



Zoning Board of Adjustment September 18, 2025

Notice is hereby given of a Regular Meeting of the Nacogdoches Zoning Board of Adjustment to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 4:00 p.m. for the purpose of considering the following agenda items. Some Board members may attend via videoconference, but a quorum of the Board and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at <https://www.nactx.us/21>. There will be an opportunity for the public to comment on agenda items in person at the specified location.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. Administration of Oath of Office – Zoning Board of Adjustment Members
4. Ranking of Alternate Members.
5. **CONSENT AGENDA**
 - A. Consider approval of minutes from the Zoning Board of Adjustment meeting held on May 15, 2025.
6. **REGULAR AGENDA**
 - A. Receive a presentation on Zoning Board of Adjustment procedures and powers.
 - B. Discuss and consider action on electing a Vice Chair in accordance with the Zoning Board of Adjustment Rules of Procedure.
7. Zoning Ordinance Subcommittee Report.
8. ADJOURN.

CERTIFICATION

This meeting will be conducted pursuant to Chapter 551 of the Texas Government Code. The Board reserves the right to adjourn into Executive Session at any time during the meeting to discuss any of the above-posted agenda, as authorized by Texas Government Code Section 551.071 [consultation with attorney]. The City of Nacogdoches is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications may be provided upon request. Please contact the City Secretary at (936) 559-2506 for information. I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas 75961, on September 12, 2025, by 5:00 p.m.



A handwritten signature in black ink, reading "Jasmine Flores". The signature is written in a cursive, flowing style.

Jasmine Flores, Planning Coordinator



Zoning Board of Adjustments

Date: September 18, 2025

Case No:

PRESENTER: Mike Neu, Executive Director of Development and Infrastructure

ITEM/SUBJECT: Receive a presentation on Zoning Board of Adjustment procedures and powers.

TYPE OF REQUEST:

BACKGROUND INFORMATION:

The Zoning Board of Adjustment (ZBA), sometimes referred to as Board of Adjustment (BOA) in other municipalities, is a quasi-judicial body established under the Texas Local Government Code. The ZBA is authorized, in appropriate cases and subject to certain conditions and safeguards, to hear and decide appeals concerning a decision of the city planner in the enforcement of the City's zoning ordinance, as well as grant exceptions to the terms of the ordinance which are consistent with its general purpose and intent.

This Staff presentation item will briefly cover the procedures and powers of ZBA, including:

- Composition & Meetings
- Variances, Appeals, and Special Exceptions
- Notice, Hearing, and Voting requirements
- Appeals to Courts

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

NA

PUBLIC ENGAGEMENT:

NA

ATTACHMENTS:

1. Code of Ordinances
2. Rules of Procedure

DIVISION 3. BOARD OF ADJUSTMENT¹

Sec. 118-96. Organization.

The board of adjustment shall be composed of five members and four alternate members. Appointments to the board of adjustment shall be for staggered terms of two years. Alternate members shall serve in the absence of one or more regular board members when required to do so by the mayor or city manager. The city council may remove a member or alternate member of the board for cause, as found by the city council on a written charge, after a public hearing. Vacancies shall be filled for the unexpired term of any member, or alternate member, whose term becomes vacant for any cause.

(Ord. No. 1130, art. X, § 1, 11-3-1998; Ord. No. 1535-11-09, § 3, 11-17-2009)

Sec. 118-97. Officers.

The board of adjustment shall meet and organize as soon as practicable, shall elect one of its members as chair, and one of its members as vice-chair.

(Ord. No. 1130, art. X, § 2.1, 11-3-1998; Ord. No. 1535-11-09, § 3, 11-17-2009; Ord. No. 2034-03-25, § II, 3-18-2025)

Sec. 118-98. Procedures.

- (a) *Adopting procedural rules.* The board of adjustment, by majority vote, shall adopt such procedural rules as are necessary to execute its duties with the approval of the city council.
- (b) *Quorum.* All cases before the board of adjustment must be heard by at least four members.
- (c) *Calling meetings.* Meetings of the board shall be held at the call of the chair, and at such other times as the board may determine. Such chair, or in the chair absence the vice- chair, shall administer oaths and compel attendance of witnesses.
- (d) *Meetings open to the public.* All meetings of the board shall be open to the public.
- (e) *Keeping of minutes.* The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its other official actions, all of which shall be filed in the office of the board and shall be a public record.

