



**CITY OF WILMINGTON
BOARD OF ADJUSTMENT
ZONING APPEAL**

Hearing Location: Council Chambers, 800 N. French Street, Wilmington, DE 19801

Hearing Date: September 23, 2024

Hearing Time: 5:30 PM

Old Business: Approval of the minutes for the Board's meeting held on September 9, 2024.

New Business: Introduction of proposed changes to the Board's Rules of Procedure (see attached document).

Case # 2.8.24 Application of 1711 W 3rd LLC, 1713 W. 3rd Street, Wilmington, DE 19805 requesting
Zoned R-4/C-2 permission to convert the building located at 1713 West 3rd Street to a two-family dwelling.
Posted 5/29/24

48-70 Variances

Case # 7.8.24 Application of Josiah Wolcott, Esq., 267 E. Main Street, Newark, DE 19711 on behalf of Hanae
Zoned R-3 Properties LLC requesting permission to convert the building located at 318 North Broom Street
Posted /24/24 to a 7-unit apartment house.

48-70 Variances

Case # 2.9.24 Application of Brian Scott, 1907 Dorcas Lane, Wilmington, DE 19806 on behalf of James Spadola'
Zoned R-2 requesting permission to vary the side and rear yard requirements to allow construction of a
Posted 8/26/24 second floor rear addition at 2019 North Harrison Street.
The required side yard is 8 feet. Requesting 4.5 feet on the westerly side.
The required rear yard is 15 feet. Requesting 14.3 feet.

48-70 Variances

Case # 5.9.24 Application of Marvin Newton, 109 West 36th Street, Wilmington, DE 19802 requesting permission
Zoned R-3 to vary the lot area requirement, from 1600 sq. ft. to 1580 sq. ft., for one unit of a proposed five
Posted 8/9/24 unit rowhouse development to be located at 625-627 South Claymont Street.

48-70 Variances

Case # 6.9.24 Application of Alexander Grant, 11 Butterfly Lane, Bear, DE 19701 requesting permission to
Zoned R-3 convert the building located at 135 North Clayton Street to a two-family dwelling.
Posted 8/6/24 addition.

48-70 Variances

The public hearing associated with the attached agenda will be conducted both in person and via a Zoom webinar.

Applicants should attend in person, except for good cause.
All are invited to participate.

When: September 23, 2024

5:30 PM Eastern Time (US and Canada)

Link: <https://zoom.us/j/89079447206>

Meeting ID: 890 7944 7206

One tap mobile

+16465588656,,89079447206# US (New York)

+13126266799,,89079447206# US (Chicago)

Dial by your location

+ 1 646 558 8656 US (New York)

+ 1 312 626 6799 US (Chicago)

+ 1 301 715 8592 US

+ 1 346 248 7799 US (Houston)

+ 1 669 900 9128 US (San Jose)

+ 1 253 215 8782 US

Meeting ID: 890 7944 7206

Find your local number: <https://zoom.us/u/abFfJCITkh>

Written comments may be submitted to jdipinto@wilmingtonde.gov in advance of the hearing.

**CITY OF WILMINGTON
ZONING BOARD OF ADJUSTMENT**

PROPOSED RULE CHANGES

Adopted by the Administrative Board: September 17, 2024

First Reading: Meeting of September 23, 2024

Second Reading: Meeting of October 14, 2024

ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

ARTICLE 1 – MEETINGS

1. Regular meetings of the City of Wilmington Board of Adjustment (the “Board”) shall be scheduled by the Board.
2. Special meetings may be called by the Chair or at the request of two members provided, that notice of the same has been given to each member, except that the announcement of a special meeting, at any meeting at which all the members are present, shall be sufficient notice of such meeting.
3. A quorum of the Board shall consist of two members.

ARTICLE 2 – CASE BEFORE THE BOARD

1. ~~Every matter shall be brought to before the Board of Adjustment on forms prepared by the Board which can be obtained at the Board’s web page or from the Department of Licenses and Inspections. Except as otherwise directed by the Board or authorized by the Chair, all matters must be brought by filing a form approved by Board. The approved form or forms shall be available in the Office of the Zoning Manager and/or on the Board’s web page.~~
2. In any case where the written consent of any person is required as a condition to the issuance of any permit by the Zoning Manager, no appeal or application shall be heard by this Board unless such written consents are filed with the Zoning Manager before the appeal or application to this Board is made.

