

ARTICLE 27
APPLICATION AND HEARING PROCEDURES

7 TCC 1-27 (a) Application. Applications for any zoning amendment, variance, or special use shall be filed in the office of the Community Development Administrator. The original copy of such applications shall be retained by the Community Development Administrator and a copy shall be filed with the Tazewell County Clerk's Office. If such application is in proper form a hearing date will be set before the Zoning Board of Appeals. The Zoning Board of Appeals will not consider the sufficiency of the application and evidence until after a public hearing has been held and all parties have been given an opportunity to address such application, evidence and documents. After said hearing, the Zoning Board of Appeals shall make a finding as to the sufficiency of the application, evidence, documents and testimony and shall report its finding in its recommendation to the Tazewell County Board in applications concerning zoning amendments. In applications for variances for special uses, the Zoning Board of Appeals shall issue a decision and findings of fact which shall be final administrative decisions for purposes of review under the Administrative review Act. In any case where the ZBA does not issue a decision, the decision of the County Board shall be the final administrative decision for the purposes of review under the Administrative Review Act.

7 TCC 1-27 (b) Notice of Public Hearing - Publication.

- (1) Notice of the time and place of any public hearing required by this ordinance for zoning amendments, variances and special uses shall be published in a newspaper of general circulation that is published in the township or road district in which the property is located, not less than fifteen (15) days and not more than thirty (30) days before such hearing. If no such newspaper is published in such township or road district, then such notice shall be published in a newspaper of general circulation published in Tazewell County.
- (2) The notice shall contain:
 - i. The date, time, and place of the hearing;
 - ii. A summary of the proposal under consideration;
 - iii. The particular location of the real estate for which the amendment, variance or special use is requested by legal description, property identification number, street address, and if no street address they by locating such real estate with reference to well known landmark, highway, road, thoroughfare or intersection;
 - iv. Whether or not the petitioner or applicant is acting for himself or in the capacity of agent, alter ego, or representative of a principal and stating the name and address of the actual and true principal.
 - v. Where petitioner or applicant is a corporation, and if a corporation, the correct names and address of all officers and directors, and of all stockholders and shareholders owning any interest in excess of twenty percent (20%) of all outstanding stock of such corporation.

- vi. Whether the petitioner or applicant or his principal, if other than applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity.
 - vii. Whether the petitioner or applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, or if so, the names and addresses of all partners, joint venturers, syndicate members or members of the unincorporated voluntary association.
- (3) Within five (5) days of publication, a copy of the published notice shall be mailed to the applicant. The costs or charges of the publication notice shall be paid by the petitioner or applicant.

7 TCC 1-27 (c) Notice to Adjoining Property Owners. The Community Development Administrator, as a courtesy, shall notify all adjoining property owners of a pending application and of the hearing date, location, nature of the request before the Zoning Board of Appeals and other pertinent information as specified in 7TCC1-27(b). Notification shall be provided to the person by information obtained from the Tazewell County Supervisor of Assessment's Office. Notification shall occur not less than fifteen (15) days and not more than thirty (30) days prior to the date of the hearing.

7 TCC 1-27 (d) Notice to Interested Governmental Bodies

- (1) The Community Development Administrator shall notify the Tazewell County Soil and Water Conservation District, Tazewell County Health Department, and Villages and Municipalities within one-and-half miles of the proposed property, Road Commissioners, and the County Highway Engineer, of pending applications for an amendment, variance, and special use. Notification shall occur not less than fifteen (15) days and not more than thirty (30) days prior to the date of the hearing.
- (2) The Tazewell County Land Use Planner, Tazewell County Health Department, Tazewell County Soil and Water Conservation District, and other interested official bodies, if they so desire, may provide data by oral testimony and/or written memorandum regarding their concerns and recommendation at the time of a hearing or the continuation thereof, and may likewise be subject to cross-examination of interested parties. Said data may be used as a resource by the Zoning Board of Appeals for reaching a decision or making a recommendation to the Tazewell County Board.

7 TCC 1-27 (e) Conduct of a Hearing.

- (1) Submission of Information. Any person may appear at a public hearing and give testimony or submit written materials, either individually or as a representative of an organization. The ZBA may exclude information that it finds to be irrelevant, immaterial, or unduly repetitious.

- (2) Witnesses. Prior to testifying, all witnesses shall state their name and address and complete a witness information form.
- (3) Evidence. Evidence shall be presented in the following order:
 - i. The Chairman shall administer oaths to all persons who which to testify;
 - ii. The petitioner shall present his evidence, including others who wish to testify on his behalf;
 - iii. The opponent(s) shall present his evidence, including others who wish to testify on his behalf;
 - iv. The members of the ZBA may question anyone who has previously testified;
 - v. The petitioner may present a rebuttal;

7 TCC 1-27 (f) Duties of the Community Development Administrator and Land Use Planner. The Community Development Administrator and Land Use Planner shall present information concerning pertinent application considerations and the standards set out in these regulations.

7 TCC 1-27 (g) Exhibits. All exhibits used at the public hearing by an interested party shall be submitted to the Community Development Administrator and shall be retained for the ZBA's record. If not so submitted, the record shall not be considered by the ZBA and shall not become a part of the record.

7 TCC 1-27 (h) Continuance. The ZBA may at its discretion, for good cause shown, grant a continuance in a case to any interested party who has entered his appearance. After one continuance, request for continuances will be considered only if reasonable notice in writing has been given to all persons who have previously filed an appearance in the case.

7 TCC 1-27 (i) Failure to Appear.

- (1) If any applicant fails to appear before the ZBA, for an item on the agenda for the first time, that item may be continued until the next regularly scheduled public hearing.
- (2) If an applicant fails to appear before the ZBA for an item which has previously been continued, that item may be dismissed by the ZBA.

7 TCC 1-27 (j) Record of Hearing.

- (1) The Community Development Administrator shall ensure that the proceedings are recorded by appropriate means.

- (2) The record of proceedings shall consist of the recording of testimony, all proceedings, exhibits, and papers submitted in any proceeding with respect to the matter being considered, and the summary and report of the Community Development Administrator and Land Use Planner.
- (3) All summaries and reports of the Community Development Administrator and Land Use Planner shall be public records, open to inspection at a reasonable time and upon reasonable notice.

7 TCC 1-27 (k) Contacts Outside of the Hearing. If any member of the ZBA receives a substantive communication from any person outside the hearing concerning a subject matter under consideration by that body, he shall make a statement at the hearing describing the circumstances and substance of such communication.

7 TCC 1-27 (l) Action by the Zoning Board of Appeals.

- (1) Except as otherwise provided herein, the ZBA shall render their decision within reasonable time after completion of the public hearing. For application for amendments the ZBA shall make report of their findings to the County Board, and in said report the ZBA shall indicate their recommendation. Such report shall contain a findings of fact specifying, where applicable, the reason for the ZBA's recommendation of approval or denial.
- (2) In applications for Variances and Special Uses the ZBA shall make a report indicating their approval or denial of the request. Such report shall contain a findings of fact, where applicable, the reason for the ZBA's approval or denial.

7 TCC 1-27 (m) Resubmission of Denied Request. Whenever any petition for amendment, variance, or special use or combination thereof is denied, an application involving the same property, shall not be brought back before the Zoning Board of Appeals again until six (6) months have passed from the date of the first public hearing, unless the prayer of the petitioner shall request a substantially different amendment, variance, or special use.