(Ord. No. 1130, art. X, § 2.2, 11-3-1998; Ord. No. 2034-03-25, § II, 3-18-2025)

¹Cross reference(s)—Boards, committees and commissions, § 2-201 et seq.

State law reference(s)—Board of adjustment, V.T.C.A., Local Government Code §§ 211.008—211.011.

Sec. 118-99. Powers.

The board of adjustment shall have the following powers:

- (1) *Decide appeals of city planner's decisions.* The board of adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the city planner in the enforcement of this chapter.
- (2) *Variances to chapter.*
 - a. *Findings.* The board of adjustment, pursuant to the powers conferred upon it by state law, the city ordinances, and this article, may grant variances to the sections of this chapter upon finding that:
 1. Such variance is in harmony with the intent and purpose of the comprehensive plan and this chapter;
 2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district;
 3. Such variance will not adversely affect the health, safety or general welfare of the public;
 4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located;
 5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including, but not limited to, the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located; and
 6. The variance is not a self-created hardship.
 - b. *Decision.* The concurring vote of at least four members of the board of adjustment shall be necessary to authorize a variance.
 - c. *Application for variance.* Variances to be considered by the board of adjustment may be initiated by the owner of the affected property or the owner's authorized representative who files the required application and pays the appropriate fee.
- (3) *Special exceptions*
 - a. *Findings.* The board of adjustment may grant special exceptions upon finding that:
 1. Such special exception is specifically provided for and defined in this zoning ordinance;
 2. Such special exception is consistent with the general purpose and intent of the comprehensive plan and this chapter;
 3. Such special exception will not substantially or permanently injure the appropriate use of adjacent property in the same district; and
 4. Such special exception will not adversely affect the health, safety or general welfare of the public.
 - b. *Conditions.* In granting special exceptions, the board of adjustment may impose such conditions and safeguards as are necessary to protect adjacent property owners and to ensure the public health, safety, and general welfare.

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- c. *Decision.* The concurring vote of at least four members of the board of adjustment shall be necessary to authorize a special exception.
 - d. *Application for special exception.* A special exception to be considered by the board of adjustment may be initiated by the owner of the affected property or the owner's authorized representative who files the required application and pays the appropriate fee.

(Ord. No. 1130, art. X, § 3, 11-3-1998; Ord. No. 1535-11-09, § 3, 11-17-2009; Ord. No. 2034-03-25, § II, 3-18-2025)

Sec. 118-100. Appeal of decisions made by city planner.

- (a) *Appeal of city planner's decision.* Appeals to the board of adjustment may be filed concerning a decision of the city planner in the enforcement of this chapter. Such appeal shall be taken within a reasonable time, not to exceed 20 days from the date of the decision, by filing with the city planner a notice of appeal, which shall specify the grounds thereof. The city planner shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed was taken. An appeal may be initiated as follows:
 - (1) The following persons may appeal to the board of adjustment a decision made by the city planner that is not related to a specific application, address, or project:
 - a. A person aggrieved by the decision; or
 - b. Any officer, department, board, or bureau of the municipality affected by the decision.
 - (2) The following persons may appeal to the board of adjustment a decision made by the city planner that is related to a specific application, address, or project:
 - a. A person who:
 - 1. Filed the application that is the subject of the decision;
 - 2. Is the owner or representative of the owner of the property that is the subject of the decision; or
 - 3. Is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or
 - b. Any officer, department, board, or bureau of the municipality affected by the decision.
- (b) *Appeal stays city planner action.* An appeal from the action of the city planner shall stay all proceedings in furtherance of such action unless the city planner certifies to the board that a stay would, in his opinion, cause imminent peril to life or property. If the city planner shall make and file such certificate, that action shall not be stayed unless by a restraining order which may be granted by the board, or by a court of record, upon application of the party aggrieved by the action of the city planner, and after notice to the city planner.
- (c) *Hearing.* The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and may authorize city staff to do such. The board of adjustment shall decide such appeal within a reasonable time, but no later than 60 days from the filing of the appeal. Upon hearing of such appeal, any interested party may appear in person or by an agent or attorney.
- (d) *Powers.* In exercising the powers set out in this section, the board of adjustment may, in conformity with the provisions of state law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the city planner from whose action the appeal is taken.
- (e) *Decision.* Decisions of the board of adjustment shall be as follows:

