

Johnson County Board of Zoning Appeals

RULES OF PROCEDURE

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RULES OF PROCEDURE

JOHNSON COUNTY BOARD OF ZONING APPEALS

ARTICLE I AUTHORITY, DUTIES

Section 1. Authority

The Johnson County Board of Zoning Appeals (hereinafter called "Board") exists under the advisory planning law by authority of IC 36-7-4-901, and all acts supplemental and amendatory thereto, and the Zoning Ordinance of Johnson County. These rules are adopted in accordance with the requirements of IC 36-7-4-916.

Section 2. Duties

The Duties of the Board shall be those set forth in IC 36-7-4-918.1 through 918.5

Section 3. Membership

The Board shall consist of five (5) voting members, appointed in accordance with IC 36-7-4-902 and IC 36-7-4-903.

Section 4. Meetings

All meetings of the Board shall be conducted in accordance with IC 5-14-1.5, the Indiana Open Door Law, and any amendments thereto. Onsite inspections of property involved in petitions before the Board shall not be considered meetings.

- a. Regular meetings - The Board shall hold regular meetings monthly. A schedule of all regular meetings shall be published each year by the staff of the Board. All regular meetings will be held in the auditorium of the Courthouse Annex at the times designated on the schedule of meetings, unless otherwise designated by the Board.
- b. Special meetings - Special meetings of the Board may be called at any time by the Chairman or by two (2) members upon request to the Board's staff. The staff shall notify Board members of such special meeting at least three (3) days in advance of such meeting. Written notice of a special meeting shall not be required if the time and place of the special meeting has been fixed in a regular meeting of the Board, provided that all members of the Board are present at the regular meeting.
- c. Cancellation - Whenever there is a lack of business for Board consideration, the Chairman may dispense with a regular meeting. In such cases, the staff of the Board shall give notice to

all members, and the news media shall be notified of such cancellation. Whenever it is determined that a quorum is not available for a regular or special meeting, the Chairman of the Board shall dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. In such cases, the staff of the Board shall give written or oral notice to the Board members, those having business before the Board, and to the news media. The Chairman of the Board also may dispense with a scheduled regular or special meeting in the event of a natural disaster, snow emergency, or similar causes. In such cases, the staff of the Board shall give written or oral notice to the Board members and those having business before the Board if possible, and the staff shall notify the news media of the cancellation. In the event of cancellation for any reason, the Chairman may require re-notification to interested parties, with such notice to be paid for by the petitioner or by the Board as the Chairman deems appropriate.

ARTICLE II OFFICERS AND STAFF

Section 1. Board Officers

At its first regular meeting of each year, the Board shall elect from its members a Chairman, Vice Chairman, and a Secretary. The Board shall appoint a Recording Secretary, and an attorney.

Section 2. Duties of Board Officers

- a. Chairman - The Chairman shall preside over Board meetings and on behalf of the Board shall exercise general supervision over the affairs of the Board, including the execution of contracts and agreements, the appointment of committees and representatives (except as otherwise provided by statute, ordinance, or these rules), the determination of points of order and procedure, and the signing of all official documents.
- b. Vice Chairman - The Vice Chairman shall have authority to act as Chairman of the Board during the absence or disability of the Chairman.
- c. Secretary - The Secretary shall certify all official acts of the Board. In the event of the absence or disability of both the Chairman and the Vice Chairman, the Secretary shall preside, provided, however, the first and only item of business to be presented by such presiding officer shall be the election of a Chairman pro tempore. In the event of the absence or disability of the Secretary, the Chairman of the Board shall select a Secretary pro tempore.

Section 3. Board Staff

- a. Duties - The Johnson County Department of Planning and Zoning shall serve as staff to the Board, and the Planning Director shall be the designated executive of the staff. All Board requests for information or technical advice shall be made to the Director who will be responsible for assigning staff members to gather such information or provide such advice and for conveying such information or advice to the Board. The Director shall be

responsible for administration of the Board's office, the employment and compensation of employees, and the administration of any funds allocated to the Board. The Director shall be delegated authority to perform administrative acts in all cases except where final action of the Board is necessary. The Director also shall employ the Board's Recording Secretary and shall be responsible for the keeping of an accurate record of all Board proceedings, including the keeping of records and minutes, the custody and preservation of all papers and documents of the Board, the maintenance of a current roster and qualification of members, and records of attendance.

