



# Board of Adjustment

Variance Application Packet



# BOARD OF ADJUSTMENT 2009 MEETING SCHEDULE

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Application submitted  
by 4:00 pm ON or BEFORE

Will be heard at  
the meeting held on

December 17th, 2008	January 28th, 2009
January 14th, 2009	February 25th, 2009
February 11th, 2009	March 25th, 2009
March 18th, 2009	April 29th, 2009
April 15th, 2009	May 27th, 2009
May 13th, 2009	June 24th, 2009
June 17th, 2009	July 29th, 2009
July 15th, 2009	August 26th, 2009
August 19th, 2009	September 30th, 2009
September 16th, 2009	October 28th, 2009
October 7th, 2009	November 18th, 2009*
November 18th, 2009	December 30th, 2009

\*Early due to the Holiday

Please contact the City of Sarasota's Building, Zoning & Code Compliance Department Administrative Assistant at 941-954-4147 for additional information about the meeting schedule, the specifics of this application or other information that you need to complete your application for a variance. **Packets must be delivered to Chris Gladdue, Development Review Coordinator, City Auditor and Clerk's Office.**



# REQUIREMENTS FOR FILING PETITIONS

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## MEETING INFORMATION

1. The Board of Adjustment holds their monthly meetings on the last Wednesday of every month beginning at 1:30 PM in the City Commission Chambers, unless otherwise posted.
2. The deadline for submittal of the application packets is **4:00 p.m. six (6) weeks prior** to the public hearing. Please refer to the meeting schedule on page (2) of this packet for specific dates.
3. The application packets must be submitted to the Clerk's Office in its entirety by the deadline noted above.
4. The information must be submitted in **nine (9) separate packets, one being an original** to be distributed by City staff to all individuals who are required to review them. Each packet must contain ALL information requested in this application and associated checklist(s). Wherever possible, please avoid the use of staples and bindings in your packets. City staff must disassemble your submission for proper inclusion in the overall Board of Adjustments meeting information packets supplied to each Board member. All packets submitted become the property of the City of Sarasota.
5. **If the information is not complete, clear and legible the petition will not be accepted.**

## PLEASE SUBMIT THE FOLLOWING CHECKED ITEMS

**If a Zoning Inspector has not checked specific items for you, please include ALL items.**

- A letter stating what is being requested, including an explanation of circumstances, history and reasons that the Board of Adjustment should grant your request.
- All items shown on the appropriate checklist (either Residential, Commercial, Dock or Sign Requirements, pages 7, 8, 9, or 10 of this packet).
- Check made payable to the City of Sarasota for the fee deposit shown below.
- If the petitioner is the agent for the property owner, include letter of authorization.
- Does this project require a rezoning, site plan approval or conditional use?  
 Yes  No

If you check "Yes", please indicate the date that you filed a petition with the City Auditor & Clerk's office for approval: \_\_\_\_\_. Note: **You must apply for this approval** simultaneously with the variance petition.

## FEE REQUIRED\*\*\* AT TIME OF APPLICATION

- Variance – Residential \$1,645.00 plus \$500 Escrow  
Non-Residential \$2,194.00 plus \$500 Escrow
- Extension of Time \$274

**\*\*\* FEES ARE NON-REIMBURSEABLE**



# PETITION APPLICATION

**NATURE OF REQUEST**

Variance

Extension Of Time

**STATE SPECIFIC VARIANCE(S) BEING REQUESTED - PLEASE CITE SPECIFIC CODE OR ORDINANCE.**  
*(Please use a separate sheet if necessary)*

**LEGAL DESCRIPTION OF PROPERTY:**  
*(Please use a separate sheet if necessary)*

**ADDRESS OF SUBJECT PROPERTY:** \_\_\_\_\_

**PARCEL IDENTIFICATION NUMBER:**

**PROPERTY OWNER(S)\* AS SHOWN ON DEED:** \_\_\_\_\_

**ZONING OF PROPERTY:** \_\_\_\_\_

*I hereby certify that the above statements are true to the best of my knowledge and belief. I understand that any party aggrieved by any decision of the Board of Adjustment may seek judicial review thereof in the Circuit Court for Sarasota County, Florida within thirty (30) days after the rendition of the decision by appealing the same as provided under the Florida Rules of Procedure.*