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- (1) *Required vote.* A reversal by the board of any order, requirement, decision, or determination of the city planner against the applicant, and a finding in favor of the applicant by the board, shall require the concurring vote of four members of the board of adjustment.
 - (2) *Lapse of order.* Any reversal by the board of adjustment shall lapse after the expiration of 90 days where action by the appellant is not taken pursuant thereto within such period. This subsection shall not apply when the applicant has presented to the board of adjustment a development plan which requires a length of time greater than 90 days, in which event the board of adjustment may grant a greater length of time. In no event, however, shall such time granted exceed two years.

(Ord. No. 1130, art. X, § 4, 11-3-1998; Ord. No. 2021-11-24, § II, 11-5-2024)

Sec. 118-101. Appeal to courts.

Any person jointly or severally aggrieved by any decision of the board of adjustment, any taxpayer or any city officer, department or board may present any such matter to a court of record for review, after the final action of the board thereon, and in the manner and upon the terms provided by state law in V.T.C.A., Local Government Code § 211.0011.

(Ord. No. 1130, art. X, § 5, 11-3-1998)

Secs. 118-102—118-130. Reserved.



**CITY OF NACOGDOCHES
ZONING BOARD OF ADJUSTMENT
RULES OF PROCEDURE**

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**CITY OF NACOGDOCHES
ZONING BOARD OF ADJUSTMENT
RULES OF PROCEDURE**

1. ORGANIZATION, OFFICERS, AND STAFF

1.1. Organization

The Zoning Board of Adjustment (“Board”) shall consist of members appointed by the City Council and organized under the laws of the State of Texas and Chapter 118 of the Code of Ordinances (“Zoning Ordinance”) of the City of Nacogdoches (“City”), as may be amended.

1.2. Officers

A Chair and Vice Chair shall be elected by the Board in accordance with the Zoning Ordinance, as may be amended. The City Manager shall designate a member of City staff to serve the Board as Secretary.

1.3. Duties

- a. The Chair shall preside at all meetings, shall decide all points of order or procedure, and shall swear in witnesses and, when necessary, compel their attendance.
- b. In the absence of the Chair, the Vice Chair shall preside. In the absence of the Chair and Vice Chair, an Acting Chair shall preside. The Acting Chair shall be a regular member whose last name is closest to the beginning of the alphabet. If no regular member is present, the next ranking alternate member (see Sec. 2.2) shall serve as Acting Chair.
- c. The Secretary shall be the custodian of the minutes and other official records, shall attend to the correspondence of the Board, and shall cause notices to be given as are required and in the manner prescribed by law.

1.4. Rules of Procedure

Rules of procedure for the Board shall be adopted, in accordance with the laws of the State of Texas and the Zoning Ordinance, by a majority vote of the Board and by approval of the City Council.

1.5. Parliamentary Procedure

Robert’s Rules of Order, Newly Revised, shall be the Board’s final authority on all questions of procedures and parliamentary law not covered by these rules of procedure. A failure to strictly adhere to the procedures set forth in Robert’s Rules of

Order shall not constitute grounds for the invalidation of any motion or order made by the Board.

1.6. City Planner

The City Planner or his/her designee shall perform the duties authorized under the Zoning Ordinance of the City of Nacogdoches and shall provide assistance to the Board as directed by the City Manager. The City Planner shall make interpretations of the provisions of the Zoning Ordinance, as may be amended, and shall present to the City Council any revisions to the Board rules of procedure as recommended by the Board.

1.7. Secretary

The Secretary shall keep minutes of Board proceedings, indicating the vote of each member on each question or the fact that a member is absent or fails to vote, and shall keep records of its examinations and other official actions in accordance with City policies and procedures.

1.8. City Attorney

The City Attorney may provide to the Board an oral or written opinion regarding any question of law, interpretation or application of these rules of procedure, or parliamentary rules, and shall review as to law any amendment to these rules of procedure prior to the amendment becoming effective.

2. MEETINGS

2.1. Attendance

All appointed members of the Board shall be required to attend scheduled meetings in person. However, the presiding officer of a Board meeting may choose to dismiss nonparticipating alternate members when meeting attendance is not deemed necessary to constitute a five-member Board.