- b. Directives - Any policies or assignments to the staff not covered by these regulations shall be by resolution of the Board or Johnson County Commissioners.

ARTICLE III CONDUCT OF MEETINGS

Section 1. Quorum

Three (3) members of the Board shall constitute a quorum. No business may be transacted and no public hearing may be opened at any meeting of the Board unless a quorum is in attendance.

Section 2. Voting

- a. Majority - In accordance with IC 36-7-4-911, no action of the Board is official unless it is authorized at a regular or special meeting by a majority of the entire membership of the Board.
- b. Conflict of interest - In accordance with IC 36-7-4-223, a Board member may not participate in a hearing or decision concerning a matter in which he/she has direct or indirect financial interest. A member shall declare his/her known conflict of interest. Questions as to whether such conflict exists may be determined by the Chairman. When there is uncertainty as to the applicability of this section, the member shall be disqualified. The Board shall enter in its records the fact that its member has a disqualification. Members are expected to disclose any personal, non-financial interest in any matter before the Board, and may abstain from participation and voting on such matter. A member who has a conflict of interest shall leave the Board table. Such member may join the audience but may not give testimony on the matter before the Board. Nothing in this section shall prevent a member of the Board from presenting a petition on his/her own behalf, but members shall not appear before the Board on behalf of others.
- c. Required - Except as provided in "b" above, all Board members present shall vote on each matter for which a public hearing is held. An abstention for any other reason shall have the same effect as a negative vote.
- d. Absentee - Absentee or proxy voting shall not be permitted. Members must be present for the public hearing in order to be eligible to vote on any matter. In the event that a member is

absent for part of a public hearing, such member's eligibility to vote on the matter shall be at the discretion of the Chairman.

- e. Alternate member - May be assigned pursuant to IC 36-7-4-907(a). The appointing authority may appoint an alternate member to participate with the Board in any hearing or decision if the regular member it has appointed has a disqualification under IC 36-7-4-909 or is unavailable to participate in the hearing or decision. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision.

Section 3. Order of Business

The order of business of regular meetings shall be as listed below, except that said order of business may be changed by the Chairman upon the consenting vote of a majority of those members.

1. Call meeting to order
2. Roll call of members
3. Approval of Minutes
4. Public Hearings
5. Old Business
6. New Business
7. Reports and Recommendations
8. Adjournment

ARTICLE IV PUBLIC HEARING

Section 1. Procedure

- a. Opening the hearing - The Chairman shall call the docket number of the item scheduled for public hearing and declare the public hearing open.
- b. Order of testimony - The order of testimony shall be as follows:
 1. Background and comments by the Board's staff
 2. Swearing in witnesses
 3. Presentation of request by petitioner
 4. Comments and questions by members of the audience
 5. Rebuttals
 6. Summation
- c. Procedure for presentation and debate - Petitioner(s) and remonstrator(s), respectively, may be permitted a maximum of twenty (20) minutes for the presentation of evidence, statements, and argument at the public hearings of every case at the discretion of the Chairman.
 1. Petitioner(s) and persons appearing in support of the case being heard by the Board

may have fifteen (15) minutes for the presentation of evidence, statements and argument in support of the matter being considered.

A reasonable additional time shall then be allowed for cross examination and redirect examination of petitioner's witnesses by the Board members.

2. Remonstrator(s) and persons appearing in opposition to the case shall then be given twenty (20) minutes for the presentation of evidence, statements, and argument in opposition to the matter being considered.

A reasonable additional time shall then be allowed for cross examination and redirect examination of remonstrator's witnesses by the Board members.

3. The petitioner(s) shall then have five (5) minutes for rebuttal, which shall include only evidence, statements, and arguments in rebuttal of remonstrator's evidence and a brief closing statement.

The Chairman shall, unless otherwise directed by a majority of the Board in session at the time, have authority to extend or reduce the total fifteen (15) minute periods specified above, where appropriate in the interest of affording to all interested parties a fair hearing.