**SIGNATURE OF PETITIONER # 1 (OWNER #1) OR AGENT:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

**PHONE NUMBER:** \_\_\_\_\_

**\*PLEASE NOTE: IF THERE ARE MORE THAN ONE OWNER LISTED ON THE DEED, ALL OWNERS OR THEIR AUTHORIZED AGENTS MUST SIGN THIS APPLICATION.**



# QUESTIONNAIRE

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Please answer the following questions. If you need additional room for one or more questions, please add additional sheets as needed. You may provide more detailed information during the meeting.

*If the variance is for a **dock**, only answer questions 4 and 5. If the variance request is for a locally **historically designated structure**, only answer question 5.*

1. What special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district?
2. Do you feel that the above special conditions and circumstances as described were brought about by your actions? If not, why not?
3. Explain fully why you feel that literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Code and would cause unnecessary and undue hardship for the applicant.
4. Is the variance requested the minimum variance that will make possible the reasonable use of the land? If yes, explain how. If no, explain why more than the minimum request is necessary.
5. Explain how the granting of the variance or request will be in harmony with the general intent and purpose of the Zoning Code and not detrimental or in any way injurious to the neighborhood or public welfare.

**You are encouraged, that during your presentation, you review each criteria and how you feel they are each being met.**



# PETITIONER'S DISCLOSURES

A. The names and addresses of witnesses I intend to call at the hearing during the presentation of my evidence or in rebuttal are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

*(Attach a list if insufficient space)*

B. The names and addresses of expert witnesses I intend to use, if any, and their qualifications are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

*(Attach a list if insufficient space)*

C. The following is a summary of facts to be presented:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

*(Attach a list if insufficient space)*

D. Copies of all reports, studies, letters, documentary evidence and summaries of evidence I intend to use, if any, are attached.

E. Including time for rebuttal and summation, I estimate that I will need \_\_\_\_\_ in order to make my presentation. **Time Limit: 20 Minutes for each Petitioner.** If you feel there are exceptional circumstances that would require additional time for your presentation please state them here including an estimate of how much additional time you will need. The Board must approve any request for additional time, so don't assume you will be granted all of the time estimated.

\_\_\_\_\_  
\_\_\_\_\_

**Per rule of the Board of Adjustment, no petition shall be placed on the Board's agenda unless this disclosure is filed with the Secretary to the Board.**

**PETITIONER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_



# RESIDENTIAL VARIANCE CHECKLIST

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The Board of Adjustment has determined these following items are the minimum necessary to consider any residential variance petition. You are encouraged to submit any additional information (photographs, maps, aerials, etc.) that you feel will help the Board understand your request. The Board of Adjustment has the right to request any additional information at the public hearing that they deem is necessary to make an informed decision.

1. A scaled site plan which includes a zoning data block with the following information:
  - a)  Density calculations (if applicable)
  - b)  Minimum lot area required and minimum lot area provided
  - c)  Minimum lot width required and minimum lot width provided
  - d)  Maximum lot coverage allowed and lot coverage provided
  - e)  Minimum yard setbacks required and yard setbacks provided
  - f)  Maximum height allowed and height provided
  - g)  Total floor area of any structure
  - h)  Maximum impervious lot coverage
2.  A written use statement detailing how the structure or parcel will be used.
3.  A sealed survey of the property.
4.  A map or site plan which details the use and zoning on every adjacent property.
5.  Elevation Drawings.
6.  Show compliance with Mega House Ordinance – zoning code section VI-102(U).
7.  Show all trees to be removed.



# COMMERCIAL VARIANCE CHECKLIST

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The Board of Adjustment has determined these following items are the minimum necessary to consider any commercial variance petition. You are encouraged to submit any additional information (photographs, maps, aerials, etc.) that you feel will help the Board understand your request. The Board of Adjustment has the right to request any additional information at the public hearing that they deem is necessary to make an informed decision.

