

RULES OF PROCEDURES
Zoning Board of Appeals
Ogle County, Illinois

Article I. General Provisions

- Section 1: These rules are supplementary to the provisions of the zoning ordinance of the County of Ogle 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 in the Courthouse Annex South, 106 S. Fifth Street, Oregon, Illinois.

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, shall appoint such committees and subcommittees as may be necessary to carry out the purposes 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 last Thursday of each month at 7:00 P.M. in the Ogle 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 for any regular or special meeting, and 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.

Article IV. Order of Business.

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

- A) Roll Call and declaration of quorum.
- B) Reading and approval of minutes of previous meeting.
- C) Communications.
- D) Announcement of decisions from last meeting. Reports of Committees.
- E) Reports of Committees.
- F) Call of cases on agenda and hearing of requests for continuance. Hearing of cases on agenda.
- G) Hearing of cases on agenda.
- H) Unfinished business.
- I) New Business.
- J) 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.
- 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 therefor by the party or his representative at the time the case is called, and upon showing:
 - 1) That he has given reasonable notice in writing to all persons who have filed an appearance in the matter; and,
 - 2) That he will be unable to proceed with his evidence at this hearing.

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.
- 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 Secretary for reinstatement. Reinstatement shall be at the discretion of the Chairman 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 re-published in the usual manner prescribed for new cases.

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 appellant or applicant, or his agent or attorney, that he has been so retained and will be present to object. Such notice shall be delivered to the offices of the Board and to the appellant or 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).
 - C Opening statements.
 - C Testimony by petitioner's witness(es).
 - C Questioning/cross-examination of each witness by the members of the Board.
 - C Questioning/cross-examination of each witness by any interested party that has filed an appearance with the Board office no later than five (5) business days prior to the hearing. **Note: This is an opportunity only to question the witness, not to make statements or offer personal testimony.**
 - C Close of petitioner's evidence.
- C) Presentation of evidence by the objectors or their representative(s).
 - C Opening statements.
 - C Testimony by objector's witness(es).
 - C Questioning/cross-examination of each witness by the members of the Board.
 - C Questioning/cross-examination of each witness by any interested party that has filed an appearance with the Board office no later than five (5) business days prior to the hearing. **Note: This is an opportunity only to question the witness, not to make statements or offer personal testimony.**
 - C Close of petitioner's evidence.
- D) Presentation of statements by any person attending the hearing.
- E) Closing statements and rebuttal by the petitioner or designated representative, if desired.
- F) Closing statements and rebuttal by the objectors or designated representative, if desired.
- G) Closing of 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. However, any person who also wishes to appear as an "interested party" with rights to question/cross-examine others at the hearing must complete and file an appearance form with the Secretary of the Board at the Ogle County Planning & Zoning Department, 106, S. 5th Street, Oregon, IL no later than five (5) business days before the date of the hearings.

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 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 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.
- 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 Ogle County, Illinois on February 20, 2003.

MAURICE BRONKEMA, Chairman

Attest:

MICHAEL REIBEL, Secretary