- d. Closing the hearing - After all public comments have been heard under the rules of this section, the Chairman shall declare the hearing closed and shall call for a motion. Additional public comment shall not be permitted after the close of the hearing. Any motion which has been made and seconded is open for discussion by the Board members, but such motion is closed to discussion by the public, unless the Chairman specifically allows such discussion. The Chairman shall have the authority to limit such discussion by the public or the Board members.
- e. Voting - Each motion on a matter requiring a public hearing shall be voted upon, in accordance with the provisions of Article III, Section 2 of these rules. The vote of each member shall become a part of the record on the petition, and the vote of each member shall be disclosed by any Board officer or the staff to anyone requesting such information.

Section 2. Conduct

- a. Representation - The petitioner may appear in person, by agent, or attorney, and present any supporting witnesses, evidence, statements, and arguments in favor of the request. Remonstrators and persons in favor of the request may appear in person, by agent or by attorney and present witnesses, evidence, statements, and arguments. Any person interested in any petition shall have the right but shall not be required to enter a written appearance in the hearing.
- b. Board participation - The Board members shall be provided adequate opportunity to examine

witnesses and question any evidence, statements and arguments in the interest of a fair hearing.

- c. Identification - All persons wishing to be heard on any matter in a public hearing must stand before the Board and provide their names and addresses for the record.
- d. Commentary addressed to Board - All commentary at a public hearing shall be addressed to the Board through its Chairman. Such commentary shall not be permitted between opposing parties without the consent of said officer.
- e. Authority of Chairman - The Chairman shall have the authority to prohibit repetitious and irrelevant testimony and shall have the authority to limit the length of testimony by each speaker deemed appropriate to a fair public hearing.
- f. Orderly conduct - Every person appearing before the Board shall abide by the order and direction of the Chairman. Discourteous, disorderly, or contemptuous conduct shall not be tolerated, and the Chairman may take such action as is deemed necessary to prevent such conduct.

ARTICLE V

DISPOSITION OF PETITIONS

Section 1. Motions

The final disposition of any petition duly filed and brought before the Board shall be in the form of a motion, properly adopted, specifically setting forth such disposition.

Section 2. Dismissals

- a. Want of prosecution - The Board may dismiss a petition if the petitioner or authorized representative does not appear to present and speak in favor of such petition or if such petition has been improperly filed as determined by the Board.
- b. Lack of jurisdiction - The Board shall dismiss a petition if it finds it has no jurisdiction over such matter.

Section 3. Withdrawals

- a. Without prejudice - Any petition may be withdrawn without prejudice provided a written request for withdrawal signed by the petitioner or an authorized representative is received by the Board's staff at least seven (7) calendar days before the scheduled hearing.
- b. With prejudice - A petition may be withdrawn by the petitioner at any time before the close of the public hearing, by oral request at the scheduled meeting or in writing. Any petition which is withdrawn less than seven (7) calendar days before the scheduled hearing shall not

again be placed on the docket for a hearing within a period of one hundred eighty (180) calendar days from the date of the originally scheduled hearing, except upon a motion duly adopted by a majority of the members of the Board to permit such re-docketing.

- c. Not permitted - No petition may be withdrawn after a motion has been made and seconded and a vote has been ordered by the Chairman.

Section 4. Amendments

- a. Increased density or intensity - No petition can be amended in a manner which increases the intensity of use (e.g., adds additional uses or land) after the filing deadline without permission of a majority of the Board. The granting of such amendment will result in continuing the petition for one month. If notice in accordance with Article VII already has been given, the item as amended shall be re-advertised and new notice given to interested parties. The petitioner shall be required to pay the costs of such re-advertising and re-notification.
- b. Decreased density or intensity - It shall be within the discretion of the Board to approve a petitioner's request to amend the petition in a manner which decreases the intensity of use (e.g., removes land or uses). Any interested parties may be heard on the subject of such amendment. The Board may require such amended petition to be continued and may require re-advertising and re-notification in the interest of providing a fair and adequate hearing.

