



**BOARD OF APPEALS  
RULES OF PROCEDURE  
ADOPTED JANUARY 14, 2025**

The Board has been established pursuant to Section 62.23 of the Wisconsin Statute and § 255-90 of the City of Hudson Municipal Code. It assumes thereby, all responsibilities, duties and powers as provided therein. These Rules of Procedure are supplementary to the provisions of the aforementioned as they relate to the procedures of the Board.

Membership & Meeting Schedule

The Board consists of five members with first and second alternate members available. The Chairperson is designated by the Mayor.

At any hearing or meeting, the Board may elect an Acting Chairperson if the Chairperson is unavailable.

The Board meets on an as needed basis.

Training

The Board of Appeals members and alternate members complete at least two (2) hours of training on the roles, duties and responsibilities of members. Upon completion of training, all members must individually notify city staff of the hours completed, and which training modules were utilized.

Quorum and Voting

A quorum consists of four (4) members or acting members.

If a quorum is present, the Board of Appeals may take action by a **majority vote of the members present** under the provisions of chapter §255-90 and §255-91. The grounds of every determination will be stated in writing.

Sequence of Events

1. Request is made for application.
2. Application and applicable supporting information, including Rules of Procedure, is provided.
3. Application and supporting data are submitted.
4. Community Development staff reviews and verifies the application is complete, reviews the site and reviews the issues with the applicant.
5. The Board is contacted to coordinate schedules to determine a meeting date and time. Members should indicate if there is a conflict of interest for which they feel they should not participate. As per Municipal Code §255-90(H), the hearing is to be held no later than 60 days from the date of filing.
6. A public hearing notice is submitted to the *Star-Observer* for publication and mailed to interested parties. As per Municipal Code §255-91(C), notice of such hearing shall be given not more than 30 days and not less than 10 days before the hearing.
7. Agenda is published and posted.

- a. If the Chairperson and/or zoning staff feel an on-site inspection is required as a group, this shall be noticed as part of the agenda.
  - b. If a closed session is required to consult with legal counsel on litigation issues only to which the Board may be a party, it shall be noticed as part of the agenda.
- 8. Information packets are sent out to the Board members (including alternates) approximately one week before any scheduled hearing/meeting.
  - a. The packet includes an agenda, minutes from the previous meeting, a copy of the public notice, area map showing the lot location and adjacent property owners that were mailed the public hearing notice, the application with supporting data as submitted and section(s) of Municipal Code involved. A staff report may be included.
- 9. The Board should review the documents and visit the site and surrounding properties. The applicant has been informed that the Board may be reviewing the site individually.
- 10. The public hearing/meeting is held. An attendance sheet is available for the audience to fill in.
- 11. *Draft* minutes and Findings & Conclusion Notice of Decision is completed and will be forwarded to the applicant and the Board *within two (2) weeks* of the hearing/meeting to facilitate any corrections to be done in a timely manner. Draft minutes are considered for approval at the next scheduled Board of Appeals meeting.

#### Meeting Steps

1. Chairperson calls meeting to order. If the Chairperson is not in attendance, the secretary will call the meeting to order and request election of an Acting Chairperson.
  - a. Note attendance by roll call vote.
  - b. Chairperson states to the audience that an attendance sheet is available to sign.
2. Consideration of past meeting minutes; amend, if necessary and **consideration of motion** to approve and place minutes on file.
3. Chairperson should note general agenda items for the hearing/meeting.
4. Open public hearing (repeated per # of hearings scheduled).
  - a. Chairperson
    - Read hearing notice
    - Explain that this is a public hearing and that persons desiring to speak shall direct their comments to the Board. If members of the audience have questions of the Board, staff or others present, their questions should be directed to the Board upon acknowledgement from the Chairperson

- Explain that prior to making a presentation of statement, or raising a question, persons from the audience *shall go to the lectern and state their name and address.*
  - Staff reads the names and dates of any public comment received via email or mail prior to the meeting into the meeting record. Copies of the public comments will be supplied to the Board members.
- b. Chairperson requests applicant presentation/testimony.
  - c. Chairperson requests staff report by Zoning Administrator or Assistant Zoning Administrator. Staff will present the issue for consideration by the Board including:
    - owner/applicant
    - location
    - existing zoning
    - section of ordinance the request addresses
    - reason for the request
    - purpose of ordinance
  - d. Chairperson asks for testimony of others in audience (*must be recognized by the Chairperson prior to speaking and are to provide name and address.*)
  - e. Request if there are any further comments from the audience-
  - f. **Consideration of motion** to close public hearing.
5. Discussion of variance application information among the Board members regarding the three (3) statutory standards or appeal issues.

Stipulate findings for variance requests that minimally meet the following standards:

1. **Unnecessary Hardship.** Denial of the variance would result in unnecessary hardship to the property owner due to physical characteristics of the site.
2. **Unique Property Limitations.** The unnecessary hardship is based on conditions unique to the property and were not created by the property owner.
3. **No Harm to Public Interest.** The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

In supplement to the three statutory standards of appeals, the following elements should also be considered per Municipal Code §255-91 (F-H).

- Burden of Proof. A property owner bears the burden of proving "unnecessary hardship".
  - Financial Hardship. Economic loss or financial hardship do not justify a variance.
  - Uniqueness of the property. Unnecessary hardship must be due to the unique physical limitations of the property.
6. Motion for approval (*including rationale for each of the three (3) statutory standards*) and any considerations to be required if approved or denial and reason(s) why.

7. **Consideration of motion.** If a quorum is present, the Board of Appeals may take action by a majority vote of the members present. Roll call vote, if needed.
8. Additional Agenda Items:
  - Staff report on pending applications or issues.
  - Board members request/comment on issues that should be discussed in future meetings.
9. **Consideration of motion** to adjourn.

#### General Information

1. The Board shall-avoid ex parte communications- As defined here, ex parte contact refers to any communication regarding a variance or appeal before the board or which may come before that occurs outside of a noticed meeting or hearing. Members of the Board have a duty to not prejudge a case and to base their decision only on the material and facts provided to them and presented at the public hearing/meeting on the case.

If ex parte contact should occur, the context of the ex parte contact should be reported at the hearing/meeting prior to a Board decision on the issue.

2. An appeal may be continued to a future hearing/meeting date at the request of the applicant, zoning staff or Board member upon motion procedure. Reasons for continuance may be to provide an opportunity to have a group on-site inspection of the site, for the applicant and/or zoning staff to review issues and other alternatives, if a quorum of Board members is not available, etc.

*The Board of Appeals Rules of Procedures is a guide for applicants and Board members. The Rules of Procedure shall not be in conflict with City of Hudson Municipal Code §255-90 and §255-91 (attached) or the applicable Wisconsin Statutes.*