1. A scaled site plan which includes a zoning data block with the following information:
  - a)  Density calculations (if applicable)
  - b)  Minimum lot area required and minimum lot area provided
  - c)  Minimum lot width required and minimum lot width provided
  - d)  Maximum lot coverage allowed and lot coverage provided
  - e)  Maximum impervious surface coverage allowed and impervious surface coverage provided
  - f)  Minimum yard setbacks required and yard setbacks provided
  - g)  Maximum height allowed and height provided
  - h)  Minimum off-street parking required and parking provided
  - i)  Total gross and net floor area of any structure
2.  A written use statement detailing how the structure or parcel will be used.
3.  A sealed survey of the property.
4.  A complete and scaled landscape drawing including type of buffers proposed, types of existing vegetation, and any existing or proposed fencing or walls.
5.  A map or site plan which details the use and zoning on every adjacent property.
6.  Traffic concurrency deminimus form or approved traffic study.
7.  Elevation drawings of structure.
8.  Does this project require a rezoning, site plan approval or conditional use?  
 Yes  No

If you check "Yes", please indicate the date that you filed a petition with the City Auditor & Clerk's office for approval: \_\_\_\_\_. Note: **You must apply for this approval** simultaneously with the variance petition.



# DOCK VARIANCE CHECKLIST

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The Board of Adjustment has determined these following items are the minimum necessary to consider any dock variance petition. You are encouraged to submit any additional information (photographs, maps, aerials, etc.) that you feel will help the Board understand your request. The Board of Adjustment has the right to request any additional information at the public hearing that they deem is necessary to make an informed decision.

1. A scaled site plan showing the location of the dock including setbacks from the extended property lines. The site plan should include a zoning data block with the following information:
  - a)  Total length of proposed dock from mean high water line
  - b)  Maximum water depth which the dock will reach and for each dock mooring area
  - c)  Total square footage of the dock and the terminal platform
  - d)  Maximum decking elevation
  - e)  Maximum railing elevation
  - f)  Whether there will be a boat lift; and if so, the maximum height of the lifter beam
  - g)  The maximum height of all pilings
  - h)  Whether there will be fish cleaning tables; and if so, their height
  - i)  Whether there will be benches and boat lockers; and if so, their height and width
  - j)  Maximum height of any upland walkways
2.  A sealed survey showing the water depth at the end of the dock. The survey should also include any channels or other significant water features.
3.  The approval or letter of exemption from the State of Florida Department of Environmental Protection.
4.  An aerial or map which shows docks on any adjacent property.
5.  Statement of environmental aspects – Show mangroves, known seagrasses, shell beds.
6.  If the dock will be constructed by a licensed contractor, provide the name of the contractor:  

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# SIGN VARIANCE CHECKLIST

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The Board of Adjustment has determined these following items are the minimum necessary to consider any sign variance petition. You are encouraged to submit any additional information (photographs, maps, aerials, etc.) that you feel will help the Board understand your request. The Board of Adjustment has the right to request any additional information at the public hearing that they deem is necessary to make an informed decision.

1.  A scaled site plan showing the location and setback of each requested sign. The plan should also show the location of each other existing sign on the site.
2.  A drawing of each requested sign detailing the size and shape of the sign, and the proposed square footage of each proposed and existing sign. The drawing should also detail the height or building elevation of each sign.
3.  If there are multiple tenants in a building, a letter from the building owner stating the owner's awareness of and agreement to the request.
4.  If it is a lighted sign, provide lighting detail.



# BILLABLE FEE RESPONSIBILITY FORM

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## City of Sarasota Department of Planning & Development

The undersigned, as the owner, or the Agent of Record for the property Owner and/or Lessee/Contract Purchaser, or other party, acknowledges responsibility for any expenses incurred by this petition. This also includes the proper distribution of any refund that may be available at the end of the petition process.

