

RULES OF PROCEDURE
Zoning Board of Appeals
Lee County, Illinois

Article I. General Provisions

Section 1: Definitions:

- a. This Zoning Board of Appeals is hereinafter referred to as the “Board.”
- b. The Chairperson of the Zoning Board of Appeals is hereinafter referred to as the “Chair” or the “Board Chair.”
- c. “Member” is hereinafter referred to as any of the persons appointed to the Board.
- d. The person or entity requesting a change, variance or special use from the Board is hereinafter referred to as the “Applicant.”
- e. Any person or entity, other than the Applicant or Applicant’s representative, agent or witness, wishing to participate is hereinafter referred to as an “Interested Party.”
- f. “Participate” means to testify, cross examine or make an argument, comment or statement to the Board.

Section 2: These rules are supplementary to the provisions of the Zoning Ordinance of the County of Lee as they relate to procedures of the Board of Appeals.

Section 3: Any member who has any meaningful financial or familial interest in a matter before the Board shall not vote thereon and shall remove himself or herself from any involvement during the hearing at which said matter is under consideration.

Section 4: 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 County Board.

Section 5: The State’s Attorney is the legal advisor to the Board.

Section 6: The office of the Board shall be located at the Executive Office, suite 300, in the Lee County Courthouse, 112 E. Second Street, Dixon, Illinois.

Article II. Officers and Duties

Section 1: The Board shall consist of a 5 member panel including a Chair and Vice-Chair. Two alternate members may also be appointed by the County Board Chairman, consistent with the Zoning Board of Appeals section 10-2B-1: A6 of the County Code.

Section 2: The Chairman of the County Board shall designate the Board Chair. The Zoning Administrator shall be a non-voting ex officio member of the Board. In the event

of death, removal for cause by the County Board Chair, or resignation, a successor shall be named by the County Board Chairman.

Section 3: The Board Chair shall supervise the affairs of the Board. Unless a Facilitator has been engaged as provided in Section 6, the chair shall preside at all meetings of the Board and shall provide for an oath to be administered to all witnesses in cases before the Board. The Chair shall appoint such committees and subcommittees as may be necessary to carry out the purposes of the Board.

Section 4: The Vice Chair, in the absence or disability of the Chair, shall perform all the duties and exercise all of the powers of the Chair and, when so acting, is referred to as “Chair” within the meaning of these rules.

Section 5: The Zoning Administrator 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 action; 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 conduct the correspondence of the Board and have published in a local newspaper, such public notices of hearings as required by law at the Petitioner’s expense. The Zoning Administrator shall enforce the procedural rules at all Board meetings and hearings.

Section 6 Hearing Facilitator. The Board may unilaterally engage the services of a Hearing Facilitator for any particular hearing or hearings to be held. The Hearing Facilitator shall be an independent contractor who shall conduct a hearing in accordance with these rules but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, the admissibility of evidence and the propriety of any arguments. Upon conclusion of the evidentiary and argumentation stages of the Hearing conducted by the Facilitator, the Zoning Board of Appeals will perform its duties by making its “Finding of Facts” and final recommendation to the County Board.

The Hearing Facilitator shall be an attorney, licensed to practice in the State of Illinois, to be jointly selected and compensation negotiated on behalf of the Zoning Board of Appeals by the State’s Attorney (or his designee) and the County Zoning Administrator. Upon completion of the Hearing, the Applicant shall reimburse the County of Lee for the total fees charged by the Facilitator.

Article III. Meetings

Section 1: Regular meetings shall be held on the first Thursday of each month at 7:00 P.M. in the Lee 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 Board Chair

may designate. Supplemental meeting dates shall be scheduled as necessary to fulfill the duties of the Board.

Section 2: Regular meetings may be cancelled by the Chair when there are no cases pending.

Section 3: Special meetings may be called by the Chair at his discretion, or upon the request of three (3) or more members, provided that 48 hours' notice is given each member and otherwise meets the requirements of the Illinois Open Meetings Act. A fee of \$500.00 will be charged to the applicant for any special meetings outside the regularly scheduled monthly meeting.

Section 4: All meetings shall be open to the public and shall include a period set aside for public comment or presentation.

Section 5: A quorum shall consist of three (3) members for any regular or special meeting, and the same is required for any decision, determination, or official action by the Board.

Section 6: Public hearings may be held by less than a quorum of the Board. However, no substantive Board action shall be taken without a quorum.

Article IV. Order of Business

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

- a. Roll Call and declaration of quorum.
- b. Approval of minutes of previous meeting.
- c. Reports of Committees.
- d. Call of cases on agenda and hearing of requests for continuance.
- e. Hearing of cases on agenda.
- f. Unfinished business.
- g. New Business.
- h. Adjournment.

Section 2: In the event that an Applicant fails to appear:

- a. The Chair 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 Zoning Administrator.
- c. The applicant shall have seven (7) days from date of notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file written request with the Zoning Administrator for reinstatement. Reinstatement shall be at the discretion of the Chair for good cause shown, and payment of any additional publication fees.

- d. In all cases reinstated in above described manner, the case will be docketed, noticed and republished in the usual manner prescribed for new cases.

Section 3: Except as otherwise prescribed by these rules, the meetings of the Board 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.

Article V. Procedures on Hearings

Section 1: The Chair or, instead, when so engaged as provided in Article II, Section 6, the Hearing Facilitator, shall be in charge of the progress and conduct of the Hearing.

Section 2: At the time of the hearing, the Applicant may appear in his own behalf or be represented by counsel or agent.

