

Regular Meeting
4:30 P.M.

CITY OF COLDWATER ZONING BOARD OF
APPEALS
Wednesday September 21, 2022 Meeting

AGENDA

ROLL CALL

MINUTES

1. Zoning Board of Appeals special meeting of August 17, 2022

PUBLIC COMMENTS

PUBLIC HEARING

OLD BUSINESS

2. **Zoning Board of Appeals By-Laws and Rules of Procedure**

NEW BUSINESS

PUBLIC COMMENTS

ADJOURNMENT

Next meeting – Wednesday October 19, 2022

Council Chamber
Henry L. Brown Municipal Bldg.
One Grand Street
Coldwater, Michigan



August 17, 2022
4:30 p.m.
(517) 279-9501
www.coldwater.org

**Zoning Board of Appeals Minutes
Regular Meeting**

ATTENDANCE

MEMBERS PRESENT: The meeting was called to order by Chairman Gordon Swan at 4:30 p.m. with the following members present: Dave Sattler, David Cole, Joseph Hayes and Alternate Member Jim Bilsborrow.

MEMBERS ABSENT: Mike Eddy.

OTHERS PRESENT: Administrator Dean Walrack, Shauna Chávez, Paul Jakubczak, Katie Higgs (via Zoom); Don Reid plus two others .

MINUTES

1. Regular Meeting of April 20, 2022.

Board Action: Motion by Member Hayes, and seconded by Member Sattler, to approve the Regular Meeting minutes of April 20, 2022, as presented.

Ayes: 5

Nays: 0

Motion carried.

PUBLIC COMMENTS

- None.

PUBLIC HEARING

2. ZBA22-03 A request from Paul & Kerri Jakubczak located at 17 Thompson Blvd. to consider a 2ft. dimensional variance from Section 5.13.C.1 and a characteristic variance from Section 5.13.D.1 to install a privacy fence at a height of six ft. six in. (6'6") in a residential front yard in the A-1 One-Family Residential District.

Chairman Swan called the public hearing to order at 4:35 pm.

The residential property is the final property on a cul-de-sac. It abuts adjacent residential rear yards on the entirety of its south and west sides. There presently exist chain-link and wire fences in two of the areas of the yard affected by this variance application. The applicants are requesting the ability to install a six ft. (6') privacy fence in this location.

The applicable sections of the zoning code are highlighted below:

5.13.C.1 Fence height in residential front yards

Except as otherwise provided herein, no fence in any front yard shall exceed four feet and six inches in height, nor shall any fence exceed six feet and six inches in height.

5.13.D.1 Construction regulation of fences in residential front yards Except as otherwise provided herein, no chain link fence, wire mesh fence, or privacy fence may be located in any front yard.

The Zoning Board of Appeals may grant a "non-use" variance only upon a finding that practical difficulties exist. A finding of practical difficulty is when the applicant has demonstrated all of the following:

- A. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same zoning district so as to present such a unique situation that a precedent will not be established for other properties in the district to also ask the same or similar change through the zoning appeal procedure.
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- C. The authorization of such variance will not be of substantial detriment to adjacent property and will not naturally impair the intent and purpose of this Zoning Code or the public interest. Petitioner's response: It will not be detrimental to adjacent properties for the intent of the ordinance.
- D. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provision of this Zoning Code to other lands, structures or building in the same zoning district.
- E. That the reasons set forth in the application for the variance justify the granting of the variance and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.

PUBLIC COMMENTS:

- None.

Notices were sent to all property owners within 300 ft. of the subject parcel and published in the July 30, 2022 edition of the Coldwater Daily Reporter. No comments have been received by City of Coldwater Neighborhood Services Department Staff as of the drafting of this report.

Chairman Swan closed the public hearing at 4:51 p.m.

Board Action: Motion by Member Hayes, and seconded by Member Cole, to allow a 2ft. dimensional variance from Section 5.13.C.1 and a characteristic variance from Section 5.13.D.1 to install a privacy fence at a height of six ft. six in. (6'6") in a residential front yard in the A-1 One-Family Residential District as it meets the following guidelines listed below, as presented.

- A. Special conditions exist which are peculiar to the land: The property's orientation is unique from other properties within an A-1 One-Family Residential District.
- B. Such a variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity: The property's front yard directly abuts adjacent rear yards with the ability to install fencing matching the requested characteristics.
- C. The authorization of such variance will not be of substantial detriment to the adjacent property and will not naturally impair the intent and purpose of the Zoning Code or the public interest: The variance will not impair the intent of any of the applicable ordinances.
- D. The granting of the variance will not confer a special privilege: The variance will grant the subject property the ability to install a fence in a location which the immediately adjacent property may install by right.
- E. That the reasons set forth do justify the granting of the variance and the variance is the minimum variance that will make possible the reasonable use of the land: The variance is justified by the reasons laid out in criteria A-D.

