

# BOARD OF ADJUSTMENT: *THE SAFETY VALVE FOR ZONING*

Reid Wilson  
Wilson Cribbs + Goren

Wilson Cribbs + Goren

1

## Board of Adjustment: *The Safety Valve for Zoning*

Zoning Structure  
Board of Adjustment  
Authority  
Organization  
Super-Majority Vote  
Quasi-Judicial

Wilson Cribbs + Goren

2

## ZBA Authority

- ▣ Appeals from Adm. Zoning Enforcement Decisions
- ▣ Special Exceptions
- ▣ Variances
- ▣ Other matters assigned by CC
- ▣ Appeals from Amortization Decision (new 2023- SB 929)

3

## Enforcement Appeals

- ▣ “...hear and decide an appeal that alleges error in an *order, requirement, decision, or determination* made by an *administrative official* in the *enforcement* of this *subchapter* or an ordinance adopted under this subchapter....”

4

## Right to Appeal a Decision to ZBA

- ▣ 2019 Change- "...may appeal to the [ZBA] a **decision** made by an administrative official...":
    - ▣ (i) specific application, address or project:
      - ▣ Applicant,
      - ▣ Owner (or their rep.) of the site,
      - ▣ Aggrieved **owner** of land **w/in 200' of the site**, or
      - ▣ Gov't official *affected* by the decision.
    - ▣ (ii) Other appeals (prior standard):
      - ▣ Any person *aggrieved* by the decision, or
      - ▣ Gov't official *affected* by the decision
- What about "...order, requirement...or determination....?  
Associations may not appeal specific issues

5

## Exhaustion of Administrative Remedies

- ▣ \* General Rule- Must exhaust all administrative remedies prior to seeking judicial review
- ▣ \* Judicial economy – Be sure no administrative remedies could be granted which resolve the dispute
- ▣ \* Related concept of Ripeness – must have a final decision
- ▣ \* If your administrative remedies are not exhausted, but are no longer available due to your delay- No judicial recourse!

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Board of Adjustment: The Safety Valve for Zoning

Also available as part of the eCourse

[2024 Land Use Fundamentals eConference](#)

First appeared as part of the conference materials for the  
2024 Land Use Fundamentals session

"Board of Adjustment: The Safety Valve for Zoning"