

MONROE COUNTY BOARD OF ZONING APPEALS

Rules of Procedure

Article I

Meetings

- 1.Regular meetings of the Monroe County Board of Zoning Appeals (Board) shall be held on the first Wednesday of each month at 6:00 p.m. in Courthouse Meeting Room 315.
- 2.Special meetings may be held upon call of the Chairman, or on written request by two members, or as determined at a regular meeting. All members shall be notified of the time a place of a special meeting.
- 3.A majority of the members of the Board (3) shall constitute a quorum. No action, however, is official unless authorized by a majority of the members of the Board (3) at a regular or properly called special meeting.
- 4.All meetings of the Board, except duly called executive meetings, shall be open to the public.
- 5.The Board shall keep minutes of its proceedings, showing the vote, absence of a vote or failure to vote of each member on every question. The Board shall keep records of all other official action. All minutes and records shall be filed in the office of the Board and shall be a public record.

No member of the Board shall participate in the hearing or decision upon any matter in which (s)he is directly or indirectly interested in a financial sense. In the event of such disqualification, such fact shall be entered on the records.

6.Order of business:

- a. Call to Order
- b. Approval of Minutes
- c. Old Business
- d. New Business
 1. Petitions
 2. Appeals
- e. Staff Reports
- f. Adjournment

7.No person may communicate with any member of the Board before a hearing with intent to influence the member's action on a matter pending before the board.

Article II

Officers and Employees

1. The Board shall, at its first regular meeting in each year, elect from its members a Chairman and Vice Chairman. The Vice Chairman shall serve in the absence or disability of the Chairman. A temporary Chairman shall be elected in the absence of both the Chairman and Vice Chairman.
2. The Board may appoint and prescribe the duties of a Secretary or such employees as are necessary for the discharge of its duties.

Article III

Appeals

1. The Board shall hear and determine appeals from and review any order, requirement, decision or determination made by:
 - a. an administrative official, hearing officer, or staff member under the Zoning Ordinance;
 - b. an administrative board or other body, except for the Monroe County Plan Commission (Plan Commission), in relation to the enforcement of the Zoning Ordinance;
 - c. an administrative board or other body, except for the Plan Commission, in relation to the enforcement of the requirement to obtain an improvement location or occupancy permit.
2. The appeal shall be filed with the Board within 30 days of the date of issuance of the order, requirement, decision, or determination. However, because of other administrative deadlines, this does not guarantee that the case will be heard at the next regular Board meeting. The appeal shall be prepared on the form provided therefore and shall specify the grounds thereof in such a manner that the Board may be fully informed of all facts and elements involved, including a clear statement of the reasons why the appellant deems the appeal to be justified.
3. The Board will be provided with the complete record, including plans and drawings, leading to the decision from which an appeal is being sought.
4. The Board may authorize its Secretary to set a hearing date, to advertise, and to place upon the agenda said petition for the next regular or special meeting.
5. Any communication purporting to be an appeal or petition shall be regarded as a mere notice of

intention to seek relief and shall be of no force or effect until it is made in the form required.

6. When an appeal from a decision is filed, proceedings and work on the premises affected shall be stayed unless the official of board certifies to the Board that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by a restraining order.

Article IV

Hearings

1. Subject to the provisions of IC 36-7-4-920, public hearings shall be held on exceptions, variances, uses and all appeals as noted above in Article III, (1), and as further required by the Zoning Ordinance.
2. In all appeals and petitions to the Board, a legal notice of public hearing shall be prepared by the Board and advertised by the petitioner, in a newspaper of general circulation in the County not less than 15 days prior to the date of the hearing. The Appellant or Petitioner shall assume the cost of said notice and shall submit proof of publication prior to the established deadline for hearing applications.
3. The Appellant or Petitioner shall also serve notice of the hearing by certified mail to owners of property abutting and directly across the roadway to the property in question. This notice shall be mailed not less than 20 days prior to the date of the Plan Commission meeting, if for a petition, and not less than 20 days prior to the Board meeting, if for an appeal. This notice will advise the location and nature of the subject appealed or petitioned and the date, place and time of the public hearing.

The Appellant or Petitioner shall provide the Board with a complete list of the above mentioned adjacent property owners, together with their last known address and proof of service of notice.

Article V

Conduct of Hearings

1. The procedure for a public hearing on an appeal or petition before the Board is as follows:
 - a. The Chairman will introduce each case, and will read or have read the initial staff report. People speaking for each case will be encouraged to step up to the podium and give their name, address and comments for the record. During the introduction, the Chairman may set time limits for individual responses.

