

KETCHIKAN GATEWAY BOROUGH

BOARD OF ADJUSTMENT ~ RULES OF PROCEDURE

1 GENERAL

- 1.1 APPEAL RECORD.** The appellant's written appeal and all of the records, transcripts, and documents certified by the zoning administrator and the planning commission secretary to the Board shall become a part of the appeal record.
- 1.2 PARTIES TO THE APPEAL.** The only parties to an appeal are the appellant, the respondent (Borough staff and/or Planning Commission representative), and the record owner of the property which is the subject of the appeal.

2 HEARINGS - ORDER OF BUSINESS

- 2.1 PROPERTY IDENTIFICATION.** The presiding officer will identify the subject of the appeal and the location of the property.
- 2.2 SUMMARY OF APPEAL.** The Board may provide an opportunity to hear a limited summary of the appeal by each party.
- 2.3 APPELLANT'S SUMMARY.** If provided, the appellant shall proceed first and may present a summary of the appeal and highlighting the reasons for the appeal. New testimony or documents not presented at the hearing before the Planning Commission may not be introduced into the record or presented to the Board. The Board may ask questions.
- 2.4 RESPONDENT'S (BOROUGH STAFF/COMMISSION) PRESENTATION.** Borough staff, as the respondent, may offer a summary of the appeal and the reasons relied upon by the Planning Commission in making the decision appealed from. The presiding officer, or designated member of the Planning Commission, may also participate as respondent to explain the Commission's

deliberative process and the reasons and evidence relied upon in making the decision. The respondent, whether the Borough staff and/or Planning Commission representative, may not present new testimony or documents not previously presented in the hearing before the Planning Commission. The Board may ask questions.

2.5 RECORD OWNER OF THE SUBJECT PROPERTY PRESENTATION. The record owner may offer a summary of the appeal. New testimony or documents not previously presented in the hearing before the Planning Commission may not be introduced into the record or presented to the Board. The Board may ask questions.

2.6 CLOSE OF HEARING AND DECISION. After 2.1 through 2.5 have been completed, the presiding officer shall announce that the hearing is closed. The Board will then deliberate and decide the appeal.

3 DECISIONS OF THE BOARD.

3.1 VOTE AND FINDINGS. The decisions of the Board shall be in the form of a motion and the vote shall be taken by roll call. A majority vote in the affirmative by the members present at a meeting in which a quorum is present adopts any motion. Following adoption of the motion, the members voting on the prevailing side of the motion shall, together with the presiding officer, develop formal specific findings of fact which support the decision and which shall be deemed part of the final decision.

3.2 FAILURE TO RENDER DECISION. If the Board fails within thirty (30) calendar days after the date of the close of the hearing on the appeal to affirmatively reverse, affirm, modify or remand the decision of the Planning Commission appealed from, the decision of the Planning Commission shall be deemed to be upheld and affirmed.

- 4 APPEAL RECORDS.** Documents or other physical evidence included in the record of the appeal shall be preserved by the clerk as official Borough records, subject to disposition by stipulation of all the parties, or as otherwise provided by law.
- 5 TESTIMONY.** No new testimony shall be taken.
- 6 RULES OF EVIDENCE.** The Board shall receive only evidence if it is a part of the certified record on appeal. Whenever any evidence is considered by the Board to be outside of the certified record on appeal, such evidence may be excluded upon the objection of the appellant, respondent, record owner, or by the Board.
- 7 ROBERT'S RULES OF ORDER.** Robert's Rules of Order shall govern the Board of Adjustment proceedings in cases not otherwise specified in these rules of order.