### **AUTHORIZED AGENT(S) OR DESIGNATED RESPONSIBLE INDIVIDUAL:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature: \_\_\_\_\_

### **DESIGNATED INDIVIDUAL TO RECEIVE REFUNDS AND/OR BILLINGS:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Before me personally appeared this day \_\_\_\_\_ to me well known, or who has produced identification, to be the Person(s) described in and who executed the foregoing authorization and has acknowledged before me that \_\_\_\_\_ executed said authorization for the purposes therein expressed.

**WITNESS**, my hand and seal, this \_\_\_\_\_, day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
(notary seal to appear below or to the left **must be an original**)



# VARIANCE RULES & PROCEDURE ACKNOWLEDGEMENT

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**I ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THE BOARD OF ADJUSTMENT RULES OF PROCEDURE AND I UNDERSTAND IT IS MY OBLIGATION TO READ THEM PRIOR TO ANY SCHEDULED HEARING.**

**THE CITY OF SARASOTA WILL POST A NOTICE SIGN AT THE PARCEL WHERE THE VARIANCE OR APPEAL IS BEING REQUESTED. I UNDERSTAND THAT THIS SIGN MUST REMAIN POSTED UNTIL THE BOARD OF ADJUSTMENTS COMPLETES ITS HEARING ON THIS APPLICATION.**

**I UNDERSTAND THAT THIS VARIANCE MAY NOT BE AMENDED OR CHANGED IN ANY RESPECT WITHOUT THE APPROVAL OF THE BOARD OF ADJUSTMENT PURSUANT TO A PETITION DULY FILED AND HEARD BY THE BOARD. THIS PROHIBITION INCLUDES ANY CHANGE TO THE DESCRIPTION OF THE VARIANCE AS WAS SET FORTH IN THE SUPPORTING MATERIALS FILED WITH THE BOARD OR AS PRESENTED ORALLY TO THE BOARD. A PETITION TO AMEND THIS VARIANCE SHALL BE FILED AND PROCESSED ACCORDING TO ALL PROCEDURAL AND SUBSTANTIVE REQUIREMENTS PERTAINING TO THE GRANTING OF A VARIANCE TO INCLUDE THE PAYMENT OF THE FEE SET FORTH IN ARTICLE IV, DIVISION 6 OF THE ZONING CODE OF THE CITY OF SARASOTA, AS AMENDED OR REVISED.**

**TIME LIMITS:**

**UNLESS THE BOARD DECIDES THERE ARE SPECIAL CIRCUMSTANCES:**

**20 MINUTES WILL BE ALLOWED FOR PETITIONER'S PRESENTATION;**

**15 MINUTES WILL BE ALLOWED FOR QUESTIONS;**

**15 MINUTES WILL BE ALLOWED FOR REBUTTAL.**

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date



# RULES OF PROCEDURE

## CITY OF SARASOTA

### BOARD OF ADJUSTMENT

Rules of Procedure supplied for your reference only. **Please do not include in packets.**

#### **I. PURPOSE AND AUTHORITY**

These Rules of Procedure are adopted by the Board of Adjustment pursuant to Section IV-202(6) of the Zoning Code of the City of Sarasota.

It is the intent of these procedural rules to provide an equitable and efficient procedure for the consideration by the Board of Adjustment of quasi-judicial matters and to provide due process to petitioners and other parties seeking quasi-judicial determinations of the Board of Adjustment.

To the extent that there is any conflict between these Rules of Procedure and the Zoning Code of the City of Sarasota, the Zoning Code shall prevail.

#### **II. DEFINITIONS AND RULES OF CONSTRUCTION GENERALLY**

**Applicant:** is a person, corporation or other legal entity that files with the City Auditor and Clerk an application pertaining to a variance, an appeal of an interpretation of the Zoning Code by the Director of Building, Zoning and Code Compliance or any other quasi-judicial matter.

**Board:** means the Board of Adjustment.

**Computation of time:** In computing any period of time prescribed or allowed by these rules, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

**Sarasota City Code:** The words "Sarasota City Code" or "City Code" shall mean "The Code of the City of Sarasota" and shall include any amendments as may from time to time be adopted.

