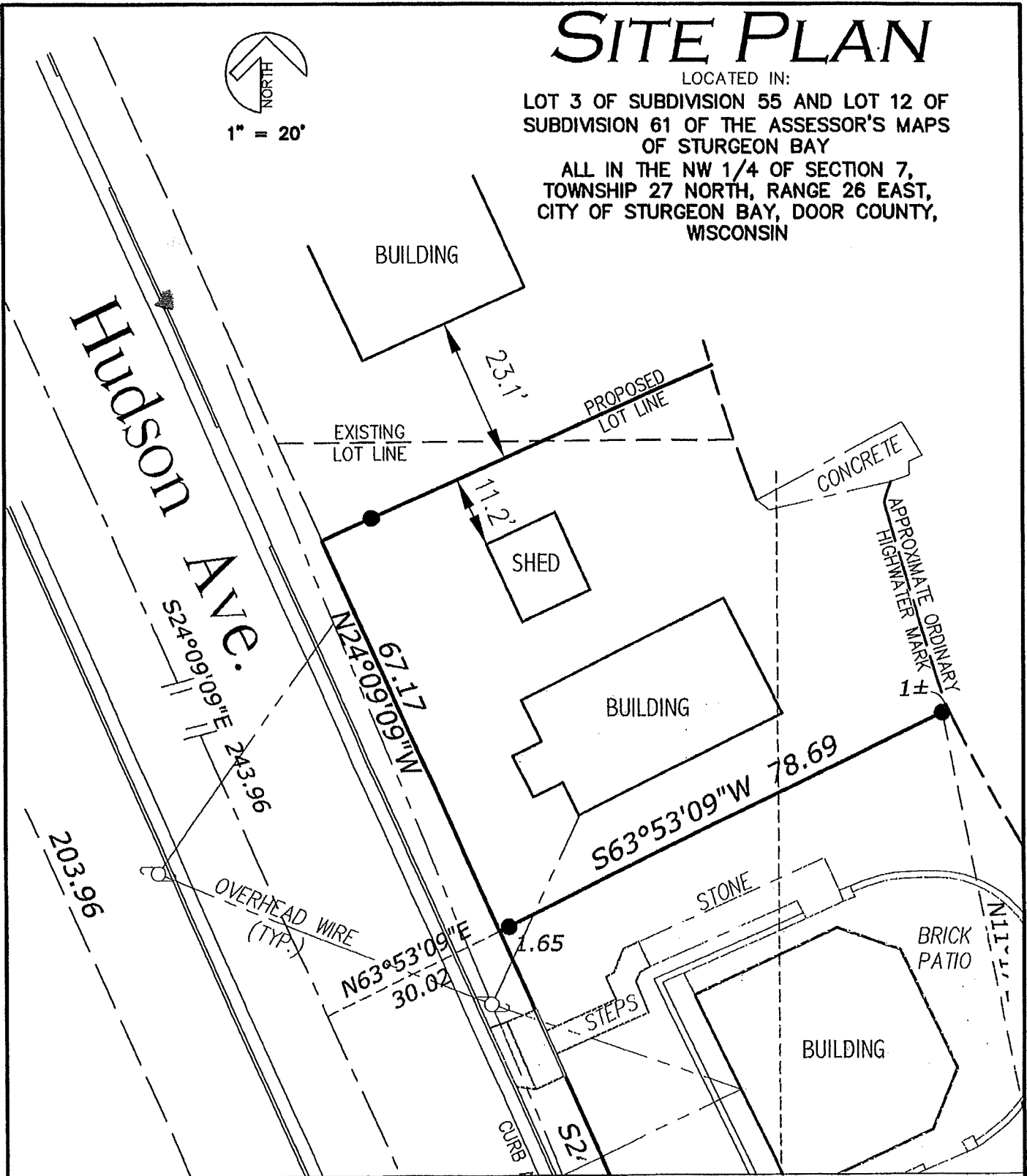
LOCATED IN:

LOT 3 OF SUBDIVISION 55 AND LOT 12 OF  
SUBDIVISION 61 OF THE ASSESSOR'S MAPS  
OF STURGEON BAY

ALL IN THE NW 1/4 OF SECTION 7,  
TOWNSHIP 27 NORTH, RANGE 26 EAST,  
CITY OF STURGEON BAY, DOOR COUNTY,  
WISCONSIN



1" = 20'



## NOTICE OF PUBLIC HEARING

The City of Sturgeon Bay Zoning Board of Appeals will hold a public hearing in the Council Chambers, 421 Michigan Street, Sturgeon Bay, Wisconsin on Tuesday, July 14, 2020, at 12:00 noon or shortly thereafter, regarding a variance request from Brian Hesprich from section 20.27 of the Municipal Code (Zoning Code), which requires R-2 residential lots with existing dwellings to maintain a minimum 70-foot lot width. The request is to modify the northerly lot line to a width of 66 feet measured at the setback line. The subject property is located at 526 N Hudson Ave, tax parcel 281-64-55000301. The variance application is on file with the Community Development Department and can be viewed at City Hall, 421 Michigan Street weekdays between 8:00 a.m. and 4:30 p.m. The public is invited to attend the hearing and give testimony in favor or against the proposed variance either in person at the hearing or in writing.

By order of:  
City of Sturgeon Bay Zoning Board of Appeals



# LOCATION MAP PUBLIC HEARING - HESPRICH VARIANCE REQUEST



 Subject Property





(DRAFT REVISIONS 07/09/20)

**RULES OF PROCEDURE**  
**62.23(7)(e)(3)**  
**BOARD OF ZONING APPEALS**  
**CITY OF STURGEON BAY, WISCONSIN**

**SECTION 1. GENERAL GOVERNING RULES.**

The Board of Zoning Appeals of the City of Sturgeon Bay, Wisconsin, shall be governed by the zoning law as contained in s. 62.23 of the Wisconsin Statutes and the zoning ordinances of the City of Sturgeon Bay, as amended, and by the rules of procedure hereinafter set forth. Whenever any conflict shall exist between these rules and the laws of the state or ordinances of the City, the state laws and local ordinances shall prevail.

**SECTION 2. OFFICERS AND DUTIES.**

- A. Selection of Officers. The Chair of the Board shall be appointed by the mayor. At the first meeting of the Board after May 1, the Board shall elect one of its members as Vice-Chair, and another as Secretary.
- B. Duties of the Chair. The duties of the Chair shall be:
- (1) To preside at all meetings of the Board;
  - (2) To decide all points of procedure, unless otherwise directed by a majority vote of the board; and
  - (3) To supervise the work of the ~~Secretary~~ Zoning Administrator.
- C. Duties of the Vice-Chair. The Vice-Chair shall perform the duties of the Chair whenever the Chair is absent from a meeting or has relinquished the Chair due to a conflict of interest.
- D. Duties of the ~~Secretary~~ Zoning Administrator. The ~~Secretary~~ Zoning Administrator shall, in conjunction with other City staff, coordinate the clerical work of the Board; shall read into the record all public hearing notices and written testimony; record the votes of all members; and shall review minutes prior to final acceptance.

**SECTION 3. Meetings.**

- A. Open to the Public. All meetings and hearings of the Board shall be open to the public, except as otherwise authorized under State law.
- B. Regular Meetings. Regular meetings will be held on the 2<sup>nd</sup> and 4<sup>th</sup> Monday of each month when there is business to conduct. Each member shall be provided with an agenda at least four days prior to each regular meeting.
- C. Special Meetings. Special meetings may be called by the Chair or by the ~~Secretary~~ at the request of 2 members. Notice of a special meeting must be mailed to each member at least 48 hours prior to the time set for the meeting, or announcement of the meeting must be

made at any meeting at which all members are present.

