

ZONING BOARD OF ADJUSTMENT

EMERGENCY REGULATIONS REGARDING PUBLIC HEARING PROCEDURES

On March 16, 2020, as part of a series of emergency declarations and orders, the Mayor and Health Commissioner issued an Emergency Order Temporarily Prohibiting Operation of Non-essential Businesses to Prevent the Spread of COVID-19 (“Emergency Order”). On March 18, 2020, the Zoning Board of Adjustment (“Board”) suspended all deadlines for filing appeals. The City recognizes that the COVID-19 Pandemic is unprecedented. The City’s top priority is maintaining public health and the safety of all Philadelphians and those who work and invest in the City; by taking proactive steps now we can help mitigate community spread.

As part of a series of emergency declarations and orders, the Mayor and Health Commissioner determined on May 29, 2020, that Philadelphia could move to the Commonwealth’s “Yellow Phase,” with Philadelphia-specific restrictions that would apply in addition to restrictions established by the Governor, and to implement that decision, executed an Order entitled “Emergency Order Allowing Limited Reopening of Businesses, Advising Philadelphians that they are Safer at Home, and Establishing Safety Measures to Prevent the Spread of 2019 Novel Coronavirus (COVID-19): Yellow Phase of Reopening” (“Yellow Phase Order”) to become effective on the date determined by the Governor that the City of Philadelphia should move into the Yellow Phase, on June 5, 2020.

Pursuant to its powers as set forth at Sections 4-607 and 8-407 of the Philadelphia Home Rule Charter and Subsection 14-103(4)(b) of the Philadelphia Zoning Code, the Philadelphia Zoning Board of Adjustment (“Board”) hereby adopts the following temporary regulations,

which shall become effective immediately and shall remain in effect for the duration of the affected period, unless amended by the Board.

1. Definitions.

“Affected Period.” Means the period beginning on March 13, 2020, through September 20, 2020, unless further extended by the Board.

“Telecommunications Technology.” Any interactive technology used to facilitate virtual or distance meetings during the affected period, including telephone and internet communication.

“Participant.” Applicants, Interested Parties, Attorneys representing Applicants or Interested Parties, and Planning Commission Representative.

“Attendees.” Members of the public present to comment, question, or offer testimony at the hearing. An Attendee may also be an Interested Party.

“Panel Members.” The Board, the Board’s Attorney, and the Board’s Administrator and members of the Board’s staff. Panel Members may have their role in the proceedings identified on screen along with their name.

“Limited Panel Members.” Participants designated as panel members for the duration of a case.

“Host.” A member of the Board’s staff responsible for displaying the previously submitted documents and exhibits during the course of the hearing.

3. Quorum. For the duration of the affected period, the three members of the Board necessary to constitute a quorum for any public hearing required under the Zoning Code pursuant to Subsection 14-303(14)(b) need not be present at a physical meeting location and a quorum may instead be established through telecommunications technology.

4. Submission of Evidence.

(a) Documentary Evidence. All necessary documents, including deed, lease or agreement of sale, and tax certification, photographs, plans, and any exhibits that a participant intends to rely on at the hearing, including revised plans, shall be submitted to the Board five (5) days prior to the hearing in the manner and format provided on the Board’s website for submission of documents. If the Board receives a late submission of documents, excluding documents used for purposes of rebuttal, or the submission does not comply with the manner and format required by the Board, the Board may reschedule the hearing.

(b) Witness Testimony. A list identifying the name of each witness who may be called to testify at the hearing shall be submitted to the Board five (5) days prior to the hearing. The list should also identify on whose behalf each witness is appearing, a telephone number where the witness may be reached during the course of the hearing, and the witness' address. If the Board does not timely receive the list of witnesses and accompanying information, the Board may reschedule the hearing.

5. Presentation of Evidence. The Board's Administrator or a member of the Board's staff will be designated as the Host and will be responsible for displaying previously submitted documents and exhibits during the course of the hearing as directed by the Participants. Where documents and exhibits have not been submitted in advance of the hearing and the Board determines that a continuance is not necessary, the Participant presenting the documents or exhibits shall send them to the Host by electronic mail and the Host will display the documents or exhibits as directed by the Participant.

6. Order of Presentation. Unless otherwise directed by the Board, the order of presentation shall be as follows: (a) presentation by the Applicant; (b) presentation by any participant represented by counsel; (c) presentation by any unrepresented interested party or attendees; and (d) recommendation from the Planning Commission.

7. Conduct of Hearing.

(a) The hearing will be recorded and participation by any person joining the hearing, regardless of role or telecommunications technology used to join the hearing, constitutes consent to be recorded.

(b) Each Participant will be designated as a Limited Panel Member for the duration of the case and, where joining the hearing by video enabled telecommunications technology, shall enter their first and last name at login so that it may be displayed on screen.

(c) Participants and Attendees will be required to complete an appearance statement stating their name, address, electronic mail address, and on whose behalf they are appearing; attorneys must additionally identify the individual(s) or entity they are representing. Participants or Attendees joining the hearing by telephonic telecommunications technology shall transmit their information verbally to the Board's staff to be included in the record.

(d) At the beginning of each case, the Board's Vice Chair will ask an applicant's attorney whether the applicant is willing to waive reading of the refusal or referral and stipulate to the refusal's accuracy or, where necessary, will read the refusal into the record.

(e) For the duration of the case, each Participant or Attendee shall state their name prior to speaking and, where joining the hearing by video enabled telecommunications technology, shall activate their video camera while speaking.

(f) When not speaking or making an objection, each Participant or Attendee shall keep their microphone or transmitter on mute. The raise hand function is not required to make an objection.

(g) In accordance with the Order of Presentation, the Planning Commission Representative's recommendation shall be given at the end of the case; however, should the Planning Commission Representative be called upon to or seek to offer testimony during the course of the hearing, the Planning Commission Representative should use the raise hand function and wait to unmute the microphone or receiver until directed to do so by the Board's Administrator or a member of the Board's staff

(h) Prior to each witness' testimony, the Board will administer the oath.

(i) When presenting, the Participant shall direct the Host to display documents or exhibits as needed and the Participant shall identify the document or exhibit displayed by the Host for the record.

(j) During the course of the case, the Board's Administrator or members of staff will periodically use the chat function in the internet based telecommunications technology chosen by the Board to remind Attendees of the case the Board is currently hearing and to refrain

from using the raise hand feature until the Board reaches the portion of the case where Attendees may present comments, questions, and testimony.

(k) When the Board reaches the portion of the case where Attendees may present comments, questions, and testimony, Attendees joining by the web based video enabled telecommunication technology chosen by the Board will be asked to use the raise hand feature and the Board's Administrator or a members of the Board's staff will facilitate their participation. The Board's Administrator or members of the Board's staff will likewise facilitate the participation of Attendees joining by telephonic telecommunications technology.

8. Vote by Board. The Board may not communicate privately during the hearing. At the end of each case, the Chair shall poll the Board and query whether the individual members are prepared to vote. If each member is prepared to vote, the Chair shall poll the Board and the individual members shall verbally report their vote for the record. The Board's Administrator or a member of staff will also record the vote on a tally sheet. If any member of the Board wishes to discuss the case prior to voting, the Chair shall announce that the matter will be discussed in executive session, stating the date of the executive session, and the case shall be voted on publicly in the manner provided herein at the next scheduled hearing.