**Zoning Code:** The words "Zoning Code" shall mean "The Zoning Code of the City of Sarasota" and shall include any amendments as may from time to time be adopted.

#### **III. GENERALLY**

##### **A. OFFICERS**

1. Officers shall be selected and shall serve as provided for in Article III, Div. 3, of the Zoning Code and Chapter 2, Article V of the Sarasota City Code. As provided in Section 2-263 of the City Code, the Chairman and Vice-Chairman shall be elected for a one-year term and may not serve consecutive terms in the same chairmanship position.
2. A vacancy occurring in any office shall be filled by a majority vote of the remaining Board members and such new officers shall hold their office until the first regular meeting in January of the next calendar year.
3. The employee of the City appointed by the City Manager shall be the permanent Secretary to the Board.
4. The Chairman, or in his absence, the Vice-Chairman, shall preside at all meetings and



# RULES OF PROCEDURE

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hearings of the Board and decide all points of order and procedure.

#### B. MEETINGS

Meetings shall be held as provided for in Article III, Division 3, of the Zoning Code of the City of Sarasota and Chapter 2, Article V of the Sarasota City Code.

#### C. ATTENDANCE

1. Board members must attend all regular and special Board meetings as required by Article III, Division 3, of the Zoning Code of the City of Sarasota and Chapter 2, Article V of the Sarasota City Code. As provided for in Section 2-264 of the City Code, a Board member shall be automatically removed from Board membership at such time as the member's absences exceed twenty-five (25) percent of all scheduled Board meetings, including workshop meetings, in a given year unless the Board, by majority vote, plus one, waives an absence by finding that unusual circumstances exist which warrant a waiver.
2. Attendance of Board members at all meetings shall be taken by the Secretary to the Board, or his designee, and the reason for the absence of any Board member shall be recorded by the Secretary.

#### D. BOARD AGENDA

1. Items which require publication of notice of hearing may be placed on the Board agenda at any time prior to four weeks in advance of the date of the Board meeting at which the item will be considered. Thereafter, items which do not require published notice may be added to the agenda only with the approval of the Board Chairman.
2. Copies of the Board agenda shall be placed at the rear of the City Commission chambers for public inspection prior to each Board meeting. The agenda will also be made available to the public at the Building, Zoning & Code Compliance Department prior to each scheduled meeting.
3. Notices of all public hearings and the agenda shall be posted at City Hall three (3) days in advance of the scheduled meeting.

### IV. ORDER OF BUSINESS AT BOARD MEETINGS

- A. Call to order and roll call.
- B. Approval of minutes.
- C. The Board's attorney explains the quasi-judicial process, including the role of persons granted Party Status and citizens and the procedure for rebuttal and asking questions.
- D. Disclosure of ex-parte communications or site visit relating to any quasi-judicial matter on the agenda, pursuant to Section IV-202(j), Zoning Code.
- E. Swearing of all persons and pledge of conduct.



# RULES OF PROCEDURE

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- F. Public hearings
  - 1. Unfinished business;
  - 2. New business.
- G. Workshop on topics requiring Board consideration, but not requiring public hearing.
- H. Presentation of topics by Board members.
- I. Presentation of topics by the City administration or legal counsel to the Board.
- J. Scheduling of special meetings.
- K. Adjournment.

#### V. PROCEDURAL RULES

##### A. GENERALLY

- 1. All applications shall be submitted in accordance with the requirements of Article IV, Zoning Code.
- 2. The person filing the application shall appear in person or by an authorized agent or by an attorney.
- 3. Withdrawal of application - An Applicant may withdraw the application at any time prior to the publication of Notice of Hearing. In such event the application may be refiled subject to payment of all costs and fees associated with the filing of such application, subject to the sixty (60) day time limitation for the filing of an administrative appeal.