- D. Hearings. Hearings shall generally be held during regular meetings, but may be held at any special meeting at any time set by the Chair.
- E. Quorum. A quorum for any meeting or hearing shall consist of 3 members.
- F. Order of Business. The order of business at regular and special meetings shall be substantially as follows:
  - (1) Roll call
  - (2) Process Explanation
  - (3) Hearing of cases
  - (4) Unfinished business
  - (5) New business
  - (6) Communications and miscellaneous business
- G. Voting.
  - (1) Personal Interest. No Board member shall participate in the decision of, or vote upon any case in which he/she shall be financially interested, directly or indirectly, but the Chair shall direct the alternate member to act in his/her stead. Disqualification of a member for interest shall not decrease the number of votes required for action upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.
  - (2) Record of vote. The vote of each member on every question, or if the member is absent or fails to vote, shall be indicated in the minutes of the proceedings.

#### **SECTION 4. APPEALS AND APPLICATIONS.**

- A. Time of Appeal. Appeals must be filed within 30 days after the date of the decision or order of the officer from whom the appeal is taken. Saturdays, Sundays and Holidays shall be counted, except that if the last day falls on a Saturday, Sunday or legal Holiday, the time for filing shall be extended to the next business day. Applications for exceptions or public utility variances may be made directly to the Board.
- B. Who May Appeal. Appeals to the Board may be made by:
  - (1) Any person aggrieved by any decision of the administrative officer.
  - (2) Any officer, department, Board or bureau of the City affected by a decision of the administrative official other than such officer himself/herself.

- (3) The Board upon its own motion supported by the affirmative vote of at least 4 members may review any action of the Zoning Administrator or administrative official.
- C. Forms. Every appeal or application shall be made upon forms furnished by the ~~Secretary or City staff~~ Zoning Administrator, which have been approved by the Board. A scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the Chair or ~~Secretary~~ which is necessary to inform the Board of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application.
- D. Filing Appeal or Application. The appellant or applicant must file the required application or appeal form with the ~~Secretary of the Board or~~ with the Zoning Administrator and with the officer from whom the appeal is taken. Upon receipt of an appeal form, the officer from whom the appeal is taken shall transmit to the ~~Secretary~~ Zoning Administrator of the Board all papers constituting the record upon which the action appealed from was taken.
- E. Fee. All appeals and applications shall be accompanied by a receipt from the City Treasurer showing payment of such fee as required by the Common Council.
- F. Insufficient Notice. No appeal or application shall be considered by the Board unless it is made on the required form. Upon receipt of any communication purporting to be an appeal, ~~the Secretary or~~ the Zoning Administrator shall supply the appellant with the proper forms which must be filed within 10 days in addition to the 30 days specified in rule 4A, in order to be considered by the board.

## SECTION 5. HEARINGS.

- A. Notice of Hearing. Notice of the time, date and place of the hearing of an appeal or application shall be given in the following manner:
- (1) To the appellant or applicant in writing by first class mail or by personal service and to the Zoning Administrator or officer appealed from, not less than 10 days prior to the date of the hearing.
  - (2) Except as otherwise requested under the Municipal Code or State Statutes, in every case involving a variance, the City shall mail a copy of the hearing notice to the fee owners of record as follows:
    - (a) Front yard variances - To all abutting property owners and to the property owners directly across the street.
    - (b) Side yard variances - To all abutting property owners.
    - (c) Rear yard variances - To all abutting property owners.
    - (d) All other variances - (lot size, lot width, etc.) - To all abutting property owners within 300' of the applicant's property

including property owners on the opposite side of the street if within 300'.