Section 5. Continuance

- a. Automatic Continuance - One automatic continuance for the petitioner(s) and one for the remonstrator(s) shall be allowed as a matter of right and without cause shown if requested on forms provided by the Department of Planning and Zoning no later than 4:30 PM EST on the fifth calendar day prior to the day of the scheduled meeting. An automatic continuance shall continue the matter to the next regularly scheduled hearing of the Board. The request shall indicate whether it is the first request for continuance. The party requesting the automatic continuance shall give notice by mail, prior to the deadline established above, to all parties required to be served with notice and to attorneys who have entered their appearance or are known to represent the petitioner(s) or remonstrator(s). Notice of automatic continuance may be mailed first class mail, however the party requesting the continuance shall submit an affidavit of notice to the Department of Planning & Zoning at the time the continuance request is filed.
- b. Continuance for Cause - A continuance for cause may be granted at the hearing to the petitioner(s) or remonstrator(s), without limit, for good cause shown. In determining good cause, consideration will be given to the inconvenience to persons present at the hearing, whether or not the cause could or should have been foreseen and whether the requesting party had the opportunity to request an automatic continuance in advance of the hearing, as provided herein.

- c. Motion by Board - Any membership of the Board may at any time move to continue the hearing of any petition. Such a motion duly seconded and adopted shall continue the hearing to the time specified in the motion. The Board may include in the motion specific instructions for re-advertising and/or re-notification of interested parties.
- d. Indecisive Vote - In the event that the Board does not achieve the required three (3) votes to approve or deny a petition, such vote shall be declared indecisive, and the petition shall be continued automatically. Before declaring a petition continued on this basis, the Chairman shall call for another motion.
- e. Improper Notice - If proper notice under applicable laws and Article VII of these rules has not been given, the Board may continue the petition to allow time for proper notice to be given or dismiss the petition.

Section 6. Approval

- a. Variance from developmental standards (see Article VI, Section 2 for definition) - The Board may approve a request for a variance from the developmental standards (such as height, bulk, or area) of the zoning ordinance only upon a determination in writing that all of the requirements of the Johnson County Zoning Ordinance and the following criteria have been satisfied:
 - 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
- b. Variance of use (see Article VI, Section 2 for definition) - The Board may approve a request for a variance of use from the terms of the zoning ordinance only upon a determination in writing that all of the requirements of the Johnson County Zoning Ordinance and the following criteria have been satisfied:
 - 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - 3. The need for the variance arises from some condition peculiar to the property involved.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship to the property for which the variance is sought.
 5. The approval does not interfere substantially with the comprehensive plan.
- c. Special Exceptions - The Board may approve a special exception from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance. The Board may impose reasonable conditions as part of its approval. Those particular situations include:
1. The special exception shall be listed as such in Table A of the zoning ordinance for the district requested.
 2. The special exception can be served with adequate utilities, access roads, drainage and other necessary facilities.
 3. The special exception shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in of the zoning ordinance.
 4. The special exception shall be cited, oriented and landscaped to produce harmonious relationship of buildings and grounds.
 5. The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood
 6. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
 7. The special exception shall preserve the purpose of the zoning ordinance.
- d. Conditional approval - A motion to approve a petition may be conditional upon a petitioner's compliance with a requirement or requirements imposed by the Board. Such condition(s) of approval shall be specifically stated and recited to the petitioner. The Board may impose a time limit upon the fulfillment of any such requirement(s). The petitioner shall be required to notify the Board's staff of the fulfillment of such requirement(s) by filing an affidavit of compliance with the Board. If the time for fulfillment of the condition(s) is stated in the Board's decision, such affidavit shall be filed within thirty (30) calendar days after the time allowed for fulfillment. In the event any condition of the decision has not been fulfilled or the time for compliance has expired, the decision shall be revoked and rescinded.

Section 7. Disapproval

- a. Variances and special exceptions - The Board shall disapprove any request for a variance or

special exception for which the petitioner fails to show to the Board's satisfaction that the required criteria for approval have been met. The Board shall make written findings on each of the criteria.

- b. Refiling - No petition for a variance or special exception which has been denied or dismissed by the Board shall again be placed on the docket for hearing within a period of one hundred eighty (180) calendar days from the date of such disapproval, except upon a motion duly adopted by a majority of the membership of the Board to permit such re-docketing.

