

Rules of Procedure
Kankakee County
Zoning Board of Appeals

December 1, 2003

ARTICLE I. GENERAL PROVISIONS

- Section 1. These rules are supplementary to the provisions of the zoning ordinance of the County of Kankakee 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/herself 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 189 East Court Street, Kankakee, IL.

ARTICLE II. OFFICERS AND DUTIES

- Section 1. The officers shall be a Chairman, an Acting Chairman, and a Secretary.
- Section 2. The appointing authority shall designate the Chairman; the Board shall elect from amongst its members the Acting Chairman when the Chairman is absent; and, the Board shall designate the Secretary who may, or may not, be a member of the Board. In the event of the death, removal for cause, or resignation of the Chairman, the appointing authority shall name a successor.
- Section 3. The Chairman shall supervise the affairs of the Board of Appeals. He/she shall preside at all meetings of the Board, shall appoint such Committees as may be necessary to carry out the purposes of the Board. The Chairman shall be an ex-officio member of all committees so appointed.
- Section 4. The Acting Chairman, in 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 proceedings, showing the vote of each member upon every question, or if absent or failing to keep a 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 approve 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 custodian of the files of this Board and keep all records.

ARTICLE III. MEETINGS

- Section 1. Regular meetings shall be held on the first and third Mondays of each month at 6:00 P.M., in the 2nd Floor Conference Room, Kankakee County Administrative Building, 189 East Court Street, Kankakee, Illinois, or at such other place as the Chairman shall designate.
- Section 2. Regular meetings shall be set, upon receipt of an appeal or application for variance, special use permit, or amendment, by the Chairman who shall designate the date of hearing at the most expeditious time available taking into consideration other cases pending and the availability of the members.
- Section 3. The Chairman at his/her discretion, or upon the request of two (2) or more members may call special meetings, provided that proper notice is given under the Open Meetings Act.
- Section 4. All meetings shall be open to the public and are subject to the Open Meetings Act.
- Section 5. A quorum shall consist of four (4) members for any regular or special meeting, and is required for any decision, determination, or official action of 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 a quorum.
 - b) Review of Findings.
 - c) Communications.
 - d) Call of cases and Public Hearing.
 1. Continuances – May be granted by the Board in any case for good cause shown.
 2. New Cases.
 - e) Unfinished Business.
 - f) New Business.
 - g) Other.
 - h) Adjournment.
- Section 2. Failure of Applicant to Appear – 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.
- a) Dismissed for Want of Prosecution – In cases which are dismissed for want of prosecution, the applicant will be furnished written notice by the Secretary of the Board.
 - b) The applicant shall have seven (7) days from date of mailing of notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chairman for good cause shown, and upon payment of a fee of One Hundred and Seventy-Five and no/100 dollars (\$175.00) and the cost of readvertisement.

ARTICLE V. PROCEDURES ON APPEALS, AND ON APPLICATIONS FOR AMENDMENTS, VARIATIONS, AND SPECIAL USES.

- Section 1. An appeal or a request for a variation, amendment, or special use shall be considered only upon the filing of the proper written application with the designated person or office as is more specifically set out in the zoning ordinance of this County.
- Section 2. The applicant shall provide all the information required on the proper application as well as any additional information that may be required by the Board to aid it in reaching a decision and making a recommendation to the County Board where applicable.
- Section 3. Upon receipt of the properly filed application form, and proof of receipt of fee, where required, the Secretary of the Board shall assign a case number and place it on the calendar of the Board for hearing as aforesaid. Applications shall be assigned for hearing in the order in which the Chairman deems each application is fully completed.

ARTICLE VI. NOTICES FOR HEARING

- Section 1. The Secretary of the Board shall give due notice of the place and time for hearing of the appeal application, request for variance, special use, or amendment to the parties concerned either in person or by depositing such in a United States post office or post office box, enclosed in an envelope, plainly addressed to the attorney at his/her business address, or to the party at his/her business address or residence, as set forth in the application or request, with postage fully prepaid, not less than ten (10) days and not more than thirty (30) days prior to the hearing.
- Section 2. The Secretary of the Board shall provide for a public notice to be published as provided by law. The applicant is responsible for paying for the public notice.
- Section 3. The applicant shall give due notice by personal service or by certified mail, return receipt requested, not less than seven (7) days prior to the hearing, to the property owners, as appear from the tax records of this county, of all property adjacent to, or across from, in each direction of the location for which the application is requested, and of such property owners as may be designated by the Chairman of the Board. Public roads, streets, alleys, and other public ways shall be excluded in determining whether property is adjacent to or across from the subject property. Railroads shall not be considered public ways for purposes of this section. Notice need not be sent to owners across State and county boundary lines. Notices need not be sent to owners across a river from any subject premises. Such notice shall state the name and address of the applicant, the name and address of the owner of the property and a brief statement of the nature of the amendment, special use or variance. A copy of the published notice shall be enclosed with the letter. The applicant shall furnish the Board a complete verified list of property owners required to be served at the time the application is filed. Any adjacent property owner may waive notice as aforesaid by entering his/her appearance at the hearing without requesting a continuance or by waiving such notice in writing. Evidence of proper notification or waiver thereof shall be submitted no later than 6 hours prior to hearing.

ARTICLE VII. PROCEDURE ON HEARINGS

- Section 1. At the time of the hearing, the applicant may appear on his/her own behalf or be represented by counsel or agent.
- Section 2. All witnesses shall testify under oath.
- Section 3. The applicant or his/her representative may make a statement outlining the nature of the request prior to introducing evidence.
- Section 4. Evidence shall be presented in the following order:
- a) Chairman may give restatement of case if applicant or representative's needs clarification.
 - b) Secretary reads legal description into the record.
 - c) Applicant presents testimony and evidence.
 - d) Board cross-examines applicant's testimony and evidence.
 - e) Public commentary and cross-examination.
 - f) Rebuttal by applicant.
 - g) Objectors may present testimony and evidence.
 - h) Applicant cross-examines objector's testimony and evidence.
 - i) Rebuttal by objectors.
 - j) Public hearing.
 - k) Compilation of findings by Board.
 - l) Recommendation by Board.
- Section 5. 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 6. The applicant or objector, or an agent or attorney of either party, may submit a list of persons favoring or opposing the application. Such list will be accepted as an exhibit if it contains nothing more than a brief statement of the position of the persons favoring or opposing the appeal or application, together with the signature of the persons subscribing to such statement.
- Section 7. The Chairman shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board.

ARTICLE VIII. DECISIONS.

- Section 1. Final decisions of the Board shall be made within a reasonable time from the date of the hearing and recommendations to the County Board shall be submitted within a reasonable time from the date of the hearing.
- Section 2. A concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor or against the applicant any matter upon which it is required to

pass under the Zoning Ordinance, or to affect any variation in the application of the ordinance or to recommend any variation in the application of an amendment to the ordinance to the County Board.

- Section 3. 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. If conditions are imposed, such conditions shall be included in the motion.
- Section 4. Notice of the decision of the Board shall be given to the applicant, the Planning Director, and other interested parties upon request as soon as possible after the decision is reached.

ARTICLE IX. 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 public record.

ARTICLE X. AMENDMENT OF RULES.

- Section 1. These rules may be amended by an affirmative 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 Board of Appeals of Kankakee County this _____ day of _____, 2003
hereby adopts the foregoing rules and regulations.

Andrew Pristach, Chairman

Brian Billingsley, Secretary