After the publication of the Notice of Hearing, if Applicant should elect to withdraw the application, the Applicant shall give written notification of same to the Board's Secretary, which shall be received by the Board's Secretary, during regular business hours, no later than five (5) business days prior to the date set for the hearing thereon. Such a withdrawal of the application shall be without prejudice. In such event, the application may be refiled subject to payment of all costs and fees associated with the filing of such application, subject to the sixty (60) day time limitation for the filing of an administrative appeal. However, if any such application for a variance is withdrawn in that manner on two occasions, then no further application for a variance of any type for the subject property shall be filed within one (1) year of the second dismissal. If any application for an appeal is withdrawn in that manner on two (2) occasions it shall be deemed denied with prejudice.

Furthermore, no application may be withdrawn less than five (5) business days prior to the hearing, on the day of the hearing or during the hearing thereon. In the event that the Applicant does not appear, refuses to proceed or cannot proceed, for any reason whatsoever, the application shall be deemed denied and no further application for a



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variance of any type for the subject property shall be filed within one (1) year of such denial. An application for an administrative appeal shall be deemed denied with prejudice. Nothing contained in this rule, however, shall limit the power of the Board to consider and grant a continuance as provided for in Rule V. F. 3.

- B. PARTIES - The following shall be considered parties in each required quasi-judicial hearing: (a) the City; (b) the Applicant and (c) any affected person (as hereinafter defined) who has sought and obtained Party Status.
- C. AFFECTED PERSON - An affected person is:
1. An owner, resident or other occupant of real property located within five hundred (500) feet of the real property which is the subject of a quasi-judicial hearing, the owner's, resident's, or occupant's designated representative or a designated representative of the neighborhood association whose members consist of such owners, residents or occupants. Such distance shall be measured in a straight line from the nearest property boundary of the zoning lot(s), which is the subject of a quasi-judicial hearing to the nearest property boundary of the zoning lot owned or occupied by the affected person. The term "designated representative" shall mean a person who has written authorization to represent an owner, resident, occupant or neighborhood association. In the case of a neighborhood association, the authorization shall be signed by an officer or member of the board of directors of the neighborhood association; or
  2. A person who will suffer a negative effect to a protected interest as a result of the quasi-judicial action sought by the Applicant. Although the adversely affected interest may be shared in common with other members of the community at large, the adversely affected interest shall exceed in degree the general interest in community good that is shared by all persons.
- Examples of affected person's interests may include:
- a. Negative traffic impact resulting from the proposed use with respect to surrounding uses;
  - b. Whether the physical appearance of the proposed use is compatible with the character of surrounding uses;
  - c. Whether any noise that would be emitted from the proposed use will be detrimental to surrounding uses;
  - d. When there is an administrative appeal, whether the person owns, resides upon or occupies property located in the same zoning district.
- D. NOTICES OF QUASI-JUDICIAL HEARING - Notices of quasi-judicial hearings shall be provided in accordance with provisions of Section IV-202 of the Zoning Code.
- E. PRE-HEARING PROCEDURES
1. Request for Party Status - Any person seeking Party Status shall file a Request for Party Status with the Secretary to the Board at least five (5) business days prior to the quasi-



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judicial hearing. The Request for Party Status shall contain the following information:

- a. The reasons or basis entitling the filer to Party Status;
  - b. Names and addresses of witnesses the filer intends to call at the hearing, during the presentation of filer's evidence or in rebuttal;
  - c. The names and addresses of expert witnesses to be used, if any, including a statement of the expert's qualifications;
  - d. A summary of the facts to be presented by filer personally or by use of a witness or expert; and,
  - e. The estimated amount of time the filer requires to make the presentation, including time for rebuttal and summation.
2. Applicant's Disclosures - The Applicant shall file a disclosure report at the time the application of variance or administrative appeal is filed. The disclosure report shall include , the following:
- a. Names and addresses of witnesses the Applicant intends to call at the hearing, during the presentation of Applicant evidence or in rebuttal;
  - b. The names and addresses of expert witnesses to be used, if any, including a statement of the expert's qualifications;
  - c. A summary of the facts to be presented by Applicant personally or by use of a witness or expert;
  - d. Copies of reports, studies, letters, documentary evidence and summaries of evidence to be used, if any; and, to the extent there is any change in the disclosure report or summary of evidence, the Applicant shall submit supplemental information no later than ten (10) days prior to the scheduled public hearing; and
  - e. The estimated amount of time the Applicant requires to make the presentation, including time for rebuttal and summation.
3. Copies of Reports and Summary of Evidence - The Secretary to the Board shall maintain copies of reports, studies, letters, documentary evidence and summaries of evidence on each quasi-judicial matter, which shall be available for public inspection and copying.
4. Time Limits for Presentations - Based upon the time estimates disclosed in Request for Party Status; the Applicant's Disclosures; the complexity of the subject of the quasi-judicial hearing; and the number of petitions to be scheduled for a particular Board meeting, the Board may establish time limits for the presentations, including rebuttal.