2.2. Quorum

A quorum of not less than four (4) Board members shall be in-person at the designated meeting location when constituted as present. No proxies shall be allowed to establish a quorum or to transact business of the Board. In the absence of a quorum, the following persons (in noted order) shall call the meeting to order: Chair, Vice Chair, Acting Chair, or a City staff person (if no member is present); and announce the absence of a quorum and the adjournment of the meeting until a specific date, time, and place when the scheduled agenda items/public hearings would be resumed. Should the absence of a quorum be known in advance of a scheduled meeting, the Chair authorizes the Secretary, City Planner, or other City staff member, to preside at the meeting by rescheduling the hearing to a date certain.

2.3. Alternate Members

Alternate members are subject to all Board rules of procedure and shall participate and vote in place of any absent or recused Board member in order to constitute five (5) members as present for the duration of each meeting. Selection of alternate members shall be by rank order, as determined by a drawing conducted by the Secretary prior to the start of each Board meeting, with the lowest number being the preferred order of selection.

2.4. Remote Participation

If a total of five (5) members are not present in person for the duration of a meeting, one (1) member may participate and vote remotely by virtual platform, if such platform is made available for meeting use. Remote participation is a measure of last resort and may not be used to establish a quorum of Board members.

2.5. Agendas

An agenda shall be prepared by the Secretary for each meeting of the Board. The agenda shall include appeals and other matters scheduled for consideration by the Board. There shall be attached to the agenda a list of matters pending action by the Board. The agenda shall be posted on the official bulletin boards at Nacogdoches City Hall, 202 East Pilar, 1st Floor, Nacogdoches, Texas, 75961, pursuant to the Texas Government Code, Chapter 551, at least 72 hours before the scheduled time of the meeting.

2.6. Scheduled Meetings

- a. Regular meetings – Regular meetings shall be held on the third (3rd) Thursday of each month at 4:00 p.m. in the City Council Chambers at City Hall unless otherwise posted. If no items are scheduled for consideration by the Board, no meeting shall be held except as directed by the Chair of the Board.
- b. Special meetings – Special meetings may be called at any time by the Chair or the City Planner and shall be subject to the Open Meetings Act. The City Planner shall cause notice of the special meeting to be sent to each Board Member and shall provide any information necessary for consideration by the Board. Any case requiring a public hearing and being considered in a special meeting shall meet the notice requirements set forth in the state statutes and in the Zoning Ordinance of the City of Nacogdoches.
- c. Work sessions – The Board may schedule work sessions to address administrative matters or proposed revisions to the Board rules of procedure. These sessions are for discussion purposes only. No decisions on case-related matters shall be made.

- d. Executive sessions (closed meetings) – The Board may convene into executive session, pursuant to section 551.071 of the Texas Open Meetings Act, to seek the advice of the City Attorney about pending or contemplated litigation or to seek or receive the attorney’s advice with regard to legal issues relative to a case pending the Board’s consideration. Proper notice under the Texas Open Meetings Act is required in order for the Board to participate in executive session, and such notice shall be included in all Board agendas.

2.7. Open Meetings

All meetings of the Board, excluding executive sessions, shall be open to the public. Meetings shall be held in full compliance with the provisions of the Texas Open Meetings Act, the Zoning Ordinance, and these rules of procedure.

3. OFFICIAL RECORDS

3.1. Definition

The official records shall include these rules of procedure, and the minutes of the Board together with all findings, decisions, and other official actions. Stenographic notes of the Secretary and tape recordings of proceedings and discussions shall not constitute the official record of the Board.

3.2. Recording of Vote

The minutes of the Board’s proceedings shall show the vote of each member on each decision of the Board, or if absent or failing to vote shall indicate that fact.

3.3. Public Records

All requests and other matters coming before the Board shall be filed in the City’s records and be available for public inspection during normal business hours. Original papers of all appeals shall be retained along with other special matters as the Secretary deems essential for permanent record.

3.4. Board Office

The office of the Planning and Zoning Department shall be designated as the Board Office.

3.5. Written Decision

All decisions of the Board shall be in writing, shall indicate the decision of the Board, and shall be filed in the Board Office and, if applicable, the office of the Nacogdoches County Clerk. However, failure to timely file a decision in the Board Office shall not affect the validity of any decision.

