

CITY OF PROVIDENCE
ZONING BOARD OF REVIEW
POLICIES AND PROCEDURES

Adopted February 8, 2017

SECTION 1 – GENERAL PROVISIONS

1.1 **AUTHORITY:** These policies and procedures are adopted pursuant to Rhode Island General Laws § 45-24-56(a) of the State of Rhode Island Zoning Enabling Act of 1991 (the “Act”) authorizing the zoning board of review to establish written rules of procedure to carry out its functions.

1.2 **PURPOSE:** To establish written procedures for processing applications for use variances, dimensional variances, special use permits, and administrative appeals, and any other matters subject to the Board’s jurisdiction.

Nothing herein shall be construed to contradict or amend the Act or the Zoning Ordinance of the City of Providence. Nor shall these procedures be construed to contradict the application or interpretation of the laws by Courts of proper jurisdiction.

1.3 **JURISDICTION:** The Board’s jurisdiction is established by the Act, and is further governed by the City of Providence Zoning Ordinance effective December 24, 2014 (Chapter 2014-39, No. 513), as amended (the “Ordinance”). The Board shall have the following authority:

1.3.1 Variances. To authorize, upon application, in specific cases of hardship, use variances and dimensional variances, pursuant to R.I. Gen. Laws § 45-24-41, and Article 19, Section 1902 of the Ordinance.

1.3.2 Special Use Permits. To authorize, upon application, in specific cases, special use permits under applicable portions of the Ordinance, pursuant to R.I. Gen. Laws § 45-24-42, and Article 19, Section 1901 of the Ordinance.

1.3.3 Special Conditions. In granting a variance, special use permit, or in making any determination, to apply special conditions that, in the opinion of the Board, may be required to promote the intent and purposes of the Comprehensive Plan and the Ordinance. Such conditions may include, but are not limited to, time limitations (“probationary terms”).

1.3.4 Appeals from Decisions by the Director, or Other Authorized Agent. To hear and decide appeals from a party aggrieved by an order, requirement, decision, or binding determination made by the Director of the Inspection and Standards, or his/her agent in enforcing or making binding

interpretations of the Ordinance, all in accordance with and pursuant to the Act.

1.3.5 Appeals from Decisions by Boards and Commissions. To hear and decide appeals from a party aggrieved by a final decision of the Historic District Commission, Downtown Design Review Committee, City Planning Commission, the Development Plan Review Committee, or other authorized body enforcing or interpreting the Ordinance.

1.3.6 Appeals from Decisions of the Building Official. In accordance with R.I. Gen. Laws § 23-27.3-101.3:

- a. appeals from the decisions or actions of the Building Official with respect to matters controlled governed by the Ordinance shall be appealable to the Board;
- b. appeals from the decisions or actions of the Building Official Decisions of the Building Official with respect to any other matters governed by the building code shall be appealed to the Building Board of Review.

SECTION 2 – DEFINITIONS

2.1 Unless otherwise provided herein, all terms used have the definitions assigned by the Ordinance. To the extent a definition in these policies and procedures is inconsistent, then the definition of the Ordinance shall prevail.

2.2 In the event of a conflict between the definitions of the Act and the Ordinance, the definitions of the Act shall prevail, and shall be deemed the definition applicable to these Policies and Procedures.

SECTION 3 – ORGANIZATION AND RECORDS

3.1 **MEMBERSHIP:** The Zoning Board shall be constituted in accordance with R.I. Gen. Laws § 45-24-46 and Ordinance Article 17.

3.1.1 **MEMBERS:** The Board consists of five (5) regular members and up to two alternate members to be designated as first alternate and second alternate members.

- a. The alternate members sit and actively participate in hearings and deliberations, but shall not vote unless a regular member is unable to serve and vote at a hearing or on a particular matter on the agenda for a hearing.