3. Every appeal or application for ~~variation~~ a variance from or exception to the terms of the Building Zone Ordinance made by the owner, agent, architect or contractor, shall be taken within thirty days from the time for the refusal of a permit by the Zoning Manager or from the date of any order, ruling, decision or determination by such Zoning Manager from which the appeal or application is taken; and the appeal or application for rehearing of any other person affected or interested shall be taken within thirty days from the date of any permit granted.
4. ~~Appeals or applications shall be filed with the Secretary of this Board or his designee, and the Zoning Manager notified by the appellant or applicant immediately in writing of such action thereof. It shall be the duty of the Zoning Manager to transmit to the Secretary of this Board all information, documents or papers bearing upon the application to him, together with a copy of his decision or determination. The appellant or applicant shall file an appeal or application with the Zoning Manager, or their designee, who shall transmit to the members of the Board copies of the appeal or application and all other papers bearing upon the matter.~~
5. No communication purporting to be an appeal or application shall be regarded as such, unless it is made substantially in the form required and contains within it a plain and concise statement why the appeal or application should be granted, including with regard to a request for a variance, why a failure to grant the requested variance would cause the appellant or applicant an unnecessary hardship in the case of a use variance or an exceptional practical difficulty in the case of a dimensional variance. The Zoning Manager or the Board Chair may reject, and the Board may require the appeal or application be amended, if it is not substantially in the same form or if it fails to contain the required statement.
6. Upon receipt of any such communication, the writer shall be supplied with the proper forms for presenting his appeal, and if he fails to file with the ~~Zoning Board of Adjustment~~ the form properly filled out and executed, and to supply the required data within ten days from the date of refusal of a permit by the Zoning Manager or from the date of any order or decision of such Zoning Manager, his case may be dismissed for lack of prosecution. The form is not properly filled out and executed unless it contains the statement required by Article 2, No. 5 of these Rules.

ARTICLE 3 – THE CALENDAR

1. Each ~~appeal matter~~, filed in proper form, once fully filled out with the required ~~data statement~~, shall be placed upon the Calendar of the Board ~~by the Secretary thereof. The Zoning Manager and/or the Board Chair may require an appellant or applicant to supplement or amend a form that is not adequately filled out.~~ The Calendar numbers shall begin anew on the first day of each month with the number of the month and year in which said appeal is filed. Each number shall be followed by a period. For example, the first matter heard in January 2018 heard in January would be 1.1.18.

2. Appeals Matters will be assigned for hearing in the order in which they appear on the calendar, except that ~~an appeal~~ a matter may be advanced for hearing by the Board Chair, upon good cause being shown, or for the convenience of the Board if it so determined.

ARTICLE 4 – HEARINGS

1. The appellant or applicant shall appear in ~~his~~ their own behalf or be represented by counsel or agent at said hearing. At such hearing the appellant or applicant's side of the case shall be first heard, the Zoning Manager or ~~his~~ their representative next, members of the public next, and the appellant or applicant shall then be given an opportunity to reply thereto. No further argument shall be allowed unless ~~by the unanimous consent of the Board~~ permitted by the Chair or requested by a majority of the Board.
2. Members of the ~~Public~~ public are limited to one public comment period of up to two minutes each per matter before the Board. The Chair may extend the time, or grant additional comments to a member of the public, either at the Chair's discretion or upon the request of a majority of the Board.