4. APPLICATION PROCEDURES

4.1. Types of Applications

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as may be amended, and under the Zoning Ordinance, as follows:

- a. *Decide appeals of City Planner's decisions.* The Board shall have the power to hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by the City Planner in the enforcement of the Zoning Ordinance.
- b. *Variances to chapter.* The Board may grant variances to the Zoning Ordinance upon finding that:
 - 1) Such variance is in harmony with the intent and purpose of the comprehensive plan and this chapter;
 - 2) Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district;
 - 3) Such variance will not adversely affect the health, safety or general welfare of the public;
 - 4) Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located;
 - 5) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located; and
 - 6) The variance is not a self-created hardship.
- c. *Special exceptions.* The Board may hear and decide special exceptions to the terms of the Zoning Ordinance upon finding that:
 - 1) Such special exception is specifically provided for and defined in the Zoning Ordinance;

- 2) Such special exception is consistent with the general purpose and intent of the City's Comprehensive Plan and Zoning Ordinance;
- 3) Such special exception will not substantially or permanently injure the appropriate use of adjacent property in the same district; and
- 4) Such special exception will not adversely affect the health, safety or general welfare of the public.

4.2. Application Requirements

Every request for action of the Board shall be filed in the Board Office on the application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing.

a. Appeal applications to be considered by the Board

- i. if not related to a specific application, address, or project, may be initiated by:
 - a person aggrieved by the decision; or
 - any officer, department, board, or bureau of the municipality affected by the decision.
- ii. if related to a specific application, address, or project, may be initiated by:
 - a person who filed the application that is the subject of the decision;
 - a person who is the owner or representative of the owner of the property that is the subject of the decision;
 - a person who is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or
 - any officer, department, board, or bureau of the municipality affected by the decision.

b. Variance applications to be considered by the Board may be initiated by the owner of the affected property or the owner's authorized representative.

c. Special exception applications to be considered by the Board may be initiated by the owner of the affected property or the owner's authorized representative.

Any application submitted to the Board for consideration shall be reviewed by the Board Office and the Chair for completeness in all respects prior to posting a notice of meeting for Board consideration. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

4.3. Deadline for Filing Appeal Applications

Every application for an appeal of a decision of the City Planner must be filed in accordance with these rules within a reasonable time, not to exceed -20 days from the date of the decision.

4.4. Guidelines for Application and Decision

Every application shall include a letter and site plan or other graphics and illustrations explaining the applicant's request, along with the required non-refundable application fee. Where two or more different types of requests are included in the same application, each set of regulations established by the Zoning Ordinance shall apply to the consideration of the requests.

4.5. Decision on Appeals

The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and may authorize City staff to do such. The Board shall decide such appeal within a reasonable time, but no later than 60 days from the filing of the appeal. Upon hearing of such appeal, any interested party may appear in person or by an agent or attorney.

4.6. Notice of Meetings

- a. Public notice of any appeal affecting a specific property shall be given as prescribed in the Zoning Ordinance by means of a written notice deposited in the United States mail, postage prepaid, before the fifteenth (15th) day prior to the date of hearing. The notice shall identify the applicant, the location of the property in question, the nature of the request, and the applicable zoning requirements.
- b. Public notice of any appeal seeking an interpretation of a Zoning Ordinance which would apply throughout the City, shall be given by means of a legal advertisement appearing in the official newspaper of the city, before the fifteenth (15th) day prior to the date of the hearing. Written notice shall also be given to the applicant and his agent provided in paragraph (a), above. The notices shall identify the applicant, the nature of the question involved, and the affected provisions of the zoning ordinance.

4.7. Consideration of Evidence

Decisions of the Board may be based on any credible evidence, including a member's own familiarity with a site. However, members of the Board should refrain from conducting independent investigations into any application and should consider only the evidence and testimony introduced at the meeting through the public hearing process and the background information presented by City staff through the

information packet. Where deemed necessary, the Board may request City staff to obtain any additional relevant information for the Board's consideration.

4.8. Withdrawal of Request

Any request may be withdrawn by an applicant upon written notice to the City Planner, but no request shall be withdrawn after public notice has been given without formal consent of the Board.