- b. The Appellant or Petitioner shall first present the facts and arguments in support of the case. Comments and questions from the Board members may be interjected during the presentation for clarification of the subject matter.
 - c. Comments from organized groups, committees and individuals in support of the merits of the case shall then follow.
 - d. Comments from those in opposition shall then be heard.
 - e. The Appellant or Petitioner shall then receive reasonable time for rebuttal.
 - f. There will be no time for rebuttal to the rebuttal. To maintain orderly procedure, each side should proceed without interruption by the other side.
 - g. After the public hearing is declared formally closed by the Chairman, the Board will consider the petition, at which time staff recommendations can be made.
2. Every person appearing before the Board shall abide by the order and directions of the Chairman. Discourtesy, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Board directs.
3. In the presentation of a case, the burden shall be upon the Appellant or Petitioner to supply all information necessary for a clear understanding of the case. The Board may continue the hearing when, in its judgement, sufficient evidence has not been provided on which to make a determination.
- Statements to the Board made by the Petitioner at the meeting regarding anticipated methods of operation, siting or other details relevant to the decision shall be binding agreements between the petitioner and Board and shall be reflected in the minutes of that meeting. Drawings, displays or documents presented at the meeting by the Petitioner illustrating such details shall also be binding agreements and shall be entered into the Petitioner's file.
4. The Board, at its discretion, may continue or postpone the hearing of any case on an affirmative vote of a majority of the members present.
5. A request for continuance of a petition must be made by the petitioner seven (7) business days prior to the scheduled Board of Zoning Appeals meeting. Any request for continuance after that 7 day period of time must be approved by the Board of Zoning Appeals at that stated meeting. The criteria for continuance would be that the Board of Zoning Appeals finds just and good cause for continuance.

Article VI

Docket

1. Each case to be publicly heard before the Board shall be filed in proper form with the required data. The case will then be serially numbered and placed on the docket of the Board. The docket numbers shall include the year and shall begin anew on January 1 of each year.
2. When a case receives a docket number, it shall be placed on the hearing agenda. Cases shall come before the Board in regular order or by consecutive numbers unless otherwise ordered by the Board or Coordinator.

Article VII

Powers and Duties

1. The Board shall have the following powers and it shall be its duty to:
 - a. hear and determine appeals from and review any order, requirement, decision or determination made by the enforcement officers or bodies noted in Article III, "Appeals";
 - b. hear and decide on permits for Special Exceptions and Conditional Uses from the terms of the Zoning Ordinance, but only in the classes of cases or in the particular situations specified; reasonable conditions may be imposed as a part of its approval; and
 - c. authorize upon appeal in specific cases such variances from the terms of the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit and intent of this ordinance shall be observed and substantial justice done.
2. In exercising its powers, the Board may reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination being appealed, and, to that end, shall have all the powers of enforcing officer from whom the appeal is being sought.
3. Every decision of the Board shall be subject to review by certiorari.
4. No variance in the application of the development standards, (i.e. height, bulk, area, or setbacks) of this Ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall determine in writing that:

- a.the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- b.the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- c.the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Article VIII

Final Disposition of Cases

- 1.The final disposition of any appeal before the Board shall be in the form of an order either reversing or modifying the requirement, order, decision or determination being appealed or affirming the order and denying the appeal. The Board may dismiss an appeal for want of prosecution or for lack of jurisdiction.
- 2.All decisions of the Board, on matters heard in public hearings shall be made by record vote. The vote of each member shall be a matter of permanent record.
- 3.A case may not be withdrawn by the Petitioner after the vote has been ordered by the Chairman.
- 4.An appeal or petition which has been decided against the petitioner shall not again be placed on the docket for consideration by the Board within a period of 12 months from the date of the decision previously rendered, except upon the motion of a member, and adopted by the unanimous vote of all members present at a regular or special meeting thereof.

Article IX

Amendments

- 1.Amendments to these Rules of Procedure may be made by the Board at any regular meeting upon the affirmative vote of a majority of the members. The suspension of any rule of procedure may be ordered at any meeting by unanimous vote of those present.

Rules of Procedure of the Board of Zoning Appeals of Monroe County, Indiana, approved by the affirmative vote of a majority members of the Board at the regular meeting of the Board held on the ____ day of _____, ____. This approval also repeals any prior Rules of Procedure.

Signed:

Attest:

David Landis, Chairman

Kevin Buchheit, Secretary