Section 3: If there are any Interested Parties who retain counsel to represent them before the Board, such counsel shall timely notify the Applicant or his counsel or agent and the Zoning Administrator, that he has been so retained and will be present. If such notice is not timely given by the Interested Party's' counsel, the Applicant or his agent may request of the Chair or, if so engaged, the Hearing Facilitator that the hearing be continued. In deciding upon such a request, he or she will take into account matters of fairness to each side.

Section 4: Continuances may be granted at the discretion of the Chair or, when so engaged, the Hearing Facilitator as provided in Section 3, or, for good cause shown, in any case and to any party or entity as follows:

- a. New cases. For cases that are appearing for the first time on agenda, continuances may be granted based on exceptional circumstances. No additional notice of the continued date shall be required.
- b. Continued cases. All cases which have previously appeared on the agenda of this Board constitute continued cases unless otherwise stated. Requests 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:
 - i. that the party has given reasonable notice in writing to all persons who appeared on the original hearing date and any such continued dates; and
 - ii. that the party will be unable to proceed with his evidence at this hearing.

Section 5: At the start of the Hearing, the Chair or the Zoning Administrator or, instead, when so engaged, the Hearing Facilitator, shall review the general procedures for the hearing and request an orderly proceeding. He or she will address each application published- stating the date of publication, and recite any other written communication(s) having a bearing on the matter being heard by the Board. In

so doing, he or she may announce and later enforce reasonable time limits for opening or closing remarks and direct and cross examination of lay and expert witnesses.

Section 6: Initially, the Applicant or his agent shall, on request of the Chair or, instead, when so engaged, the Hearing Facilitator, present any documents required, including but not limited to, the Certificate of Publication or proof of mailing of statutorily required notices. If said documents are not presented, the Chair or, in his or her absence, Acting Chair, will either instruct the Board that the hearing may proceed, but will not be a legal hearing if said missing documents are not presented to the Secretary within a reasonable time set, or ask for a motion to postpone the hearing until a future meeting.

Section 7: The progress of the hearing should be as follows:

- a. The Chair or, instead, when so engaged, the Hearing Facilitator may give a restatement if the Applicant's above Section 6 presentation needs clarification;
- b. The Applicant or his agent may make opening remarks outlining the nature of the application prior to introducing evidence;
- c. Applicant presents evidence one witness or document at a time;
- d. Board and/or Interested Parties cross-examine Applicant's witness;
- e. Interested Parties present evidence one witness or document at a time;
- f. Board and/or Applicant cross-examine Interested Party's witness;
- g. Rebuttal witnesses or documents presented by Applicant one at a time;
- h. Board and/or Interested Parties cross-examine Applicant's rebuttal witness;
- i. Surrebuttal witnesses or documents presented by Interested Parties one at a time;
- j. Board and/or Objectors cross-examine Interested Party's surrebuttal witness;
- k. Evidence presented by Board or Planning and Zoning Administrator;
- l. Cross-examination by Applicant or Interested Party of any Board or Zoning Administrator witness;
- m. Applicant given opportunity for closing remarks;
- n. Interested Parties given opportunity for closing remarks.

Section 8: All witnesses shall testify under oath or affirmation, administered by the Chair or, instead, when so engaged, the Hearing Facilitator. Cross-examination will be allowed by only one representative of each party or entity.

Section 9: The Chair shall rule on all questions relating to procedural matters, the admissibility of evidence or the propriety of arguments or statements which may be overruled by a majority of the Board. However, when so engaged, it will be the Hearing Facilitator's sole responsibility to rule on the procedural matters, the admissibility of evidence or the propriety of arguments or statements.

In so ruling, there need not be strict adherence to the rules of judicial branch evidence. However, irrelevant, multiple level hearsay or unduly repetitious evidence may be excluded or truncated.

The Chair or, instead, when so engaged, the Hearing Facilitator, may call for short recesses when appropriate, and, if the need arises for security measures reasonably necessary to insure a fair and orderly hearing.

Section 10: There will be a requirement of civility and decorum from all in attendance at a Hearing. The Chair, or, instead, when so engaged, the Hearing Facilitator may Demand and enforce the removal of those who do not wish to abide by this behavior.

Section 11: An Applicant or Interested Party, or his agent or attorney, may submit a petition of the persons favoring or opposing the Application. Such a petition may be accepted as an exhibit if it contains nothing more than a brief and succinct statement of position favoring or opposing the matter at issue, together with the true and correct original signatures of the persons subscribing to such statement.

Section 12: Relevant documents may be presented for consideration by an Applicant or Interested Party. When presenting such documents for consideration by the Board, the presenter shall supply eight (8) exact copies of said documents, one of which shall go to the opposing party. If the requisite number of documents are not supplied, the document may not be admitted.

Article VI. Decisions

Section 1: 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 2: Final decisions or recommendations shall be made within a reasonable time from the date of the hearing.

Section 3: All decisions of the Board shall be made at a public meeting by motion made, seconded and the Chair 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 4: A concurring vote of three (3) members of the 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 5: The minutes of the case shall be acknowledged as to accuracy by the Chair and the Zoning Administrator 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 Zoning Administrator as part of the records of the Board.

Section 2: Unless otherwise excepted by law, all records of the Board shall be a public record.

Section 3: Tapes or other recordings of Board meetings shall be retained by the Zoning Administrator for not less than 2 years.

Article VIII. Amendment of Rules

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

Section 2: The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

The foregoing rules and regulations are hereby adopted by the Zoning Board of Appeals of Lee County, Illinois on July 5, 2012.

Ron Conderman, Zoning Board of Appeals Chairman