- b. The first alternate shall vote if a member of the board is unable to serve at a hearing and the second shall vote if two (2) members of the board are unable to serve at a hearing. In the absence of the first alternate member, the second alternate member shall serve in the position of the first alternate. No member or alternate may vote on any matter before the board unless they have attended all hearings concerning that matter.
- 3.1.2 CHAIR: The Chair shall preside over all Board meetings and hearings and shall decide all points of order and procedure, unless directed otherwise by a majority of the Board in session at the time. The Chair shall administer oaths and may compel the attendance of witnesses.
- 3.1.3 VICE CHAIR: The Vice Chair serves as Acting Chair in the absence of the Chair, unless the Vice Chair shall, in his or her discretion, appoints another active member to serve as Acting Chair.
- 3.2 STAFF: The Secretary to the Board shall have the following duties:
 - a. to review applications and to determine completeness, in accordance with his/her ministerial duties;
 - b. to refer completed applications to the Department of Planning and Development for the Department's recommendation;
 - c. to prepare with the Chair the agenda for all meetings and hearings;
 - d. to provide notice of meetings and hearings to Board members;
 - e. to maintain the minutes of Board meetings;
 - f. to arrange the proper notice of hearings to interested parties and the public;
 - g. to maintain the records of the Board;
 - h. to attend to correspondence of the Board;
 - i. such other duties as are assigned by the Chair.
- 3.3 OFFICE: The office of the Board and its Secretary is located at 444 Westminster Street, Providence, Rhode Island. The mailing address is: Providence Zoning Board of Review, 444 Westminster Street, Providence, Rhode Island 02903.
- 3.4 LEGAL COUNSEL: The City Solicitor's office shall serve as legal counsel to the Board.
- 3.5 RECORDS: The Board shall keep minutes of its meetings reflecting the matters considered, members absent and present, and all votes taken. For any matters subject to appeal to the Superior Court, the Board shall keep stenographic records of its hearings, deliberations and votes. Access to the Board's records shall be provided pursuant to the Rhode Island Access to Public Records Act. Requests to view the Board's records shall be made to the Secretary of the Board, or through the City's Open Government Portal: <https://providenceri.nextrequest.com>.

SECTION 4 –MEETINGS AND HEARINGS

- 4.1 A “meeting” shall mean the convening of the Board for purposes of conducting hearings or general business of the Board, as defined below.
- 4.1.2 “Hearing”: A “hearing” shall mean a public hearing required by the Act and Ordinance regarding all applications, and appeals to the Board. Hearings shall be scheduled, noticed and conducted in accordance with the requirements of the Act.
- 4.1.3 “Business Meeting”: The Chair may call a “meeting” for the conduct of general business of the Board, including but not limited to, organizational, educational, and other general business purposes. Such meetings shall be scheduled, noticed and conducted in accordance with the requirements of the Open Meetings Act.
- 4.2 **REGULARLY SCHEDULED MEETINGS:** The Board shall give written notice of its regularly scheduled meetings at the beginning of each calendar year. The notice shall include the dates, times, and places of the meetings, and shall be provided to the City Clerk, and electronically submitted to the Secretary of State. The annual calendar will be published on the website of the Secretary of State (www.sos.ri.gov/openmeetings). Meeting dates on the annual calendar are subject to change.
- 4.3 **SPECIAL MEETINGS:** The Chair may call a special meeting of the Board at any time, provided that the Board shall comply with the notice requirements for hearings and/or business meetings.
- 4.4 **EXECUTIVE SESSION:** For purposes authorized by the Open Meetings Act, the Board may on a motion duly adopted and for reasons stated on the record, adjourn to executive session at any time during a meeting. The Board may schedule Special Meetings for the purpose of convening in executive session.
- 4.6 **QUORUM:**
- 4.6.1 Five (5) active members are necessary to conduct a hearing.
- 4.6.2 A majority of the active members of the Board shall constitute a quorum for business meetings.

SECTION 5 - CONFLICT OF INTEREST

- 5.1 No member of the Board shall take part in the consideration, deliberation or determination of any matter before the Board in which s/he is a party or has a

conflict of interest as defined by the State and/or Municipal Code of Ethics of the City of Providence. The Codes of Ethics shall be liberally construed against participation so as to avoid any appearance of impropriety.

