

RULES OF PROCEDURES

Zoning Board of Appeals Jo Daviess County, Illinois

Article I. General Provisions

Section 1: These rules are supplementary to the provisions of the zoning ordinance of the County of Jo Daviess as they relate to procedures of the Board of Appeals.

Section 2: Any member who has any interest in a matter before the Board shall not vote thereon and shall remove himself from any meeting or hearings at which said matter is under consideration.

Section 3: Nothing herein shall be construed to give or grant to the Board the power or authority to alter or change the zoning ordinance including the zoning map, which authority is reserved to the governing body.

Section 4: The State's Attorney shall be consulted in cases where the powers of the Board are not clearly defined.

Section 5: The office of the Board shall be located at 1 Commercial Drive, Suite 1, Hanover, IL 61041.

Section 6: Gender; A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Article II. Officers and Duties

Section 1: The Officers shall be a Chairman, an Acting Chairman, and a Secretary.

Section 2: The Chairman of the County Board shall designate the Chairman; the Board shall elect from amongst its members the Acting Chairman when the Chairman is absent. The Zoning Administrator shall be a non-voting ex officio member of the Board and shall serve as Secretary to the Board. In the event of death, removal for cause, or resignation, successor(s) shall be named by the appointing authority.

Section 3: The Chairman shall supervise the affairs of the Board of Appeals. He shall preside at all meetings of the Board and shall provide for the oath to be administered to all witnesses in cases before the Board. The Chairman shall be an ex-officio member of all committees and subcommittees so appointed.

Section 4: The Acting Chairman, in the absence or disability of the Chairman, shall perform all the duties and exercise all the powers of the Chairman.

Section 5: The Secretary shall record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact; shall keep records of its examinations and other official actions; shall summarize accurately the testimony of those appearing before the Board or keep a verbatim transcript of all hearings; shall record the names and addresses of all persons appearing before the Board; shall, subject to the Board and Chairman, conduct the correspondence of the Board and have published in a local newspaper public notices of meetings or hearings as required by law and these rules of procedures, shall file said minutes and records in the office of the Board, which minutes and records shall be a public record; and shall be the custodian of the files of this Board and keep all records.

Article III. Meetings

Section 1: Regular meetings shall be held on the fourth Wednesday of each month at 7:00

P.M. in the Jo Daviess County Courthouse, unless such day shall be a recognized holiday. In that event, the regular meeting shall be held at such other time as the Chairman may designate. Supplemental meeting dates shall be scheduled by the Secretary on other dates as necessary to fulfill the duties of the Board.

Section 2: Regular meetings may be canceled by the Chairman when there are no cases pending. Notification must be given to members, however, not less than 24 hours prior to the time set for such meeting.

Section 3: Special meetings may be called by the Chairman at his discretion, or upon the request of two (2) or more members, provided that 48 hours notice is given each member and all requirements of the Illinois Open Meetings Act are complied with.

Section 4: All meetings shall be open to the public.

Section 5: A Quorum shall consist of three (3) members in a five (5) member board or four (4) members in a seven (7) member board for any regular or special meeting, and is required for any decision, determination, or official action by the Board.

Article IV. Order of Business.

Section 1: All meetings of the Board shall proceed as follows:

- A) Call to Order
- B) Roll Call
- C) Declaration of quorum.
- D) Reading and approval of minutes of previous meeting.
- E) Unfinished Business
- F) New Business
- G) Call of cases on agenda and hearing of requests for continuance.
- H) Hearing of cases on agenda.
- I) Comments from the Public, on matters not otherwise on the agenda
- J) Reports and Comments from, Chairperson, Commission Members, County Board Members and Staff
- K) Other Business
- L) Adjournment.

Except as otherwise prescribed by these rules, the meetings of the Zoning Board of Appeals may be conducted in accordance with Robert's Rules of Order. If any question arises as to procedure, the ruling of the Chair shall be final unless reversed by a vote of at least three members of the Board.

