

ARTICLE XX: CONSTRUCTION BOARD OF APPEALS

2000 Establishment of Construction Board of Appeals

A Construction Board of Appeals is established to achieve the purpose of hearing applications for modification of the requirements of the City Building Department and the City Fire Department in accordance with the International Building Code and the International Fire Code.

2000.1 Membership of the Board

The Construction Board of Appeals shall consist of persons appointed by the Mayor and Council as follows:

1. Initial appointment shall be one for five years; one for four years; one for three years; one for two years; and one for one year;
2. Thereafter, each new member shall serve for five years or until a successor has been appointed;
3. Two (2) alternate members shall be appointed and called by the Board during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed; and,
4. The Building Official and the Fire Official shall serve as ex officio members of said board but shall have no vote on any matter before the board.
5. Vacancies on the Board shall be filled for an unexpired term in the manner in which the original appointments are required to be made. Members appointed to fill a vacancy in an unexpired term shall be eligible for reappointment of two full terms.
6. Members shall be removed from the Board prior to the end of their terms only for just cause. Continued absence of any member from regular meetings of the Board shall, at the discretion of Mayor and Council, render any such member liable to immediate removal from the Board.

2000.2 Qualifications

The Construction Board of Appeals shall consist of seven individuals who are not employees of the jurisdiction and each representing one the following professions or disciplines:

1. Design Professional: registered design professional with architectural experience or a builder or superintendent of building construction with at least ten (10) years' experience, five of which shall have been in responsible charge of work;
2. Structural Engineer: registered design professional with structural engineering experience;
3. Mechanical and Plumbing Engineer: registered design professional with mechanical and plumbing engineering experience or a mechanical contractor with at least ten (10) years' experience, five of which shall have been in responsible charge of work;
4. Electrical Engineer: registered design professional with electrical engineering experience or an electrical contractor with at least ten (10) years' experience, five of which shall have been in responsible charge of work; and,
5. Fire Protection Engineer: registered design professional with fire protection engineering experience or a fire protection contractor with at least ten (10) years experience. Five of which shall have been in responsible charge of work.
6. Resident Citizens: Two citizens of the City of Georgetown who are not employees of the City

2001 Proceedings of the Construction Board of Appeals

The Board is authorized to establish policies and procedures necessary to carry out its duties. The Board shall annually select one of its members to serve as Chairperson. The Board shall appoint a Secretary, who may be a City employee. The Secretary shall file a detailed record of all proceedings in the Building

and Planning Office. A member shall not hear an appeal in which that person has a personal, professional, or financial interest.

2002 Decisions of the Construction Board of Appeals

The Board shall modify or reverse the decision of the Building Official and/or Fire Official by a concurring majority vote of its members. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Building and Planning Office and shall be public record. On all appeals, applications, and other matters brought before the Board shall inform in writing all parties involved of its decisions and the reason thereof.

2002.1 Resolution. The decision of the Board shall be by resolution. Certified copies shall be furnished to the applicant and to the Building Official

2002.2 Administration. The Building Official and/or Fire Marshal shall take immediate action in accordance with the decision of the Board.

2003 Appeals, Hearing, and Notice

The Board shall meet upon notice from the Chairperson within 10 days of the filing of an appeal or at stated periodic meetings. Public notice of all meetings of the Board shall be posted on the City Website.

2003.1 Open Hearing. All hearing before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official and/or the Fire Official, and any person whose interests are affected shall be given the opportunity to be heard.

2003.2 Rules and Procedures. The Board shall adopt Rules and Procedures under which the hearing will be conducted. . The Rules and Procedures shall be made available to the public and shall be filed in the Building and Planning Office. The Rules and Procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

2003.3 Postponed Hearing. When five (5) members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

2003.4 Exceptions for Emergency Hearings

Hearings for decisions that are deemed emergency may be held with 24 hour notice posted on the City Website.

2004 Powers

The Construction Board of Appeals has the power to rule on any difference in interpretation between the applicant Building Official and/or Fire Official of the City of Georgetown.

The Construction Board of Appeals, when so appealed to and after a hearing, may vary the application of any provision of this Code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of the technical codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are unique to the building, structure, or service system involved, and which are not applicable to others;
2. That the special conditions and circumstances do not result from the action or inaction of the applicant;
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Code to other buildings, structures, or service system;
4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure, or service system; and,
5. That the grant of the variance will be in harmony with the general intent and purpose of the Code and will not be detrimental to the public health, safety, and general welfare.

The Board shall set the time limit within which the action for which the variance is required shall be commenced or completed or both. Action by the Board may find that:

1. The provisions of the Code do not apply in the specific case;
2. An equally good or more desirable form of construction can be employed in any specific case; or
3. The true intent and meaning of the Code or any of the regulations hereunder have been misconstrued or incorrectly interpreted.

2005 Appeals from the decisions of the Construction Board of Appeals

The ruling made by the Construction Board of Appeals shall be final, without the right of further appeal.

Editor's notes (Article XX added; Ord. of 3-15-12)