- 5.2 As soon as a conflict occurs for a member, that member shall recuse himself or herself, shall not sit as an active member, and shall take no part in the conduct of the hearing.
 - 5.2.1. It shall be the responsibility of the member of the Board having a potential conflict of interest to disclose such conflict in writing and to recuse him/herself from participation in the discussion or the vote. The minutes will indicate that the member has recused him/herself from consideration of the matter.
 - 5.2.3 If recusal of one or members will result in fewer than five (5) members eligible to hear a matter, the recused members shall seek an advisory opinion from the State and/or City Ethics Commission as to whether the “Rule of Necessity” requires participation of a member, despite a conflict or potential conflict of interest.
 - 5.2.4 Should one or more conflict of interest result in a lack of quorum to hear the matter, the matter shall be deemed continued until the next meeting at which a quorum can be convened. No vote is required to continue a matter due to lack of quorum.

SECTION 6 –APPLICATIONS FOR RELIEF: VARIANCES AND SPECIAL USE PERMITS

- 6.1 **APPLICATION REQUIRED:** All persons seeking relief from a provision of the Ordinance, including a use variance, dimensional variance and/or special use permit, shall file an application on a form to be issued by the Director. The form shall be available in the Office of the Board. In addition, the form may be found on the City’s website at www.providenceri.com/DIS/zoning-board-of-review.
- 6.2 **FILING OF APPLICATIONS:** Applications shall be filed with the Secretary of the Board, in full conformance with the instructions provided with the application.
- 6.3 **ACCEPTANCE OF APPLICATIONS:** The Secretary shall review all applications for completeness of documentation. Incomplete applications will not be scheduled for a hearing. No application shall be deemed complete without submission of the filing fee. If a filing fee does not clear the applicant’s financial institution, the application shall be deemed incomplete.
- 6.4 **LIMITATIONS ON SECRETARY’S AUTHORITY.** The Secretary’s authority is limited to ministerial duties. The Secretary is not authorized to provide legal advice

concerning the filing of an application, the Act or the Ordinance, or any other matter concerning the application and hearing process. Information that the Secretary may provide shall not be binding on the Board.

6.5 BOARD'S AUTHORITY TO REQUEST FURTHER INFORMATION. The Secretary's acceptance of an application does not preclude the Board from requesting any additional information it determines necessary to make a decision on the application. Such request may be issued before or during a hearing on the application.

6.6 MODIFICATIONS TO AN APPLICATION: An applicant may request to modify an application already filed, in accordance with the criteria set forth below.

6.6.1 Modification prior to a hearing: A pending application may be modified prior to a hearing by a written request from the applicant to the Board. Such request shall include a description of the proposed change(s) and shall be accompanied by all supporting documents required to reflect the modification.

6.6.1.1 If the filing fee for the relief sought is greater than the fee for the original application, the applicant shall be responsible for payment of the higher filing fee.

6.6.1.2 When the application must be re-noticed in accordance with the Act and the Ordinance, the costs shall be borne by the applicant.

6.6.2 Modification at hearing: An applicant may request to modify its application at hearing, without the necessity of a new notice, for the following reasons:

6.6.2.1 to withdraw a request for relief; or

6.6.2.2 to request relief that is **less** than that requested in the original application, provided that the Board determines, by a vote of at least four (4) active members, that the modification does not materially affect the interest of a person entitled to notice.

6.6.2.3 Any request for relief greater than that sought in an original application shall require a new application that must be re-noticed and rescheduled for a new hearing.

6.7 SUBSEQUENT PETITIONS/APPLICATIONS:

6.7.1 The Secretary shall not accept an application that seeks a variance or special use permit that was denied or withdrawn within the preceding twelve (12) months.