Section 8. Administrative Appeals

- a. Authority - Upon appeal, the Board may reverse, affirm, or modify any order, requirement, decision, or determination so appealed. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal was taken.
- b. Testimony - In considering an appeal, the Board shall hear testimony of the official, officer, board, or body from which the appeal was taken as to the reasons for the order, requirement, decision, or determination under appeal. It also shall hear testimony of the appellant as to the grounds for the appeal. The Board may hear such additional testimony as it considers relevant to the decision.
- c. Decision - In deciding an appeal, the Board shall consider the intent and purposes of the zoning ordinance and shall make a decision which upholds such intent and purposes. A majority vote of the entire membership of the Board is required to overturn a decision of the code enforcement officer. Failure to achieve such majority shall result in affirmation of the decision so appealed.
- d. Refiling - Once the Board has decided an appeal, the same appeal shall not again be placed on the docket for hearing within a period of one hundred eighty (180) calendar days from the date of the original decision, except upon a motion duly adopted by a majority of the membership of the Board to permit such re-docketing.

ARTICLE VI FILING PROCEDURES

Section 1. Application

Each petition to the Board shall be on application forms prescribed by the staff and shall be accompanied by such information and exhibits as specified on such forms and/or required by applicable ordinances. Any communication purporting to be a petition not on the prescribed forms or not containing the information required shall be considered incomplete and shall not be docketed.

Section 2. Classification of Variances

- a. Definitions - Petitioners may apply for variances of use, variances from the development standards, or administrative appeals. The type of variance will be classified in accordance with the following definitions:
1. Variance of use - Approval by the Board for the establishment of a use which is not among the uses permitted by right or by special exception in the zoning district in which the property in question is located.
 2. Variance from development standards - A grant of relief from a development standard (e.g., height, bulk, area, etc.) set forth in the zoning ordinance. This definition shall be construed liberally to include all variance requests except those which are clearly for variances of use.
 3. Administrative appeals - A grant of relief from the decision of Director of Planning as outlined in Article V, Section 8. The Board may reverse, affirm, or modify any order, requirement, decision, or determination so appealed.

Section 3. Filing Deadlines

The staff shall prepare a schedule of the filing deadlines each year for the ensuing year. Such schedule shall provide for adequate time for the staff to review the proposal and offer technical advice to the Board and shall provide adequate time for issuance of required notices. Any application which is incomplete at the time of the filing deadline shall not be docketed.

Section 4. Eligible Applicants

The owner(s) of the property included in any petition before the Board must consent to the filing of the application. Such consent may be evidenced by the owner's notarized signature on said application or by signature of a person having power of attorney authorizing such signature. In the case of property which is being purchased under a land contract, the signatures of both the contract purchasers and the contract sellers or their duly authorized agents shall be required.

ARTICLE VII DOCKETING OF PETITIONS

Section 1. Docketing by Board Staff

Within ten (10) days of receipt, each properly filed petition shall be assigned a case number by Board Staff and shall be docketed for public hearing before the Variance Hearing Officer or the Board of Zoning Appeals. Board Staff may limit the number of new petitions docketed if the docket has already been filled with continued petitions, petitions redocketed due to an indecisive vote, or petitions transferred from the Hearing Officer.

Section 2. Docket Number

Board staff shall establish and maintain a system for assigning case numbers to new petitions. The case number shall include an abbreviation of the petition type, a number indicating the sequence among petitions filed, and the last two numbers of the year. The sequence number shall begin anew on January 1st of each year.

Section 3. Order of Hearing Petitions

Withdrawn petitions, automatically continued petitions, requests for continuance for cause, requests for modification of notice requirements, expedited petitions, continued petitions, and new petitions shall come before the Board in the order enumerated above. Generally, new petitions shall be heard in the following sequence: variances of development standards, variances of use, special exceptions, and appeals of an administrative decision. Continued petitions may be listed on the agenda and come before the Board prior to new petitions at the discretion of Board Staff.

Section 4. Docketing Procedure for Expedited Petitions

Petitions may be scheduled out of their regular consecutive number order, if they are placed on the expedited portion of the docket. Petitions may be expedited and placed on the beginning of the docket by Board Staff if, and only if, the following criteria are met:

- a. There is no known remonstrance to the petition;
- b. Staff is recommending approval of the petition; and
- c. The petitioner is in agreement with the conditions or commitments as proposed in the written staff report.