- (3) Notices required under this Section shall be mailed by first class mail not less than 10 days prior to the day of the hearing. Failure of an abutting or adjacent property owner to receive notice shall not invalidate a hearing.
  - (4) A notice of the hearing shall be published in the official newspaper not less than 6 days prior thereto, unless a class II notice is required by State Statutes or the Municipal Code.
  - (5) Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in the official newspaper not less than 15 days prior to the hearing.
- B. Docketing. Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefore and placed upon the calendar by the Zoning Administrator Secretary.
- C. Appearances. The appellant or applicant may appear in person or by his/her agent or attorney. In the absence of an appearance for or against an application, the Board may dismiss the appeal or may dispose of the matter on the records before it.
- D. Oath. All witnesses to an appeal shall be sworn before testifying by the Chair or Vice-Chair.
- E. Compelling Attendance of Witnesses. The Chair may compel the attendance of witnesses by subpoena. Written request for subpoenas must be filed with the Zoning Administrator Secretary not less than 2 days prior to the hearing except by special permission of the Chair.
- F. Order of Hearings. Appeals and applications shall be heard in numerical order except by order of the Board on good cause shown.
- G. Order of Business. At the hearing the order of business shall be as follows:
- (1) Statement of the case by the Chair ~~or Secretary~~
  - (2) Appellant's side of the case
  - (3) Administrative officer's side of the case
  - (4) Testimony of interested property owners
  - (5) Appellant's rebuttal (if necessary)
  - (6) Rebuttal by opposition
- H. Adjournments. When all appeals and applications cannot be disposed of on the day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall

be given to the absent members of the Board.

- I. Withdrawal. An appellant may withdraw his/her appeal at any time prior to decision thereon, but if a motion is pending to grant or deny the appeal, such motion shall have precedence. Withdrawal of the appeal shall not entitle the appellant to remission of the filing fee.

## **SECTION 6. DECISION AND DISPOSITION OF CASES.**

- A. Time of Decision. The Board shall render its decision either at the close of the hearing or thereafter. Unless special circumstances apply, it is anticipated that decisions will be rendered within 35 days after termination of the hearing.
- B. Form of Decision. The final disposition of an appeal or application shall be in the form of a motion or order. Such motion shall show the reasons for the Board's determination and its findings of fact and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application. The ~~Secretary or city~~ staff shall notify the appellant or applicant of the Board's decision by first class mail within 3 working days of the date of the decision.
- C. Vote Required.
  - (1) Variances. All orders or decisions of the Board granting a variance shall require the affirmative vote of 4 members. Whenever only 4 members of the Board are present and the vote stands 3 to 1 in favor of the applicant, the matter shall be laid over for consideration and final determination at a special meeting called for that purpose.
  - (2) Appeals. All orders or decisions of the Board reversing any action or order of the Zoning Administrator or Administrative Officer shall require the affirmative vote of 3 members. Whenever only 3 members of the Board are present and the vote stands 2 to 1 in favor of the appellant, the matter shall be laid over for consideration and final determination at a special meeting called for that purpose.
- D. Conditions. Conditions imposed with respect to any variance shall be stated in the resolution or order embodying the Board's decision and shall also be set forth in the Building Permit issued pursuant thereto by the Building Inspector.
- E. Filing of Decision. Every order, requirement, decision or determination of the Board shall be immediately filed in the office of the Community Development Department and shall be a public record.
- F. Granted Appeals - Time Use Limitation. Any application granted by the Board shall be actually used (i.e. building permits obtained, construction started, etc.) within 12 months of the date of decision by the Board unless expressly stated otherwise in the granting motion. Where practical difficulties occur after the granting of an application in actually commencing the activity contemplated by the application, within the 12 months herein stated, the appellant may request an extension of this time limitation to the Board. Upon the Board finding that there is good and sufficient reason for this requested extension, the Board may grant such extension as it deems appropriate.

## **SECTION 7. RECONSIDERATION.**

- A. Resubmission. No appeal or application which has been dismissed or denied shall be considered again within one year of the Boards decision, except by motion to reconsider made by a member voting with the majority, or as provided in subsection B. of this section.
- B. Rehearing. No rehearing shall be held except by the affirmative vote of 4 or more members of the Board upon finding that substantial new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing, duly verified and shall recite the reasons for the request and be accompanied by necessary data and diagrams. Rehearing's shall be subject to the same requirements as to notice as original hearings.

## **SECTION 8. AMENDMENTS.**

These rules may be amended or revoked by a majority vote of the Board at any meeting, provided written notice of the proposed amendment or change is given to each member at least 10 days before such meeting. Suspension of the rules may be ordered at any meeting by a vote of not less than 4 members.