- 6.7.2 Notwithstanding Section 6.7.1 above, the Secretary will forward such application to the Board if it includes an affidavit setting forth facts indicating that a “substantial material change of circumstances” has occurred since the filing of the first application. A mere change of ownership shall not constitute a substantial change of circumstances.
- 6.7.3 Where the Secretary accepts a subsequent petition with an affidavit, the Board shall first make a determination as to whether the applicant has established a substantial material change of circumstances to justify a new hearing. Upon the vote of a majority of the Board in favor of a new hearing, the Board may then consider the application itself.

SECTION 7 – HEARINGS: NOTICE, AGENDA, AND TIMES

- 7.1 NOTICE OF HEARINGS: Notice of public hearings shall be given in accordance with the Act and the Ordinance.
- 7.2.1 Notification by Mail. Notice of public hearings shall be given by first class mail, at least fourteen (14) days prior to the hearing, to the applicant and the property owner and to the following “interested parties,” as defined by R.I. Gen. Laws § 45-24-53(d):
- a. all owners, as they appear in the current records of the City Assessor, of real property located within two hundred feet (200') of the perimeter of the lot(s) proposed for variance or special use permit (regardless of whether within the City or within an adjacent city or town);
 - b. the City Council representative of the applicable ward;
 - c. the office of the superintendent of schools;
 - d. the city or town council of any city or town which is located in or within two hundred feet (200') of the boundary of the area proposed for variance or special use permit;
 - e. water authorities, or where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, within two thousand feet (2,000') of any real property that is the subject of a proposed variance or special use permit, (regardless of municipal boundaries); and
 - f. any neighborhood group that registers the name of the organization, its officers and mailing address with the Secretary, provided such organization has renewed its registration by the previous July 1 of each year. The provision of notice to a neighborhood group does not itself confer such group with status of a “party,” interested party” or an “aggrieved party.”
- 7.2.2 Notification by Publication. The Board shall publish notice of the hearing in a newspaper of general circulation at least fourteen (14) days prior to the date of hearing.

7.2.3 Notification by Posting. The Board shall post notice of the hearing in the office of the Clerk and such additional locations as may be required by the Open Meetings Act.

7.3 AGENDA: The Chair, in his/her discretion, determines the number of matters to be heard at each public hearing and the date and time of such hearings. Typically, the Board schedules six (6) applications for each meeting. Applications are placed on an agenda based on the approximate date on which the complete application is received by the Secretary.

7.3.1 The agenda may provide for the convening of two separate “calls.” The “first call” generally occurs at 5:30 p.m. The “second call” generally occurs at approximately 7:00 p.m.

7.3.2 Applications will be heard in the order in which they are listed on the agenda. Persons interested in matters noticed for the “second call” need not appear until the time noticed for the second call.

7.3.3 The Chair, in her/her discretion may hear a matter out of order. However, the Board may not hear a matter scheduled for the second call until the time noticed for such call.

7.3.4 Posting of Agenda. The Agenda for each meeting shall be posted on the website of the Secretary of State. The Agenda may be amended up to 48 hours prior to a meeting for the following purposes:

- a. to add Executive Sessions or business meetings of the Board;
- b. to remove from the Agenda matters that have been withdrawn or continued to a later hearing date, subject to the conditions for continuances under Sections 8.8.1 and 8.8.2 below;
- c. for such other reasons as may be permitted by the Open Meeting Act, but not inconsistent with the notice requirements of the Act and the Ordinance.

7.4 TIME OF MEETINGS: In order to promote meaningful and effective hearings, and public access to the functions of the Board, the Board shall not hear matters after 10:00 p.m., unless a majority of the members of the Board vote to extend the hearing. Matters on an agenda, but not heard and/or decided prior to 10:00 p.m., shall be deemed continued to the next regularly scheduled hearing date of the Board. Such matters will be placed at the beginning of the agenda for the next scheduled meeting.