Ayes: 5

Nays: 0

Motion Carried.

OLD BUSINESS

- None.

NEW BUSINESS

3. Zoning Board of Appeals By-Laws and Rules of Procedure.

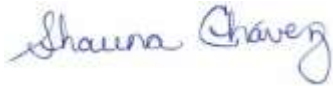
Board Action: None, discussion only.

PUBLIC COMMENTS

- None.

ADJOURNMENT – Next meeting 4:30 p.m. September 21, 2022.

Meeting adjourned at p.m.

A handwritten signature in blue ink that reads "Shauna Chávez". The signature is written in a cursive style.

Shauna Chávez
Deputy City Clerk



CITY of COLDWATER

Henry L. Brown Municipal Building

One Grand Street

Coldwater, Michigan 49036

(517) 279-9501 www.coldwater.org

August 15th, 2022

Zoning Board of Appeals Chair & Board Members
City Hall – One Grand Street
Coldwater, Michigan

Re: Zoning Board of Appeals Bylaws

Dear Zoning Board of Appeals Chair and Members:

The City of Coldwater continues to pursue and make progress towards achieving the “Redevelopment Ready Community” (RRC) designation through the Michigan Economic Development Corporation (MEDC). As part of this effort, we must have bylaws/Rules of Procedures adopted by all development-related boards and commissions, including the ZBA.

Bylaws are different than authorizing charter or ordinance information and provide significantly more detail on the operations of a board or commission such as setting meetings, agendas, attendance policies, public comment procedures, training requirements, etc. Bylaws are required under law for certain boards and commissions. They also provide predictability for board procedures.

The proposed bylaws before you today include details about the purpose and powers of the ZBA. Much of this language comes from the Michigan Zoning Enabling Act, which requires bylaws to be adopted. The language in these bylaws also matches the language used in the recently adopted Planning Commission bylaws where relevant. These proposed bylaws also outline the following points:

- Membership expectations and structure of the Board.
- Officer duties and city staff roles, including Chair, Vice Chair, and Secretary.
- Meeting procedures, meeting schedule, guidelines for special and emergency meetings, the order of business at meetings, public hearing and public participation guidelines
- General rules such as the Open Meetings Act, quorum, minutes, and Roberts rules or Order.
- Voting procedures.
- Conflict of interests and what to do when conflicts of interest arise.
- Procedures for amending these bylaws.

Please review the proposed bylaws attached, and please be ready to offer feedback on them as the Zoning Board of Appeals.

Respectfully,

Katie Higgs, CEDAM Community Development Fellow
City of Coldwater

CITY OF COLDWATER
ZONING BOARD OF APPEALS

BY-LAWS

As originally adopted by the City of Coldwater Zoning Board of Appeals –
As revised by the City of Coldwater Zoning Board of Appeals –September 21, 2022

ARTICLE I
AUTHORITY

- 1.1 These Rules of Procedure are adopted by the City of Coldwater Zoning Board of Appeals (the “Board”) pursuant to Public Act 110 of 2006, the Michigan Zoning Enabling Act, and Public Act 267 of 1976, as amended, the Open Meetings Act.

ARTICLE II
MEMBERSHIP

- 2.1 Members. Members of the Board shall be as set be number and appointed according to the procedure as established in the Section 7.1 of the City of Coldwater Zoning Ordinance and section 601 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3601). The Board will consist of five (5) members and two (2) alternates.
- 2.2 Terms. The members of the Board and alternates shall serve for three (3) year terms.
- 2.3 Attendance. If any member of the Board is absent from four (4) consecutive regularly scheduled meetings then that member shall be considered delinquent. Delinquency shall be grounds for the City Council to remove a member from the Board for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Recording Secretary shall keep attendance records and shall notify the Mayor whenever a member of the Board is absent from four (4) consecutive regularly scheduled meetings, so the City Council can take such further action allowed under law or excuse the absences.
- 2.4 Incompatibility of Office. Each member of the Board shall avoid incompatibility of office as provided in the Michigan Incompatible Public Offices Act, MCL 15.181, *et seq.* If a member of the Board accepts appointment to another office, which is an incompatible office with his or her membership on the Board, then he or she shall resign from the Board.
- 2.5 Officers. At the January meeting, the Board shall elect from its membership a Chairperson and Vice-Chairperson who shall serve for a twelve-month period and who shall be eligible for re-election. The officers shall take office immediately following their selection. They shall hold their office for a term of one (1) year, or until successors are elected and assume office.