#### F. GENERAL CONSIDERATIONS

1. Failure to File Request for Party Status or Applicant's Disclosure - In the event a person



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fails to file a timely or fully complete Request for Party Status or should the Applicant fail to timely file a fully complete prior disclosure, including all of the documentary evidence or reports as required in paragraph E.2., a request may be made of the Board to waive the requirement. In determining whether to waive the requirement, the Board shall consider whether the granting of Party Status or allowing the Applicant to proceed without full prior disclosures will unduly delay the proceedings or substantially prejudice the position of the Applicant or another Party. For example, if the only testimony will be that of the Party and no witnesses, expert witnesses or documentary evidence will be submitted, Party Status may be granted. Where the Party, or an Applicant who failed to make a fully complete disclosure, intends to call witnesses, expert witnesses, or submit documentary evidence not previously disclosed, the Board shall weigh the impact of the proposed evidence against the prejudice to the other Parties that may result. If there is little or no prejudice resulting from the grant of Party Status or waiver of the pre-submittal requirements, the Board may grant Party Status or waive pre-submittal requirements. However, the Board may continue the quasi-judicial matter to a subsequent meeting in order to provide all Parties, and the Board, an opportunity to consider and review the evidence allowed by virtue of a waiver.

2. Qualifications of Expert Witnesses - Based upon a review of the qualifications of expert witnesses as presented for the record, the Board will determine what weight is to be given to the testimony of the experts. The Board shall not be required to make a specific ruling as to the witnesses' expertise.
3. Continuances - A continuance may be requested by an Applicant or a Party upon demonstrating that the continuance is necessary to provide rebuttal testimony or to provide time to review documentary evidence. The Board may continue the public hearing on its own initiative, upon finding that any testimony, documentary evidence, or other evidence presented at the quasi-judicial hearing justifies allowing time for additional research or review for the benefit of the Board to assist in an appropriate resolution of the matter being presented. At any time that the Board determines the scheduling or timing of the matter pending before the Board warrants a continuance to another date or time, the Board shall order such continuance.
4. All non-parties who wish to testify shall complete a "Request to Speak" form and deliver it to the Secretary of the Board.

#### G. ORDER OF PRESENTATION

1. Opening of Public Hearing
  - a. The Secretary announces the name of the Applicant, the number of the quasi-judicial matter to be heard., the other persons to the proceedings, and announce the order of presentation. (Source: Rule IV-202(f)(2), Zoning Code)
  - b. After the Applicant and the Applicant's representative(s), if any, are seated at the Board of Adjustment table, the Chair announces the quasi-judicial matter is now open for the purpose of receiving oral or documentary evidence for the record.
2. The Board shall make a determination as to those entitled to Party Status.