SECTION 8 – CONDUCT OF HEARING ON APPLICATION

- 8.1 INTERPRETER SERVICES. Any person, including but not limited to an owner, applicant, objector, “interested party,” witness or member of the public may request the services of an interpreter by notifying the City’s Office of Neighborhood Services at (401) 421-2489 at least 48 hours in advance of the hearing date.
- 8.2. APPEARANCES REQUIRED:
- 8.2.1 The applicant and the owner shall appear at the hearing on the application for a variance or special use permit. An applicant or an owner may designate the other as an agent (“authorized representative”) to represent the interests of both at the hearing, provided that a written notarized designation of agent is provided to the Board.
- 8.2.2 The applicant/owner may be represented by an attorney admitted to practice law in the State of Rhode Island. However, the Board may continue the hearing for further information if the applicant or owner is not present to provide testimony or evidence the Board deems necessary or desirable for its deliberations and decision.
- 8.2.3 If an applicant/owner fails to appear at a hearing to pursue an application, without first providing notice to the Board, through the Secretary, the Board will continue the application until its next regularly scheduled meeting. If the applicant/owner fails to appear for the subsequently scheduled meeting, then the application shall be deemed withdrawn. The Applicant shall be required to submit a new application.
- 8.2.4 The Board accepts and considers written comments submitted by e-mail, letter, or any other written document. Such written comments shall be considered a part of the record. Written comments may be sent to the Secretary of the Board at: 444 Westminster Street, Providence, R.I. and/or by e-mail to the Secretary to the Board. The current e-mail address is: bsath@providenceri.gov. Any party, whether the applicant, owner or abutter, shall have the right to address the Board to respond to any written comments.
- 8.3 ORDER OF PRESENTATION: Each application shall be heard in a manner that permits the Board to obtain and consider the evidence in an orderly and meaningful manner.
- 8.3.1 Unless otherwise permitted in the discretion of the chair, the following general order of presentation shall apply:
- a. Presentation of complete application by owner/applicant, including documents, other exhibits, expert witness(es), and other testimony (See Section 8.4 below)

- b. Testimony of other “interested parties” in support of the application
- c. Presentation of opposition to application by abutter(s), including documents, expert witness(es), and other testimony (See Section 8.5 below)
- d. Testimony of other “interested parties,” in opposition to the application
- e. Response/rebuttal by applicant and/or owner
- f. Chair’s reading of the recommendation of the Department of Planning and Development
- g. Testimony of members of the public
- h. Closing of the hearing
- i. Deliberations and vote

8.4 PRESENTATION OF APPLICATION AT HEARING

8.4.1 The complete application, including all documents and information required, shall be presented by the applicant or owner (“applicants”), the “authorized representative” (see Section 8.2.1), or their attorney.

8.4.2 The Board is established by law as a quasi-judicial body to determine questions of law and fact. It is therefore recommended, but not required, that an applicant/owner be represented by an attorney.

8.4.3 The applicant/owner, or their “authorized representative,” or their attorney are responsible for questioning any professional or expert witnesses presented in support of the application.

8.4.4 The burden is on the applicants to demonstrate that the Property qualifies for the relief requested.

8.5. PRESENTATION OF OPPOSITION TO APPLICATION

8.5.1 Interested parties with standing to oppose an application in a court of competent jurisdiction may present documents, information and testimony in opposition to an application, in accordance with the regulations for applicants (see Sections 8.4.1 and 8.4.2 above).

8.5.2 Members of the public opposing an application are afforded the opportunity to be heard.

8.6 OTHER RULES FOR CONDUCT OF HEARINGS ON APPLICATIONS

8.6.1 Hearings before the Board are quasi-judicial in nature. All testimony and comments shall be directed to the Board.

8.6.2 All testimony shall be sworn under oath administered by the Chair. An

attorney need not be sworn under oath when acting in his/her capacity as the authorized representative of an owner, applicant or “interested party.”

- 8.6.3 The Board may question any party or witness at any point before deliberations. No person shall be heard after the closing of the hearing.
- 8.6.4 The Chair, in his/her discretion, may allow presentation or testimony out of order, limit duplicative or irrelevant testimony, set reasonable time limits on testimony, and may take other actions necessary for the orderly, appropriate conduct of the hearing.