Section 2: Continuances may be granted at the discretion of the Board in any case for good cause shown and to any interested party who has entered his appearance as follows:

- A) New cases (first time on agenda). Continuances may be granted upon request, by the Zoning Administrator, upon showing:
 - 1) That petitioner has given at least two (2) business days notice prior to the meeting date in writing that he will be unable to proceed with his evidence at the hearing to the office of the Zoning Administrator.
- B) Continued cases (all cases which have previously appeared on the agenda of this Board constitute continuing cases). Request for further continuance will be considered upon application therefore by the party or his representative at the time the case is called, and upon showing:
 - 1) That petitioner has given notice in writing that he will be unable to proceed with his evidence at the hearing to the office of the Zoning Administrator.

Section 3: In the event that an applicant fails to appear:

- A) The Chairman may entertain a motion from the Board to dismiss the case for

want of prosecution. In the absence of a motion by the Board, the chair shall rule.
B) In cases which are dismissed for want of prosecution, the applicant will be furnished written notice by the Secretary of the Board.

Article V. Procedures on hearings.

Section 1: At the time of the hearing, the applicant may appear in his own behalf or be represented by counsel or agent.

Section 2: In the event that objectors retain counsel to represent them at a hearing before the Board, then such counsel shall notify the applicant, or their agent or attorney, and the Building & Zoning Office that counsel has been so retained and will be present to object. Such notice shall be delivered to the offices of the Board and to the applicant, or his agent or attorney, at least five (5) business days prior to the scheduled hearing date. If such notice is not given by counsel retained by the objectors, then the appellant or applicant, or his agent or attorney, shall have the option of postponing the hearing to the next regular meeting of the Board.

Section 3: All witnesses shall testify under oath.

Section 4: Evidence shall be presented in the following order:

- A) State purpose of hearing, acknowledge publication, posting of property and written notifications; acknowledge comments received from the County departments and other public agencies.
- B) Presentation of evidence by the petitioner or designated representative(s).
 - Testimony by petitioner's witness(es).
 - Questioning of each witness by the members of the Board.
- C) Open to public testimony.
 - Questioning of public testimony by members of the Board.
- E) Closing statements and rebuttal by the petitioner or designated representative, if desired.
- G) Closing of evidence and public testimony.
- H) Findings of fact by the Board.
- I) Recommendation or decision (where the Board's action constitutes a final administrative decision) by the Board.

Section 6: The Board shall not be bound by the strict rules of evidence, but it may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or other evidence.

Section 7: All persons in attendance at a public hearing shall have an opportunity to be heard.

Section 8: The Chairman shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board.

Article VI. Decisions

Section 1: Final decisions or recommendations shall be made at the hearing or within a reasonable time from the date of the hearing.

Section 2: The Board shall conduct its findings of fact and vote in public session at the meeting in which evidence testimony is concluded, unless the Board considers additional time for deliberation necessary.

Section 3: A concurring vote of three (3) members of the Board in a five (5) member board or four (4) members in a seven (7) member board shall be necessary to reverse any order, requirement, decisions or determination of the Zoning Administrator and to grant any

variation in the ordinance.

Section 4: All decisions of the Board shall be made at a public meeting by motion made, seconded and the Chairman polling the membership by a roll call vote. The motion which decides the issue shall be in the form of findings of fact and shall state the reasons for the findings by the Board. If conditions are imposed on the granting of a variation, or in the recommending of the granting of a Special Use by the Board, such conditions shall be included in the motion.

Section 5: The transcript of the case shall be acknowledged as to accuracy by the Chairman and the Secretary and shall be a part of the public record of the Board.

Section 6: Notice of the decision of the Board shall be given to the applicant, and other interested parties as soon as possible after the decision is reached.

Article VII. Records

Section 1: A file of materials and decisions relating to each case shall be kept by the Secretary as part of the records of the Board.

Section 2: All records of the Board shall be a public record.

Article VIII. Amendment of Rules

Section 1: These rules may be amended by an affirmative majority vote of all members of the Board.

Article IX. Time for Appeal

Section 1: The time for authorized persons to file an appeal from the decision of the Zoning Administrator shall be ninety (90) days from the receipt of the decision by the person aggrieved. (amended 6/25/2008)