



Legislation Details (With Text)

File #: 20-424 **Version:** 1 **Name:**

Type: Memo **Status:** Agenda Ready

File created: 10/29/2020 **In control:** Board of Adjustment

On agenda: 11/4/2020 **Final action:**

Title: Discussion of Changes to Rules of Procedure for the Board of Adjustment

Sponsors:

Indexes:

Code sections:

Attachments: 1. Four Problem Areas in the Current Rules of Procedure and Potential Solutions (1), 2. ORD2020-03 (1), 3. R2020-10, 4. Exh A - Board of Adjustment Rules (for Council Adoption 062520), 5. Board Commission Handbook - June 2020 (for Council adoption on 06 25 20)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

TO: Chair and Board of Adjustment

**FROM: Andrew Miller, Town Attorney
Paul Michaud, Senior Planner**

DATE: November 4, 2020

CONTACT:
Andrew Miller, 480-348-3526

AGENDA TITLE:
Discussion of Changes to Rules of Procedure for the Board of Adjustment

BACKGROUND:
As part of the Council’s discussion on governance changes, the Council determined that some changes to the Rules of Procedure for the Planning Commission (“Commission”) and Board of Adjustment (“Board”) should be explored, and that rules should be adopted for the Hillside Building Committee (“Committee,” which currently has no adopted rules of procedure). Council Members had observed that having unclear rules of procedure on certain issues (or no rules at all), had led to frustration for both residents and Town staff when the rules did not address certain situations.

A Town Manager working group was organized to discuss some potential solutions to some of the problems that the Council had identified. The working group consisted of the Town Manager, Town Attorney, Vice-Mayor Bien-Willner (who was the Council liaison to the Commission) and Council Member Scott Moore (a former Board and Commission Member). The working group identified four problem areas where some changes to the rules for the aforementioned public bodies would be useful: 1) late submittal of materials by applicants or residents/general public; 2) surprise submittals

of documents or electronic materials on the night of a meeting; 3) lack of clarity on allotted speaking times for “spokespersons” for residents or neighborhood groups; and 4) clarity on timing requirements and agenda setting for motions to reconsider a motion or action from the prior meeting.

The working group discussed changes that could be implemented in each of these areas that would help staff, residents/general public, applicants, and the public bodies maintain greater transparency and openness as well as providing for a more rigorous and thorough review of submitted materials by the Town staff. Of particular concern was making sure that all parties have sufficient time to review materials submitted for public review prior to scheduled hearings or meetings. Additionally, there was some desire to have the rules for each public body be as similar as possible so that residents and the public would have an expectation of similar rules in their dealings with each of the Town’s “land use” public bodies. Based on the input of the working group the Town Manager and Town Attorney prepared suggested changes to the existing Commission and Board Rules, and an initial set of rules for the Committee. The group also determined that the next step should be to present the suggested rules changes to the Commission and Board, and the initial set of rules to the Committee, for their review and comment. [See attached Memo re “Four Problem Areas and Potential Solutions”]

The “problem areas” and the suggested revisions to the rules were then discussed at a joint meeting of the Commission and Board on November 7, 2018. The Commission and Board provided some general input and each body commented that proposed changes, on the whole, would be beneficial. The Board and Commission were advised that the next step would be to have the Committee review the initial set of Committee rules and to then present the working group findings along with the comments of the Commission, Board and Committee to the Council for comment and further direction. The Committee was presented with an initial set of Rules at its November 14, 2018 meeting and it concurred with the need for the Committee to have a set of rules and that the initial draft was a good starting place. The Council met and discussed the suggested changes at its December 6, 2018 meeting.

As the last step to adoption and implementation of the revised/new rules for each body, Staff reviewed the proposed new rules with the Council to obtain its final input and to obtain feedback on a coordinated approach to the Rules of Procedure for the Commission, Board, and Committee. The Council provided feedback on some additional necessary edits to the draft rules and asked that a coordinated approach be taken. To maintain a coordinated approach to the rules for each body it was determined that instead of each public body adopting its own rules a better approach would be to have the Council adopt and coordinate changes to each set of rules. Based on this input Ordinance No. 2020-03 was prepared to amend the Town Code so that the Council would now adopt the rules of procedure for the Commission, Board, and Committee. The Council adopted Ordinance No. 2020-03 on June 11, 2020. The Ordinance provides that the Council may adopt rules or amendments to the rules for the Commission from time to time by Council resolutions. The initial resolution adopting the new rules for the Commission was also approved on June 11, 2020 (see attached Resolution No. 2020-09).

Additionally, the Council wanted the timing of the new rules to coincide with the adoption of a new Board and Commission Training Manual so that the new rules would be consistent with the Training Manual. The Training Manual was also adopted on June 11, 2020. The next step is to ensure that the Commission, Board, and Committee Members all have a copy of the new rules for each body, an opportunity to review them and become familiar with them, and to have regular training on the rules along with other laws and policies relating to the members service on these important land use public bodies. Staff is now disseminating the new Rules to the Board Members and will be prepared to

answer questions regarding the rules at the Board's November 4, 2020 meeting. The new Training Manual will also be provided electronically to the Board Members, but extended discussion on the Training Manual will likely wait until the next annual training for the Board Members. The date for such training has not yet been set.

NEXT STEPS

Discuss Council's recommended changes to the Board of Adjustment Rules.

ATTACHMENTS:

- Memo re Four Problem Areas and Potential Solutions
- Ordinance No. 2020-03
- Resolution No. 2020-09
- Rules of Procedure for the Board of Adjustment
- Handbook