



# Memorandum

**TO:** Knoxville-Knox County Planning Commission  
**FROM:** Amy Brooks, AICP, Planning Services Manager  
**DATE:** February 5, 2020  
**SUBJECT:** 2-C-20-OA

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## **STAFF RECOMMENDATION:**

Approve the requested amendment to Article 15.2.A and 15.2.B to clarify that notice of a Board of Zoning Appeals public hearing must be published no less than 10 days in advance of the scheduled action in a newspaper of general circulation.

## **ATTACHMENT**

Attachment A: City of Knoxville Plans Review & Building Inspections memo, proposed language for Article 15.2.1 and 15.2.B and prior code language.

**MEMORANDUM**

**DATE:** January 21, 2020  
**TO:** Planning Staff  
**FROM:** Peter Ahrens  
Director of Plans Review & Building Inspections  
**RE:** Zoning Code Amendment

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**Background** The Plans Review and Inspections Department requests an amendment to the newly-adopted Zoning Code of the City of Knoxville (formerly referred to as "Recode Knoxville"). The prior Zoning Code required that notice of a Board of Zoning Appeals public hearing be published in a newspaper of general circulation at least ten (10) days in advance of the scheduled hearing. During the drafting phases prior to the adoption of the new Zoning Code, this notice provision was inadvertently omitted due to a scrivener's error. Adopting this amendment will assure continuity of the notice procedure which was established by the old Zoning Code and will provide clarity regarding the notice requirements.

The Department of Plans Review and Building Inspections recommends the adoption of the amendment to the Zoning Code clarifying that ten (10) days of notice of a Board of Zoning Appeals public hearing must be published in a newspaper of general circulation as indicated in the attachment.

**Attachment**

Proposed language, Article 15.2.A. and 15.2.B.  
Prior Code language, Art. VII, Sec. 2.B.

Sincerely,

Peter Ahrens  
Director of Plans Review & Building Inspections  
865-215-3938

An applicant has the right to withdraw an application at any time prior to the final decision on the application by a board or official, including the ability to withdraw the application if it has been tabled. The applicant must submit a request for withdrawal in writing.

**F. Consideration of Successive Applications**

1. Within one year of the date of denial, a subsequent application for the same zoning approval will not be reviewed or heard unless there is substantial new evidence available, or if a significant mistake of law or of fact affected the prior denial.
2. If the application is resubmitted earlier than one year from the date of denial, the subsequent application must include a detailed statement of the grounds justifying its consideration. The Zoning Administrator or Knoxville-Knox County Planning staff, as applicable, will make a determination as to whether the subsequent application is appropriate for resubmittal prior to the expiration of the one year wait requirement. If the Zoning Administrator or Knoxville-Knox County Planning staff, as applicable, finds that there are no new grounds for consideration of the subsequent application, the application will be summarily, and without hearing, denied.

**15.2 NOTICE**

**A. Required Notice**

Table 15-2: Zoning Approvals Required Notice indicates the types of notice required for zoning applications. If the specific requirements of a zoning approval process contain contradictory information to Table 15-2, the specific requirements of the zoning approval control.

Table 15-2: Zoning Approvals Required Notice			
Zoning Application	Notice Type		
	Published	Mailed	Posted
<b>Zoning Text Amendment</b> Notice for Public Hearing	•		
<b>Zoning Map Amendment</b> Notice for Public Hearing	•	•	•
<b>Comprehensive Updates and Revisions to Zoning Code and/or Zoning Map</b> Notice for Public Hearing	•		
<b>Variances</b> <a href="#">Notice for BZA Public Hearing</a>	• -		
<b>Special Use Review</b> Notice for Public Hearing	•	•	•
<b>Planned Development – Concept Plan</b> Notice for Public Meeting		•	•
<b>Planned Development – Preliminary Plan</b> Notice for Public Hearing	•	•	•
<b>Appeals of Zoning Administrator Interpretations and Decisions</b> <a href="#">Notice for BZA Public Hearing</a>	• -		

**B. Published Notice**

When published notice is required, the City will publish notice in a newspaper of general circulation within the City. The notice must include the date, time, place, and purpose of such hearing/meeting, the name of the applicant, and the address of the subject property. Notice must be published no less than 15 days in advance of the scheduled action, except that the notice of BZA public hearings must be published no less than 10 days in advance of the scheduled action.

**C. Mailed Notice**

1. Knoxville-Knox County Planning will send written notice of the application, as specified in Table 15-2, and public hearing/meeting date to all property owners whose property is within 200 feet of the subject property.
2. Notice will be to the last known address of the property owner as listed on the tax rolls.
3. Notices will be mailed at least 12 days before the date of the first advertised hearing.

Sec. 2. - Variances.

The City of Knoxville Board of Zoning Appeals shall have the power and authority to grant variances from terms of this ordinance according to the procedure and under the restrictions set out in this section.

The purpose of the variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property as the zoning ordinance intended.

- A. *Application.* After written denial of a building permit from the building inspector, a property owner may make application for variance, using forms obtainable [from the city].
- B. *Public hearing.* Upon receipt of an application and fee, the board shall hold a public hearing, having first given ten (10) days' notice. Such notice of the time and place of such hearing shall be published in a daily paper of general circulation.
- C. *Standards for variances.* In granting a variance, the board shall ascertain that the following criteria are met:
  - 1. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography or siting) fully described in the findings of the board, do not apply generally in the district.
  - 2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
  - 3. For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land.
  - 4. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.
  - 5. The granting of any variance is in harmony with the general purposes and intent of this ordinance and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
- D. *Requirements for the granting of a variance.* Before the board shall have the authority to grant a variance, the person claiming the variance has the burden of showing:
  - 1. That the granting of the permit will not be contrary to the public interest.
  - 2. That the literal enforcement of the ordinance will result in unnecessary hardship.
  - 3. That by granting the permit contrary to the provisions of the ordinance the spirit of the ordinance will be observed.
  - 4. That by granting the permit, substantial justice will be done.
- E. *City council review of action of board.*
  - 1. Any person, firm or corporation aggrieved by any decision of the board may petition the city council to consider the same, in accordance with the provisions set forth in article VII, section 6, subsection F, of this ordinance.

(Ord. No. O-15-78, § 2, 1-24-78; Ord. No. O-78-78, § 1, 6-13-78; Ord. No. O-150-03, § 1, 4-29-03)