

Division 3. Board of Adjustment**Section III-301. Powers and Duties [Sec. 2-11.]**

The Board of Adjustment shall have the following powers and duties:

- A. To hear and decide appeals of any written order, decision, determination, or interpretation of the Director of Building, Zoning and Code Enforcement.
- B. To hear and grant variances from the terms of the Land Development Regulations. However, the Board of Adjustment shall not be authorized to grant variances from the terms of these Land Development Regulations pertaining to the following:
 - 1. Properties located in the Government Use (G) zone district;
 - 2. Construction of docks in the Marine Park (MP) zone adjacent to G zoned property;
 - 3. The location or use requirements pertaining to Adult Use Permits;
 - 4. Minimum building finished first floor elevations; or,
 - 5. Height Bonuses as provided under §VI-503(M).
- C. To take testimony under oath and to compel the attendance of witnesses.
- D. The Board shall have the authority to affirm, reverse or modify the written decision or interpretation appealed from, so long as such action is in conformity with the terms of these Land Development Regulations and to that end the Board shall have the powers of the Director of Building, Zoning and Code Enforcement to make such order, requirement, decision or determination as may be required with regard to appeals.

Section III-302. Membership; Terms; Transition; Vacancies; Removal**A. Creation**

The Board of Adjustment shall consist of five (5) members to be appointed by the City Commission, each for a term of three (3) years; provided that members serving on the Board as of the date of adoption of these regulations shall serve until their terms shall expire; provided, further, that members shall serve until their successors are appointed and qualified.

B. Qualifications of Members

Members of the Board of Adjustment shall not hold any other public position or office in the government of the City and shall be residents of the City. [Sec. 2-2.]

C. Removal of Members

Members of the Board of Adjustment may be removed from office by the affirmative vote of three (3) members of the City Commission. [Sec. 2-3.]

D. Vacancies

ARTICLE III: Decision Making and Administrative Bodies

Vacancies in Board membership shall be filled by appointment by the City Commission for the unexpired portion of the term of the member affected. [Sec. 2-4.]

E. Compensation of Members

Members of the Board of Adjustment shall receive no salaries or fees for service on the Board, but may receive reimbursement for reasonable and necessary expenses incurred in the performance of their duties of office. [Sec. 2-5.]

F. Conflicts of Interest

If any member of the Board of Adjustment shall find that his private or personal interests are involved in the matter coming before the Board, he shall disqualify himself from all participation in that case. No member of the Board of Adjustment shall appear before the Board of Adjustment, Planning Board, or the City Commission as agent or attorney for an applicant for a development approval. [Sec. 2-10.]

Section III-303. Meetings, Quorum and Required Vote [Sec. 2-9., Sec. 2-13.]

A. Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine, on a day to be determined by the Board. Meetings that are not regularly scheduled shall not be held without at least twenty-four (24) hours notice to each member.

B. Persons appearing before the Board shall have no right of challenge of any board member, provided that this provision shall not prohibit any person appearing before the board from placing in the record a statement alleging bias and requesting disqualification for bias of any member or alternate member.

C. A quorum for the transaction of business shall consist of three (3) members.

D. The affirmative vote of three (3) members of the Board is required to take final action on a petition for a variance or an administrative appeal. In the event any motion for a final decision on a petition for a variance or an appeal fails to achieve the affirmative vote of three (3) Board members, and no further action by the Board to achieve three (3) affirmative votes can be obtained, then such petition or appeal shall be automatically continued to the next regularly scheduled meeting or a special meeting scheduled for that purpose. No petition or appeal shall be automatically continued more than once. At the Board meeting during which the continued petition or appeal is considered, if any motion for a final decision on the petition or appeal fails to achieve the affirmative vote of three (3) Board members, and no further action by the Board to achieve three (3) affirmative votes can be obtained, then the petition or appeal shall be referred to a Special Master, established under Article III., Division 11., for a hearing *de novo*, as provided for in Article IV., Division 6, Variances, and Division 7, Administrative Appeals.

(Ord. No. 99-4113, Sec. 3, 3-15-99, Ord. No. 03-4430, sec. 4, 1-21-03)

Section III-304. Officers and Staff [Sec. 2-8., Sec. 2-6.]

A. The Board of Adjustment shall select a chairman and vice-chairman from among its members and may create such other offices as it may determine necessary.

B. The Board of Adjustment shall be provided with such professional assistance as may be deemed necessary to enable the Board to perform the functions assigned to it under these Land Development Regulations. The City Manager shall provide a secretary for the Board.

Section III-305. Rules and Records [Sec. 2-7.]

A. The Board of Adjustment shall adopt rules of procedure necessary to its governance and the conduct of its affairs, in keeping with the applicable provisions of the Sarasota City Charter, Florida law and these Land Development Regulations. Such rules of procedure shall be in written form and shall be available to persons appearing before the Board and to the public.

B. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member, including the chairman or vice-chairman, or, if such member is absent or fails to vote, indicating such fact.