



Development Services Bureau

Escambia County, Florida

PLEASE TAKE THE TIME TO READ THE FOLLOWING INFORMATION REGARDING HEARING PROCEDURES

Hearings before the Board of Adjustment (BOA) are quasi-judicial, which are like evidential hearings in a court of law, but less formal. Nonetheless, all public testimony is taken under oath and everyone testifying before the BOA is subject to cross-examination. All documents and exhibits the BOA considers are entered into evidence and made part of the record of the hearing (A CD in PDF format is recommended to be submitted including any evidence presented at the hearing). The giving of testimony or opinion testimony is limited to experts and closing arguments are limited to the evidence of record. After hearing testimony and arguments for and against the proposed action and before making its decision, the BOA considers relevant testimony, exhibits entered into evidence and applicable law.

All decisions by the BOA are final and appealable. This means that anyone who seeks judicial review of the Board's decision must file an appeal in a court of competent jurisdiction within thirty (30) days of the decision of the BOA. Section 2.04.02 of the Escambia County Land Development Code states that, "Because decisions of the BOA are final, unless overturned by a court of competent jurisdiction, the county may issue development permits for properties in accordance with the decisions of the BOA. However, if a property owner or applicant requests the issuance of any such permit and such permit is issued, the permittee, and not the county, shall bear any risk that such decision may be set aside, the permit may be revoked, or the development may be otherwise enjoined by the reviewing court."



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GUIDELINES REGARDING TESTIMONY BEFORE THE ESCAMBIA COUNTY BOARD OF ADJUSTMENT

The Escambia County Board of County Commissioners adopted Resolution No. R96-34 (3-28-96), creating rules of procedure in accordance with Florida Law following the Florida Supreme Court's decision in Brevard County v. Snyder, 627 So.2d 649 (Fla. 1993). A copy of Resolution #R96-34 can be obtained from the Clerk to the Board of County Commissioners. The following procedural rules govern testimony in a quasi-judicial proceeding:

- 5.4 Laymen and Expert Witnesses: The following rules of evidence shall serve as a Board's guideline when determining how much weight should be afforded the testimony received in a Quasi-Judicial proceeding:
- (a) General: The Board shall not consider the testimony of a witness unless:
 - (1) The witness has personal knowledge of the facts to which the witness will testify, and
 - (2) In the case of testimony consisting of opinions or inferences, the testimony is qualified under paragraph 5.4(b) or (c).
 - (b) Layman Witnesses: Testimony of a witness other than an Expert witness is qualified under paragraph (b) only if:
 - (1) The witness cannot readily, and with equal accuracy and adequacy, communicate what he perceived to the Board without testifying on the form of opinions or inferences: and
 - (2) The opinions and inferences do not require a special knowledge, skill, experience or training.
 - (c) Expert Witnesses: Testimony of an Expert witness is qualified under this paragraph (c) only if the Board determines:
 - (1) Whether the subject matter is proper for Expert testimony because scientific, technical, or other specialized skill will help the Board understand the evidence being presented, or help to establish a fact in issue; and
 - (2) Whether the witness is adequately qualified to express an opinion on the matter.
 - (d) Qualifying a Witness as an Expert: For purposes of paragraph (c) of this section, a witness is qualified as an Expert Witness only if the Board determines so in accordance with the following procedure:
 - (1) An Interested Party has the burden of requesting, and this request shall be made prior to proffering the testimony, the Board to make a determination the witness is an Expert;
 - (2) By majority vote, the Board will determine whether the witness satisfies the criteria in section 5.4(c), supra;
 - (3) If the Board determines the witness is qualified to testify as an Expert, the witness will testify and be cross-examined for the record and the Board may give weight and consideration to the Expert's opinion; or
 - (4) If the Board determines that the witness does not qualify to testify as an Expert, or if an Interested Party fails to request the Board to determine the qualifications of the Expert in accordance with this paragraph, the witness may still testify and be cross-examines for the record, however, the Board shall not give any weight or consideration to the opinion of the witness.
- 5.5 Qualifications of County Staff: County Staff members testifying before a Board in a Quasi-Judicial proceeding must:
- (a) State for the record their qualifications, or
 - (b) Place on record a resume listing their qualifications.