5. HEARINGS AND DECISIONS

5.1. Public Hearings

Hearings on all matters on which a decision of the Board is required by law shall be open to the public. The applicant(s) may appear on their own behalf or be represented by the applicant's own counsel or agent.

5.2. Order of Business

The Chair shall call the meeting to order, and the Secretary shall record the members present and absent. The Chair shall publicly advise those present of the procedures followed in the hearing and disposition of appeals; he/she shall call each appeal in the order filed and shall announce the name of the applicant, the location of the property involved, and the nature of the request. The City Planner or designee shall publicly advise the board of any communications received. Supporting evidence for and against each case shall be presented to the board. Each case may be taken under advisement until all have been heard.

5.3. Procedures for Hearing

- a. Any member of the Board should not vote on an item under Board consideration in which they have a direct personal or pecuniary interest not common to other Board members. Such conflict of interest must be declared before opening the public hearing, and any Board member whom has declared such conflict must remove themselves from the discussion and the meeting room, if possible, during item consideration.
- b. After opening the public hearing, the Chair shall first call upon the applicant, if present, to present the applicant's case and all evidence supporting the applicant's request. A true and correct copy of all written evidence, documents, photographs, and audio or videographic evidence presented at the hearing shall be included in the record of the case.
- c. The Chair shall then call upon those members of the public who wish to express support for the granting of the applicant's request. The Chair shall next call on

those members of the public who wish to express opposition to the granting of the applicant's request. Each person who wishes to speak shall state their name and address for the record. The Chair may establish reasonable time-limits for the members of the public as deemed necessary by the Chair.

- d. The applicant shall then be given the opportunity to rebut the arguments presented by those in opposition.
- e. Each person speaking shall proceed without interruption by any other person, and all arguments and pleadings shall be addressed to the Board. It shall be the responsibility of the Chair to maintain order and proper decorum during the hearing. No questioning or arguments between individual witnesses will be permitted. During the hearing, no member shall argue an issue with the applicant, nor indicate the member's final vote on the applicant's request until such time as the vote is called. Nothing herein shall be construed to prohibit a member from expressing his or her opinion as to the merits of the applicant's request or as to the existence of any hardship.
- f. Following the applicant's rebuttal, the Chair shall order the public hearing closed. After the hearing is closed, the members may deliberate regarding the merits of the applicant's request and may vote on a motion made and seconded with respect to the disposition of the request.
- g. The Board may act on any request for which the applicant fails to appear after conducting the pre-scheduled public hearing.

5.4. Board Review

The Chair may direct any question to the applicant or any persons speaking in order to bring out all relevant facts, circumstances, and conditions affecting the request, and may call for questions from other members of the Board and from the City staff. At any time prior to the time a vote is called for, the Board may call back any applicant or speaker or staff member for clarification of fact presented in the hearing or to answer one or more questions of the members of the Board.

5.5. Suspension of Rules

Any provision of these rules not governed by other law may be temporarily suspended by the affirmative votes of four (4) members or by unanimous consent.

5.6. Disposition of Cases

- a. For any requests for variances or special exceptions, the Board may grant or deny the applicant's request as proposed. For special exceptions only, the Board may unconditionally grant, conditionally grant, or deny an applicant's request.

- b. For any appeals of a decision of the City Planner, the Board may, in conformity with the provisions of state law, reverse or affirm, wholly or partly, or may modify an order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the City Planner from whose action an appeal is taken.
- c. The Board may also defer action on any request in response to an applicant's request for deferral of the action or whenever it concludes that additional evidence is needed or that alternate solutions need further study. However, a Board decision must occur no later than 60 days from the filing of the appeal.
- d. An applicant's request may be dismissed when the Board finds that the request has been improperly filed or, upon notification by the City, that permits have been issued for a conforming use or development of the property.

5.7. Participation in Deliberations and Voting

Only the five (5) regular Board members shall vote on the case unless absence or conflict of interest prevents their participation. If regular members are unable to vote prior to consideration of an agenda item, the next ranking alternate members (see Sec. 2.3) shall participate and vote in the regular members' absence for that item.

Should any member be unable to vote on any matter before the Board, he or she shall clearly acknowledge this for the record prior to the start of the public hearing, and the Presiding Officer shall clearly designate, for the record and for the audience, which of the alternate members will be voting.