ARTICLE 5 – FINAL DISPOSITION OF APPEAL

1. The final disposition of any appeal or application to the Board ~~of Adjustment~~ shall be in the form of a Resolution, which may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may embody such order, requirement, decision or determination as ought to be made. The concurring vote of two members shall be necessary for a decision.
2. Any appellant or applicant may withdraw his appeal or application at any time before the first vote to grant or deny the appeal or application is cast at the public hearing of an appeal or application; provided, however, that the Board, on its own motion or that of an appellant or applicant, may in its discretion permit a matter be continued in order to receive additional evidence and submissions from the appellant or applicant, the Zoning Manager, or any other person or party.
3. When an appeal or application has been denied, any appellant or applicant may not resubmit the same or substantially similar request for at least six months.
4. When members of the public appear at a scheduled hearing to observe or participate in public comment concerning a scheduled appeal or application, the Board may deny the appeal or application if the appellant or applicant fails to appear for the hearing without notifying the Board and/or without obtaining leave to reschedule from the Zoning Manager or the Board Chair. The denial shall act to bar the same or substantially similar request for at least six months.

ARTICLE 6 – REHEARINGS

1. No rehearing of the decision by the Board ~~of Adjustment~~ shall be heard except:

- a. On a motion to reconsider the vote, or
 - b. On a written request for a rehearing.
2. If the motion to reconsider receives two affirmative votes, the Board of Adjustment may vote on the motion to grant said request for a rehearing, subject to such conditions as said Board may, by Resolution, in each case stipulate.
3. No request to grant a rehearing will be entertained unless new evidence is submitted, which could not reasonably have been presented at the previous hearing. If the request for a rehearing is granted, the case shall be put on the Calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request, and shall be duly verified and accompanied by the necessary data and diagrams. The person requesting the rehearing shall be notified to appear before the Board on a date to be set by said Board.
4. Written requests for a rehearing must be received by the Board within 10 business days of the final resolution disposing of the matter.

ARTICLE 7 – OFFICERS

1. The Chair shall be elected from the members of the Board who shall preside at all meetings and hearings of the Board. In the event of the absence or disability of the Chair, the Vice Chair shall be Acting Chair to preside at such meeting.
2. The Vice Chair and the Secretary shall be elected from the members of the Board. The Secretary shall have such duties as determined by the Board.
3. The Chair, subject to these rules, shall decide all points of order or procedure, unless otherwise directed by a majority of the Board in session at that time.
4. The Chair shall report at each meeting on all official transactions that do not otherwise come to the attention of the Board.
5. The Chair shall, subject to these rules and further instructions from the Board, transact all official business of said Board, engage the necessary employees, direct their work and exercise general disciplinary powers.
- ~~6. Subject to these rules and the direction of the Board, the Secretary, who shall be the Chief Engineer or his designee, shall conduct all official correspondence; sent out all notices required by these rules and the order of the Board; attend all meetings and hearings; keep the minutes of the Board's proceedings; compile the required records; maintain the necessary files and indexes and generally supervise all the clerical work of the Board. Such records will be help in the Department of Licenses and Inspections.~~

6. The Board shall have power to appoint an Assistant Secretary whose duty it shall be to perform such ministerial or other duties of the Secretary as he shall be required to perform by the Secretary.
7. The Chair, or in his absence the Acting Chair, shall have the power to administer oaths and compel the attendance of witnesses.

ARTICLE 8 – FORMS

1. The Board shall have the power to adopt forms that from time to time are necessary.

ARTICLE 9 – AMENDMENTS

1. These rules may be amended or modified provided that such amendment be presented in writing at the regular meeting and action taken thereon at a subsequent regular meeting.
2. ~~For the amendment to take effect, it must be approved by the City's Administrative Board.~~ The adoption of a new rule or the amendment of an existing rule shall be effective upon the approval of the Administrative Board under Wilmington City Charter Section 8-406.

ARTICLE 10 – RESOLUTIONS

1. Every resolution not otherwise provided for shall require two affirmative votes of the Board for passage.
2. Every resolution shall specify that, unless the applicant applies for the related building permit(s) within 1 year from the date of said resolution, said resolution shall be null and void and of no effect whatsoever. Application for any of the related building permits with will stay the one year deadline as long as applicant is actively pursuing the project.

ARTICLE 11 – RECORDS

1. Records of appeals or applications to the Board of Adjustment shall be kept in the office of the said Board in the Zoning Manager's Office, City Hall, in files, and each appeal or application shall be kept in a separate file and numbered serially. The files may be maintained electronically by the Zoning Manager. Regardless, said records shall be accessible to the public.