

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 5:30 p.m. in Courthouse Meeting Room 315 unless otherwise noted.
2. Special meetings may be held upon call of the Chairperson, 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
 1. Roll Call
 2. Introduction of Evidence
 3. Approval of Agenda
 4. Approval of Minutes
- B. Administrative Business
- C. Old Business
- D. New Business
 1. Petitions
 2. Appeals

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- 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 or second regular meeting in each year, elect from its members a Chairperson and Vice Chairperson. The Vice Chairperson shall serve in the absence or disability of the Chairperson. A temporary Chairperson shall be elected in the absence of both the Chairperson and Vice Chairperson. Should there be a lack of consensus of vote at the first regular meeting, the Chairperson and Vice Chairperson elected in the prior year shall continue to serve in their capacity until re-appointed or replaced.

2. The Board may appoint and prescribe the duties of a Secretary or such employees as are necessary for the discharge of its duties. The Secretary shall be considered the Office Manager for the Planning Department.

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 10 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 10 days prior to the date of the Board meeting. 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

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Conduct of Hearings

1. The procedure for a public hearing on an appeal or petition before the Board is as follows:
 - a. The Chairperson 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. The time limit for individual responses is three (3) minutes unless the Chairperson motions to change the time limit.
 - 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 Chairperson, 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 Chairperson. 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.
3. Petition sites with multiple variances can be heard at the same hearing. Use variances shall be decided prior to consideration of the use's associated design standards variance(s). Should the use variance be denied by the Board of Zoning Appeals, the associated design standards variance(s) request shall be null and void.

Article VII

Powers and Duties

1. The Board shall have the general powers and duties set forth in State law and in the Monroe County Zoning Ordinance, including without limitation, Zoning Ordinance Chapters 808, 812, 813, and 821.
2. With respect to its power to grant variances, the Board shall determine whether a variance application is for a variance of use or for a variance from the development standards of the Zoning Ordinance. For purposes of making such a determination, the Board shall apply the following criteria:

- a. A “use variance” is a variance permitting a use other than that permitted in a particular district by Zoning Ordinance.
- b. A “development standards variance” (aka, a design standards variance) is a variance permitting a physical change in the condition of real property that would not otherwise be permitted by the Zoning Ordinance, including without limitation, the design, scope, number, or location of structures or other improvements to real property (e.g., height, bulk, area, density, setbacks, buildable area, etc.).

3. 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 the person or entity from whom the appeal is being sought.

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 affirming, reversing or modifying the disposition being appealed. The Board may dismiss an appeal for want of prosecution or for lack of jurisdiction.
3. All decisions of the Board, on matters heard in public hearings shall be made by recorded 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 Chairperson.
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 unless an amended application letter is requested by the appellant/petitioner to Planning staff, moved by a Board member to place on the BZA agenda, and adopted by the unanimous vote of all members present. In determining whether to approve the docketing of the matter, the Board will give consideration to: the extent to which the proposed filing addresses the reasons for Board denial of the prior filing; any changed circumstances relating to the subject property or use; and any subsequent changes to or clarifications of relevant laws. If the Board approves of the docketing of the matter, it shall be subject to the fee provisions for amended petitions.

Article IX

Amendments

1. Amendments to these Rules of Procedure may be made by the Board at any regular meeting upon

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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:

Margaret Clements, Chairperson

Jackie N. Jelen, Secretary

Adopted 7/22/2024