8.7 CONTINUANCES

- 8.7.1 **At the Request of the Applicant and/or Owner.** Prior to the commencement of presentation of evidence, the Board may grant a continuance of the hearing on an application, upon a vote of the majority of the members, provided that:
 - a. the applicant or owner (or respective representative) is unable to appear as a result of an emergency occurring within forty-eight (48) hours of the date and time of the hearing; or
 - b. the applicant or owner (or respective representative) appears at the hearing and demonstrates that notice has been given to all “interested persons” within forty-eight (48) hours of the date and time of the hearing; or
 - c. there are no “interested parties” or members of the public requesting to be heard; or
 - d. upon the applicant’s representation that it intends to modify its application, and the majority of the Board determines that such modification justifies a continuance; or
 - e. upon a vote of a majority of the members of the Board, for good cause shown.
- 8.7.2 When the Board grants a continuance under Section 8.8.1(b), (d) or (e) above, the Board will take testimony from “interested persons” and/or members of the public. However, if the application is modified or amended, the testimony shall be considered only to the extent it is relevant to the amended or modified application.
- 8.7.3 **At the Request of a Member of the Board.** The Board may, by a majority vote of the members, exercise its discretion to continue a hearing on an application:
 - a. where the Board determines that further information is necessary or desirable; or

- b. after the close of the hearing, for deliberations and vote; or
- c. for other good cause found by the Board.

8.8 REVIEW CRITERIA: The Board's decision on each application will be based on the criteria for granting relief set forth in the Act and the Ordinance.

8.8.1 Criteria for variances. In reviewing applications for a variance, the Board shall use the criteria set forth in R.I. Gen. Laws § 45-24-41(c) and 45-24-41(d) and Article 19, Sections 1902.B.3 and 1902.B.4 of the Ordinance. The Board may impose special conditions on the proposed use as it deems appropriate to meet the goals of the Act, the Ordinance, and the City's Comprehensive Plan.

8.8.2 Criteria for special use permits. In reviewing applications for a special use permit, the Board shall apply the criteria in Section 1901.B of the Ordinance. The Board may impose special conditions on the proposed use permit as it deems appropriate to meet the goals of the Act, the Ordinance, and the City's Comprehensive Plan.

8.8.3 Special use permit and dimensional variance together. The Board may issue a dimensional variance in conjunction with a special use permit. If the special use could not exist without the dimensional variance, the Board will consider them together to determine if granting the special use is appropriate based on both the special use criteria and the dimensional variance evidentiary standards.

SECTION 9 - APPEALS TO THE BOARD.

9.1 FILING OF APPEAL. All persons appealing a decision to the Board shall file a Notice of Appeal on a form provided by the Director, which shall require, at a minimum, specification of the decision (or portion thereof) being appealed, and a summary of the legal and/or factual bases for appeal. The form shall be available in the Office of the Board, and will contain instructions. In addition, the form may be found and completed on the City's website - www.providenceri.gov/inspection/zoning-board-of-review.

9.1.1 All persons filing a Notice of Appeal shall also file a copy with the officer or agency from whom the appeal is taken, and with the Administrative Officer of the City Plan Commission.

9.1.2 All persons filing a Notice of Appeal shall provide a copy thereof, by regular mail, to any attorney who represented an interested party at a hearing before the board or commission from which an appeal is taken.

9.2 HEARINGS BEFORE THE BOARD OF APPEALS. Hearing on appeals will be scheduled in a timely manner, to be held before the Zoning Board of Review sitting

as the Zoning Board of Appeals. The Zoning Board of Appeals may convene immediately following a regular meeting of the Zoning Board of Review, or may schedule a special meeting for hearings on appeals.

9.3 NOTICE OF HEARINGS. Notice of all hearings on appeals shall be given in the same manner set forth in Section 7.1 herein.

9.4 REQUIREMENTS FOR SUBMISSIONS BY THE PARTIES. All parties to an appeal shall submit, through the Secretary, a written memorandum in accordance with a Scheduling Notice to be issued by the Chair. All parties shall serve a copy of the memorandum on all other parties, and to counsel for the Board. The memorandum shall contain a summary of the facts and of the arguments to be made at the hearing, and any applicable law. Memoranda will be made part of the full record of the Board.