2.6 Duties.

A. Chairperson

1. The Chairperson shall preside at all meetings of the Board.
2. The Chairperson shall appoint all committees or advisory committees established and provided by the Board.
3. Call special meetings pursuant to these By-laws and Rules of Procedure.
4. Represent the Board along with the City Council selected Board member before the City Council.
5. Ensure all actions of the Board are properly taken and perform such other duties as may be ordered by the Board.
6. Such other duties as may be ordered by the Board.

B. Vice-Chairperson

1. In the event of the absence of the Chairperson or during his or her inability to discharge the duties of the office of Chairperson, such duties shall, for the time being, be performed by the Vice-Chairperson.
2. In the event that both the Chairperson and the Vice-Chairperson are absent from a meeting, the members present shall designate a member of the Board as acting Chairperson for the meeting.

2.7 Vacancies. If a vacancy occurs on the Board, the vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment. If a vacancy occurs in the office of Chairperson, the Vice-Chairperson shall serve as Chairperson until a new Chairperson is elected. All Board members shall hold office until his or her successor is appointed.

**ARTICLE III
MEETINGS**

3.1 Meeting Notices. Notice of all meetings shall be posted at City Hall according to the Open Meetings Act. The notice shall include the date and time of the meeting.

3.2 Regular Meetings. Regular meetings of the Board shall be set by resolution. The meeting schedule for the following calendar year shall be adopted at the first regular meeting in January. The dates and times shall be posted at City Hall in accordance with the Open Meetings Act. Any changes in the date or time of the regular meetings shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the Board shall select a suitable alternate date in the same month, in accordance with the Open Meetings Act.

3.3 Special Meetings. A special meeting may be called by the Chairperson or by two members of the Board upon written request to the Recording Secretary. The business which the Board may perform at a special meeting shall be set forth in the notice of the meeting. The special meeting shall be conducted as a public meeting of the Board held in compliance with the Open Meetings Act. Public Notice of the time, date, and place of the special

meeting shall be given in a manner as required by the Open Meetings Act, and the Municipal Planning Act if applicable and the Secretary shall send written notice of a special meeting to Board members not less than 48 hours in advance of the meeting.

3.4 Quorum. Three (3) members of the Board shall constitute a quorum. In order for the Board to conduct business or take any official action, a quorum shall be present. When a quorum is not present, no official action, except for closing the meeting may take place. The members of the Board may discuss matters of interest, but may take no action until the next regular or special meeting.

3.5 Hearings. Hearings shall be scheduled and due notice given in accordance with the Open Meetings Act and the Planning Enabling Act and Zoning Enabling Act as may be applicable.

Public hearings conducted by the Board shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:

A. The Chairperson shall open the hearing indicating the basic nature of the request, citing public notice in official newspaper, and notification of neighboring properties (if applicable).

B. The Chairperson shall announce the order of the hearing which is as follows:

1. Review by City staff/professionals.
2. Comments and explanations by applicant.
3. Questions from the Board.
4. Responses by City staff/professionals and/or applicant.
5. Opening of hearing for public comments.
6. Close hearing to public comments.
7. Responses by City staff/professionals and/or applicant.

C. Public comment during hearings shall be limited to five (5) minutes per person. By consensus of the Board, additional speaking time may be allotted to a member of the public to present additional information.

3.6 Public Participation. All regular and special meetings, hearings, records and accounts shall be open to the public. The following procedures shall apply for public comment during all regular and special meetings.

A. All public comment on all agenda items and non-agenda items outside of public hearings should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, the Board may direct questions to members of the public. Public comment is at the beginning of the meeting so the Board can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting any written material shall be made

available without cost for members of the public asking for a copy prior to the meeting.

- B. Public comment during the public comment section of the agenda shall be limited to five (5) minutes per person. By consensus of the Board, additional speaking time may be allotted to a member of the public to present additional information.
- C. Where determinations of appropriateness of comments are necessary, the decision shall be made by the Chairperson.

3.7 Motions. Motions shall be restated by the Chairperson before a vote is taken. The name of the maker and supporter of the motions shall be recorded.

3.8 Voting.

- A. An affirmative vote of the majority of the members of the Board present at a meeting shall be required for the approval of any requested action or motion placed before the Board, unless the Zoning Enabling Act or other statute requires an affirmative vote of the majority of the total membership which is five (5) members.
- B. Voting shall ordinarily be voice vote; provided however that a roll call vote shall be required if requested by any Board member or directed by the Chairperson.
- C. All members of the Board including the Chairperson shall vote on all matters. Any member may be excused from voting but only if that person has an actual conflict of interest as set forth in Section 9 herein.

3.9 Order of Business. A written agenda for all regular and special meetings shall be prepared as follows. The order of business shall be:

- A. Call to Order/Attendance.
- B. Approval of Minutes.
- C. Public Comments.
- D. Public Hearings.
- E. Old Business.
- F. New Business.
- G. Planning and Zoning Administrator's Report.
- H. Adjournment.

3.10 Rules of Order. All meetings of the Board and any committees shall be conducted in accordance with generally accepted parliamentary procedure, as governed by "Robert's Rules of Order".

3.11 Notice of Decision. A written notice containing the decision of the Board will be sent to the applicant of the request.

**ARTICLE IV
MINUTES**

- 4.1 Board minutes shall be prepared under the supervision of the Recording Secretary of the Board as identified below. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the conditions or recommendations made on any action; and a recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with and kept by the City Clerk/Recording Secretary.

**ARTICLE V
STAFF**

- 5.1 Recording Secretary. The City Clerk shall be the Recording Secretary of the Board. The Recording Secretary shall keep minutes of all meetings of the Board and sign the adopted version of the minutes. The Recording Secretary shall be responsible for all notices pertaining to meetings and recording of official acts of the Board. The Recording Secretary/City Clerk shall not be a member of the Board.
- 5.2 Planning and Zoning Administrator. The Planning and Zoning Administrator shall be responsible for all agendas, staff reports, correspondence and notices pertaining to meetings and official acts of the Board.

**ARTICLE VI
DEMAND FOR APPEAL**

- 6.1 Filing. The following may file for an appeal
- A. Any aggrieved person, or the person's authorized agent;
 - B. Officer, department, board, or bureau of the state; and
 - C. Officer, department, board, or bureau of a local unit of government.
- 6.2 The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the Planning & Zoning Administrator, and upon payment of a fee as may be established from time to time by the legislative body. Such Demand for Appeal shall be filed with the zoning administrator not more than 30 days from the date of the decision being appealed. A Demand for Appeal for a variance shall be filed with the zoning administrator at any time.
- 6.3 Notification. Within 10 days from the date of the receipt of the Demand for Appeal which is found to be complete, the zoning administrator shall contact the Chairperson of the Board and set up a date(s) and time for the Board to meet to hold a hearing and a meeting to consider and act on the case. Notice of such meeting(s) shall be made by the zoning administrator as specified in these Rules of Procedure.

6.4 Deadline for Action. The above notwithstanding, the Board shall hear the case and render and file its decision with a statement of reasons for the decision with the zoning administrator not more than 30 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and Board.

6.5 Notice of Decision. A written notice containing the decision of the Board will be sent to the applicant of the request.

ARTICLE VII OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 7.1 All meetings of the Board shall be opened to the public and held in a place available to the general public.
- 7.2 All deliberations and decisions of the Board shall be made at a meeting open to the public.
- 7.3 A person shall be permitted to address a hearing of the Board under the rules established in Subsection 3.5, and to address the Board concerning non-hearing matters under the rules established in Subsection 3.6 to the extent that they are applicable.
- 7.4 All records, files, publications, correspondence, and other materials are available to the public for reading, copying and other purposes and are governed by the Michigan Freedom of Information Act.

ARTICLE VIII ANNUAL REPORT

- 8.1 The Board shall, before the 31st day of March of each year, submit to the City Council, a written report of its activities covering the previous year, indicating the status of planning activities including recommendations regarding actions by the City Council related to planning and zoning.

ARTICLE IX CONFLICT OF INTEREST

- 9.1 A Board member shall vote on all matters unless there is a legitimate conflict of interest. If a Board member has a conflict of interest as to any matter before the Board, he or she shall not vote on the matter.
- 9.2 As used herein, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
 - A. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.

- B. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is immediately adjacent to land owned by him or her.
 - C. Issuing, deliberating on, voting on or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
 - D. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.
 - E. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents-in-law, grandparents in-law, or members of his or her household.
 - F. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:
 - 1. an applicant or agent for an applicant; or,
 - 2. has a direct pecuniary interest in the outcome.
- 9.3 If there is a question whether a conflict of interest exists or not, the question shall be put before the Board. Whether or not a conflict of interest exists shall be determined by a majority vote of the remaining members of the Board.
- 9.4 When a conflict of interest exists, the member of the Board shall do the following immediately, upon first knowledge of the case and determining that a conflict exists:
- A. Declare a conflict exists at the first subsequent meeting of the Board.
 - B. Cease to participate at the Board meetings, or in any other manner, or represent one's self before the Board.

**ARTICLE X
AMENDMENTS**

- 10.1 The Board may amend these rules by a concurring vote pursuant to Subsection 3.8, during any regular meeting, provided that all members have received an advance copy of the proposed amendments at least three days prior to the meeting at which such amendments are to be considered.

**ARTICLE XI
ADOPTION**

- 11.1 These Zoning Board of Appeals Bylaws and Rules of Procedure were adopted at a regular meeting of the Board held on August 17, 2022.

**ARTICLE XII
FILING**

- 12.1 Filed with the City Clerk on June ____, 2022.

Susan Heath, City Clerk