



City of Santa Barbara
Community Development

Memorandum

DATE: October 19, 2018

TO: Building & Fire Code Board of Appeals

FROM: Andrew Stuffer, Chief Building Official

SUBJECT: Conduct of Board of Appeals Hearings

CONTEXT

The procedures and conduct of a hearing before the Building & Fire Code Board of Appeals is critically important. Failure to conduct the meeting under the proper procedures can result in a rescheduling of the item heard and/or Superior Court overturning a decision of the Board. At a more practical level, consistent and predictable conduct that follows published procedures builds trust with the community, the Board, Appellants and City staff.

LAWS

The following are the official laws that must be considered when conducting a hearing:

- Brown Act
- SBMC 22.040.20 Section 113
- (The City Attorney may add more references here)

TYPES OF HEARING ITEMS

Hearing items that come before this Board fall into 4 bulleted categories below.

- Appeals of a decision of the City Chief Building Official or Fire Marshal (per SBMC 22.040.20 Section 113)
- Ratification of a finding of Unreasonable Hardship by the City's Chief Building Official (per SBMC 22.040.20 Section 11B 202.4 Item #8)
- Requests for Board input and/or decision relative to a suggested City policy or ordinance
- Informational items needing no decision by the Board

APPEAL HEARINGS

SBMC 22.040.20 Section 113 establishes the City's procedure for conducting appeal hearings by the Building and Fire Code Board of Appeals. It reads as follows:

- 1. Any person may appeal a decision of the Chief Building Official or Fire Code Official by filing a written appeal with the Building Official or Fire Code Official within 10-days of the issuance of the decision. The notice of appeal shall state the grounds for the appeal.*

2. *No notice of appeal shall be accepted unless the notice is accompanied by the fee specified by resolution of the City Council.*
3. *All appeals shall be heard not less than 10-days and not more than 60-days from the date on which the Chief Building Official or Fire Code Official receives the written appeal.*
4. *The filing of a timely appeal with the Chief Building Official or Fire Code Official shall place a stay on further enforcement of the specific matter appealed, except for instances of immediate danger to life or property.*
5. *The Chairperson shall call the meeting to order.*
6. *The Chairperson shall note the Board members present for the minutes.*
7. *The Chairperson shall recognize the Chief Building Official or Fire Code Official for presentation of the appeal. The Chief Building Official or the Fire Code Official shall read his or her recommendation to the Board.*
8. *The Chairperson shall recognize the Appellant for presentation of rebuttals.*
9. *All witnesses must be called by either the Appellant or the Chief Building Official or the Fire Code Official and may be questioned.*
10. *The Board may entertain comments from the public.*
11. *The Board may affirm, deny, or amend the decision of the Chief Building Official or the Fire Code Official.*
12. *The Board shall issue its decisions in writing and shall include a statement of the decision appealed, the decision of the Board and the findings made by the Board in reaching their decision.*
13. *The Chairperson shall adjourn the meeting at the end of business.*
14. *The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes.*
15. *This Board shall serve as the appeals boards defined in Section 1.8.8 and 1.9.1.5.”*

HARDSHIP RATIFICATION HEARINGS

The following procedures are followed for this type of hearing:

1. *Per SBMC 22.040.20 Section 11B 202.4, all Unreasonable Hardship decisions of the Chief Building Official are subject to ratification by this Board.*
2. *The Chairperson shall call the meeting to order.*
3. *The Chairperson shall note the Board members present for the minutes.*
4. *The Chairperson shall recognize the Chief Building Official for presentation of the Unreasonable Hardship that has been approved by the Chief Building Official.*
5. *All witnesses must be called by the Chief Building Official and may be questioned.*
6. *The Board may entertain comments from the public.*

7. *The Board may affirm, deny, or amend the decision of the Chief Building Official relative to the approval of the Unreasonable Hardship.*
8. *The Board shall issue its decisions in writing and shall include the findings made by the Board in reaching their decision.*
9. *The Chairperson shall adjourn the meeting at the end of business.*
14. *The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes.*

REQUEST FOR BOARD INPUT OR DECISION ON POLICY OR ORDINANCE DEVELOPMENT

The following procedure should be followed:

1. *The Chairperson shall call the meeting to order.*
2. *The Chairperson shall note the Board members present for the minutes.*
3. *The Chairperson shall recognize the Chief Building Official or Fire Code Official for presentation of the hearing item.*
4. *The Board may entertain comments from the public.*
5. *The Board shall issue its decisions in writing and include the findings made by the Board in reaching their decision.*
6. *The Chairperson shall adjourn the meeting at the end of business.*
7. *The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes.*

INFORMATIONAL ITEMS – NO DECISION OF THE BOARD

The following procedure should be followed:

1. *The Chairperson shall call the meeting to order.*
2. *The Chairperson shall note the Board members present for the minutes.*
3. *The Chairperson shall recognize the Chief Building Official or Fire Code Official for presentation of the hearing item.*
4. *The Board may entertain comments from the public.*
5. *The Chairperson shall adjourn the meeting at the end of business.*
6. *The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes.*

* The above procedures are under review by the City Attorney's office at the time of the publication of this Staff Report. Changes to the above procedures may be made prior to, or during, the hearing of this item before the Board.