9.5 CONDUCT OF HEARING.

9.5.1 The order of business for hearings on appeals will be as follows:

- a. Roll call
- b. Calendar call
- c. Oral argument/presentation by Appellant
- d. Oral argument/presentation by Appellee
- e. Rebuttal by Appellant (if requested by Appellant)
- f. Closing of the hearing
- g. Deliberation
- h. Vote

9.5.2 Sur-rebuttal may be permitted only in the discretion of the Chair.

9.5.3 The Board may question either party at any point before deliberations. No party may be heard after the closing of the hearing.

9.5.4 Appeals to the Board are administrative in nature. While open to the public, the hearing is limited to the Board's review of the record concerning the decision being appealed, and presentations of the parties to the appeal. No public comment or testimony is provided for in administrative appeals.

9.6 CONTINUANCES. Once a hearing on appeal has been noticed, no continuance will be granted without good cause shown.

9.6.1 Any party requesting a continuance shall first obtain the consent of all other parties. Requests may then be submitted to the Secretary.

9.6.2 The Board, in its discretion, upon a vote of the majority of the members,

may continue the date for deliberations and decision on the appeal, but only after hearing argument by all parties to the appeal.

- 9.7 DECISION. In deciding an appeal, the Board may reverse or affirm, wholly or partly, and may modify an order, requirement, decision or determination appealed from.

SECTION 10 – VOTING

- 10.1 Five (5) active members must vote on each application or appeal. An alternate may vote when only four (4) other active members have heard the presentation of the application or appeal; however, no more than five (5) members may vote on an application or appeal.
- 10.2 No member may vote on any matter unless he or she has attended all hearings concerning the matter.
- 10.3 The concurring vote of four (4) active members of the Board is required to decide in favor of an application for a **variance or a special use permit**, or on any matter within the discretion of the board upon which it is required to pass under the ordinance.
- 10.4 The concurring vote of three (3) of the five (5) voting members of the Board is required to reverse or modify any order, requirement, decision, or determination of the Director or other authorized administrative officer, or to decide an **appeal** from any Commission or other authorized body.

SECTION 11 – DECISIONS

- 11.1 WRITTEN DECISIONS: The decisions of the Board on every application and appeal shall be in writing and shall include: the findings of fact and conclusions of law, based on the criteria for the relief sought; the reasons for the decision; any special conditions attached to the decision; the members present and voting at the hearing, and a record of how each member voted on each motion and/or decision.
- 11.2 FILING OF DECISIONS: All decisions on every application or appeal shall be filed in the office of the Board and of the Director of Inspection and Standards within thirty (30) business days of the Board's vote, and are public records.
- 11.3 POSTING: All decisions shall be posted in the Office of the City Clerk for a period of twenty (20) calendar days.
- 11.4 NOTICE TO PARTIES: Notice of a decision shall be sent by first class mail to each party, including the owner and the applicant, appellant and appellee, and to the Associate Director of the Division of Planning of the Rhode Island Department of Administration.

- 11.5 RECORDNG OF DECISION. Any decision evidencing the granting of a variance or special use permit shall also be recorded in the Land Evidence Records of the City. The Owner or Applicant shall be responsible for providing the Board's Secretary with evidence that the decision has been properly recorded.
- 11.6 APPEALS OF BOARD DECISIONS TO SUPERIOR COURT. Any person(s) aggrieved by a decision of the Board may appeal said decision to the Superior Court for Providence County within twenty (20) days after such decision is posted in the office of the Clerk.

SECTION 12 – MISCELLANEOUS

- 12.1 AMENDMENTS: These rules may be amended at any time by an affirmative vote of a majority of the members of the Board.
- 12.2 SEVERABILITY: The provisions of these rules and regulations are severable; if any such provision or provisions shall be held invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of these rules and regulations.