# RULES OF PROCEDURE

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3. The Board shall specify time limits on presentations including rebuttal; identify the Applicant(s) and other Parties to the proceedings; and announce the order of presentation.
4. Except for appeal hearings, the Secretary to the Board shall describe the application.
5. The Secretary to the Board, or his or her designee, shall swear any previously unsworn persons.
6. Presentation of Case In Chief
  - a. The Applicant, the City, and any other persons may present testimony and documentation to the Board. Only the Applicant, City and any person granted Party Status, may examine witnesses and may conduct cross-examination of other persons who provided testimony. Only the Applicant, persons granted Party Status and the City may provide rebuttal testimony.
  - b. The order of presentation shall be as follows:
    1. City
    2. Applicant
    3. Persons granted Party Status
    4. Non-parties in favor of the application
    5. Non-parties against the application
    6. Remarks of Board members - Board members may make remarks for the record concerning factual matters that are not already contained in the record, in recognition of the fact that Board members may have personal knowledge pertaining to the physical characteristics of a site, its surroundings, and other circumstances relevant to the matter being heard.
    7. Rebuttal by City, Applicant and persons granted Party Status.
7. Closing of Public Hearing - The chair announces that the quasi-judicial matter is now closed for the purpose of receiving oral or documentary evidence for the record.
8. Absent Board Member - Any member of the Board who was absent from a prior meeting in which the quasi-judicial matter was heard but is participating in the final decision shall review the record, including the minutes of the prior proceeding and shall acknowledge the review, on the record, prior to the Board taking a vote.
9. Decision
  - a. Deliberation Phase - The Board shall deliberate on the evidence presented at the hearing.



# RULES OF PROCEDURE

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- b. Prior to rendering a final decision, the Board may continue the matter to a future meeting in order to afford the Board sufficient time to review the record prior to voting on the matter.
- c. Final Decision - The Board, after deliberating, shall make an appropriate motion and shall vote thereon in accordance with the requirements of Section III-303(d), Zoning Code.
- H. Preparation of the Order - The Secretary to the Board shall prepare the final order or resolution for approval by the Board based upon the deliberations and decision of the Board.

#### VI. RECORD

The record maintained by the Secretary to the Board shall consist of:

- A. The application, site and development plan or development plan, if any, and all accompanying documents submitted by the Applicant;
- B. City staff reports and recommendations;
- C. All correspondence on file with the Secretary to the Board prior to the public hearing including written communication to members of the Board and City staff, if any;
- D. Agenda packet of Board pertaining to the petition or appeal;
- E. Resumes and/or statements of qualifications of City staff, City consultants, and expert witnesses previously filed with the City Auditor and Clerk;
- F. All exhibits and documentary evidence submitted for the record by Parties during the presentation of the evidence of the Party during the quasi-judicial hearing.
  - 1. In instances where it is necessary to present oversized exhibits, exceeding 24 inches by 36 inches, a reduced duplicate of the exhibit, which is not mounted on a backboard, shall be submitted for the record.
  - 2. A reduced duplicate shall be verified by the Secretary to the Board as an accurate duplication of that submitted during the quasi-judicial hearing.
  - 3. Should a Party require that an original document be returned, the Secretary to the Board shall make necessary copies and then may return the original document. A request for the return of the original document shall be made at the time of submittal during the quasi-judicial hearing.
- G. All comments, exhibits and documentary evidence previously entered into the record at a prior Board meeting on the quasi-judicial matter.
- H. The videotape, audio tape recording and minutes of the public hearing(s) before the Board.
- I. Any transcripts of the proceeding properly certified by a court reporter or other qualified person



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and filed by any party with the Secretary to the Board.

J. The following codes of the City of Sarasota:

1. Zoning Code of the City of Sarasota.
2. Any prior Zoning Code of the City of Sarasota.
3. Sarasota City Code;
4. Comprehensive Plan of the City of Sarasota (also known as the Sarasota City Plan);
5. Engineering Design Criteria Manual;
6. The Florida Building Code, the Florida Fire Prevention Code and the Life Safety Code, and any City of Sarasota local amendments thereto as adopted in Chapters 11 and 14 of the Sarasota City Code.

#### VII. PRIOR RULES:

Upon adoption, these rules shall supersede all prior rules adopted by the Board of Adjustment. All such prior rules shall be repealed.

#### VII. AMENDMENTS:

These Rules of Procedure may be amended by a majority vote of the Board members.

**ADOPTED this 17th day of November 2004.**

ATTEST:

(signed) Timothy Litchet  
Secretary to the Board

(signed) Elmer G. Berkel  
Chairman  
City of Sarasota Board of Adjustment

(signed) Billy E. Robinson  
City Auditor and Clerk