

§243. Procedure

1. Adoption of zoning regulations. No airport zoning regulations shall be adopted, amended or changed under this chapter, except by action of the legislative body of the political subdivision in question, or the joint board provided for in section 241, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the hearing shall be published in a newspaper of general circulation, in the political subdivision or subdivisions in which the airport is located.

[PL 1987, c. 667, §4 (AMD).]

2. Administration of zoning regulations; administrative agency. The legislative body of any political subdivision adopting airport zoning regulations under this chapter may delegate the duty of administering and enforcing such regulations to any administrative agency under its jurisdiction, or may create a new administrative agency to perform such duty, but such administrative agency shall not be or include any member of the board of appeals. The duties of such administrative agency shall include that of hearing and deciding all permits under section 242, subsection 1, but such agency shall not have or exercise any of the powers delegated to the board of appeals.

3. Administration of airport zoning regulations; board of appeals. Airport zoning regulations adopted under this chapter shall provide for a board of appeals to have and exercise the following powers:

A. To hear and decide appeals from any order, requirement, decision or determination made by the administrative agency in the enforcement of this chapter or of any ordinance adopted pursuant thereto;

B. To hear and decide special exceptions to the terms of the ordinance upon which such board may be required to pass under such ordinance;

C. To hear and decide specific variances under section 242, subsection 2. When a zoning board of appeals or adjustment already exists, it must be appointed as the board of appeals. Otherwise, the board of appeals consists of 5 members, each to be appointed for a term of 3 years and to be removable for cause by the appointing authority upon written charges and after public hearing. In the first instance one member must be appointed for a term of 3 years, 2 for a term of 2 years and 2 for a term of one year. After the initial appointments, each member appointed serves for a term of 3 years or until the member's successor is duly appointed and qualified. [RR 2023, c. 1, Pt. C, §38 (COR).]

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application and on notice to the agency from which the appeal is taken and on due cause shown.

The board shall fix a reasonable time for the hearing of the appeal, give public notice and due notice to the parties in interest and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

The board may, in conformity with this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

The board shall adopt rules in accordance with any ordinance adopted under this chapter. Meetings of the board must be held at the call of the chair and at such other times as the board may determine. The

chair, or in the chair's absence the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the board are public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its examination and other official actions, all of which must immediately be filed in the office of the board and are a public record.

Appeals to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the political subdivision affected by any decision of the administrative agency. An appeal must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

The concurring vote of a majority of the members of the board shall be sufficient to reverse any order, requirement, decision or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

[RR 2023, c. 1, Pt. C, §§38, 39 (COR).]

SECTION HISTORY

PL 1987, c. 667, §4 (AMD). RR 2023, c. 1, Pt. C, §§38, 39 (COR).

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