5.8. Vote of Four (4) Members Required

The concurring vote of at least four (4) members shall be necessary to grant, or to grant conditionally as applicable, any request made to the Board. When a motion to approve a request fails to receive four (4) affirmative votes, the request is denied.

5.9. Vote of Simple Majority Required

A motion to deny a request shall pass on the vote of a simple majority of the members. Should a motion to deny fail to receive a majority vote, another motion must be made (e.g., "motion to approve", "motion to postpone", etc.) to dispose of the case. A simple majority vote of the members shall be required to approve an alternative motion. All motions must receive a second to be considered by the Board.

6. REAPPLICATION

6.1. Reapplication for Denied Request

No application for a request that has been denied shall be again filed earlier than one (1) year from the date of original denial unless other property in the immediate vicinity has, within the one-year period, been changed or acted on by the Board or City Council so as to alter the facts and conditions on which the previous Board action was based. Such change of circumstances shall permit the rehearing of a request by the Board prior to the expiration of one (1) year period, but such conditions shall in no way have any force in law to compel the Board, after a hearing, to grant an applicant's subsequent request. Such subsequent request shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the request is brought.

7. EXPIRATION OF GRANTED REQUEST

7.1. Expiration of Granted Request

Any special exception or variance granted by the Board shall authorize the issuance of a building permit and/or a Certificate of Occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action of the Board unless said Board shall have in its action approved a different period of time and has so shown such specific period of time in the minutes of its action. In no event, however, shall such additional time granted exceed two (2) years. If the building permit and/or Certificate of Occupancy shall not have been applied for within said ninety (90) days, or such extended period as the Board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated.

8. CERTIFICATION AND AMENDMENTS

8.1. Certified Copy

A certified copy of these rules of procedure and of any amendments thereto will be placed on record in the office of the City Secretary within ten (10) days following their date of adoption.

8.2. Repealing Clause

All previously adopted rules of procedure of the Board shall be and the same are hereby expressly repealed.

8.3. Amendment Procedure

Amendments to these rules of procedure may be recommended for City Council approval by the Board at any meeting upon the affirmative vote of four (4) members, provided any such amendment is proposed at a preceding meeting and recorded on the minutes of such meeting. . If approved by the City Council, amendments shall not

become effective until the next regular Board meeting. It is recommended that the Board review these rules of procedure at least once every year.

8.4. Informal Advice

The Board or its individual members shall not consider a request (formal or informal) for advice on theoretical or actual situations that potentially may come before the Board in the future as an appeal or application.

RECOMMENDED this 15 day of May, 2025.

Rhonda Hard

Chair, Zoning Board of Adjustment

ADOPTED this 3 day of June, 2025.

Randy E. Johnson
Mayor, City of Nacogdoches



ATTESTED:

Rhonda Lewis
Rhonda Lewis, City Secretary

Filed in the Office of the City Secretary, City of Nacogdoches, Texas, this 3rd day of June, 2025.



Zoning Board of Adjustments

Date: September 18, 2025

Case No:

PRESENTER: Mike Neu, Executive Director of Development and Infrastructure

ITEM/SUBJECT: Discuss and consider action on electing a Vice Chair in accordance with the Zoning Board of Adjustment Rules of Procedure.

TYPE OF REQUEST:

BACKGROUND INFORMATION:

The Zoning Board of Adjustment (ZBA) Rules of Procedure state: "a Chair and Vice Chair shall be elected by the Board in accordance with the Zoning Ordinance," and "in the absence of the Chair, the Vice Chair shall preside." See rule sections 1.2 and 1.3 for reference.

On July 18, 2024, ZBA members voted to elect Rhonda Ward as Chair of the Board, and Ward continues to serve in this capacity. However, while procedural rules at that time did not provide for the election of a Vice Chair, the ZBA rules of procedure approved by City Council on June 3, 2025, now allow the Board to elect a Vice Chair from among its regular members.

PLEASE NOTE: Procedural rules also provide for an Acting Chair who would serve in the absence of the Chair and Vice Chair. The Acting Chair shall be a regular member whose last name is closest to the beginning of the alphabet. If no regular member is present, the next ranking alternate member shall serve as Acting Chair. As such, the election of an Acting Chair is not required.

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

NA

PUBLIC ENGAGEMENT:

NA

ATTACHMENTS: