

CHAPTER 14 ZONING

14.08.10 Board of Zoning Adjustment Appeals

C. 1. The Board of Zoning Adjustment shall hear and decide appeals from decisions of the city regarding enforcement or application of this chapter. The Board may affirm, reverse, or modify, in whole or in part, such decisions.

2. Any person or entity affected by a decision of the city may appeal that decision to the board for a hearing. The applicant for an appeal must file a notice of appeal with the city within 15 days of the decision. The city must transmit the complete record of the decision to the board within five days of receiving notice of appeal.

The following procedures shall apply:

a. There shall be a public notice of the hearing published at least once (1) in a newspaper of general circulation in the city at least eight (8) days before the hearing, which notice sets forth the time and place of such hearing and the decision which is appealed. The responsibility and cost of the public notice shall be borne by the person filing the appeal.

b. The applicant shall notify all adjacent property owners (within 200 feet of the property lines in every direction) by certified mail, return receipt requested, at least 15 days prior to the public hearing. All return receipts and a copy of the letter with an affidavit of publication by the publisher shall be furnished to the Board of Zoning Adjustment in care of the City prior to the public hearing.

c. The applicant shall post at least one, (1) or more where deemed necessary for adequate notice, conspicuous sign or signs on the property subject to a conditional use hearing at least 15 days prior to said hearing.

Signs for this purpose shall be provided by the city and shall note the time and date of the public hearing. Each sign shall be no smaller than two feet high by three feet wide and to contain the words BOARD OF ZONING ADJUSTMENT APPEAL HEARING ON THIS PROPERTY, printed in bold block letters a minimum of three inches high with a copy of the public notice concerning the conditional use application to be placed on the sign in a clear, weatherproof enclosure.

d. There shall be no hearing without the required public notice. Notice shall not be published before the Board of Zoning Adjustment has scheduled the public hearing.

3. Action by the Board of Zoning Adjustment on appeals.

a. The Board shall hear the appeal at the public hearing and shall consider the applicant's reasons for the appeal as well as public comments. The applicant must be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization from the applicant authorizing representation must be presented to the board for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.

b. The Board shall either grant or deny the appeal within a reasonable time, imposing such conditions, if any, deemed necessary and appropriate to protect the character of the neighborhood. If approved, the appeal is thereby granted unless appealed to the City Council. Consideration shall be given to the concerns listed in subsection 14.08.08 as for a conditional use, to the extent relevant. Particular consideration shall be given to the impact on adjacent property.

SAMPLE LETTER OF NOTIFICATION

Appeal to Board of Zoning Adjustment

Send Certified Registered Return Receipt to adjoining property owners within 200 feet at least 15 days prior to the Public Hearing. Turn in both parts of receipts to BOZA staff.

(Date) _____

TO: (Name) _____

(Address) _____

(City, State Zip Code) _____

Dear _____,

This letter is to inform you that _____ has purchased/owns the property at _____ in Eureka Springs, Arkansas.

I/We have applied to the Board of Zoning Adjustment for an Appeal of (decision being appealed) _____ at (property address/location) _____.

If you wish to make comments in support or protest of this appeal, you may submit them in writing to: The Board of Zoning Adjustment, City Hall, 44 South Main Street, Eureka Springs, AR 72632 and/or attend the public hearing at 6 p.m. on _____ in the Western District Carroll County Courthouse, 44 South Main Street, Eureka Springs, AR.

Sincerely,

(Your name)

SAMPLE PUBLIC NOTICE

For Appeal to Board of Zoning Adjustment

Place as a Legal Notice in Carroll County News to run at least 8 days prior to meeting. Return Affidavit/Proof of Publication to BOZA staff. Applicant must pay for publication.

Public Notice

An application has been filed by _____ to appeal the decision _____ for (property address/location).

A public hearing will be held at 6 p.m. _____ (day and date) in the Western District Carroll County Courthouse, 44 South Main Street, Eureka Springs, Arkansas by the Eureka Springs Board of Zoning Adjustment. Comments on the application will be heard or read aloud.