For expedited petitions, the Chairman shall allow reasonable time to present testimony, but may further limit the allowable time permitted by Article IV, Section 1 of these Rules. Each expedited petition shall be subject to a separate vote by the Board. If remonstrators are present at the hearing to discuss an expedited petition, that petition shall be removed from the expedited portion of the docket and heard in its normal order.

ARTICLE VIII NOTICE REQUIREMENTS

Section 1. Contents

Any notice of public hearing required by state or local law shall contain as a minimum the following information:

- a. Docket number and the substance of the matter to be heard.
- b. Location of the parcel by at least one of the following two options:
 - i. Assigned street address of the parcel which is the subject of the petition (required option if street address has been assigned);
 - ii. Tax identification number of the subject parcel and general locational description of the parcel as provided by the Department of Planning.
- c. Name of the person or agency initiating the matter to be heard.
- d. Time, date, and place of the hearing.
- e. Statement that the petition may be examined at the office of the Board.
- f. Statement that interested parties may offer an oral opinion at the hearing or may file written comments concerning the matter to be heard prior to or at the hearing.
- g. Any other information which may be required by law to be contained in such notice.

Section 2. Publication

Notice by publication containing all necessary information shall be given by the petitioner(s) in a newspaper of general circulation in Johnson County, at least twenty-one (21) calendar days before the hearing, and proof of publication shall be made by an affidavit of the publisher attached to a copy of the notice taken from the newspaper in which it was taken and filed with the Commission. Such affidavit shall specify the county, the time of publication, and the paper in which the notice was published. The petitioner(s) shall assume the cost of said publication. Proof of such publication shall be provided to staff by petitioner no later than noon Friday preceding the meeting and shall be kept in the appropriate file.

Section 3. Mailed Notice

- a. Method of notice - Notice shall be given to owners of all property within a distance of six hundred (600) feet or two (2) property owners, whichever is greater, from the boundaries of the affected property. Notification shall be by mail with certificate of mailings, shall not be less than twenty-one (21) calendar days prior to the hearing, with said notice containing the following information:
 - 1. Docket number and the substance of the matter to be heard.
 - 2. Location of the parcel by at least one of the following two options:

- i. Assigned street address of the parcel which is the subject of the petition (required option if street address has been assigned);
 - ii. Tax identification number of the subject parcel and general locational description of the parcel as provided by the Department of Planning.
3. Name of the person or agency initiating the matter to be heard.
4. Time, date, and place of the hearing.
5. Statement that the petition may be examined at the office of the Department of Planning and Zoning.
6. Statement that the interested parties may offer an oral opinion at the hearing or may file written comments concerning the matter to be heard prior to or at the hearing.
7. Any other information which may be required by law to be contained in such notice.

In the alternative, the petitioner(s) may present a list of all such property owners, signed by such property owners and acknowledging notice of the petition and hearing, said list having affidavit affixed attesting to the veracity of the list, with the petitioner's signature being notarized.

- b. Determination of owners - Unless the applicable ordinance states otherwise, the names of property owners to be notified are to be determined from the records of the Auditor of Johnson County. They shall be deemed to be the true names and addresses of the persons entitled to notice. For the purpose of determining adjoining parcels of land, the land described in said petition shall be deemed to include any adjoining land owned by the applicant, provided, however, such ownership shall not be deemed to include the entire length of the right-of-way of a street, railway, or similar feature, but shall be limited to the particular parcel involved. Land separated from petitioned property by streets, railways, easements and the like shall be deemed to be land adjoining the petitioned land. This shall be submitted to staff no later than noon Friday preceding the meeting.

Section 4. Evidence of Notice

Certificate of mailings and notarized affidavits listing the names and addresses of the property owners and proof of service of said notice shall be considered evidence that notice has been given, copies of which shall be submitted to the Plan Commission office by the Friday before the hearing date. Personal appearance at the hearing shall constitute evidence of notice.

Section 5. Notice on Subject Property

Notice, on a sign or form prescribed by Department of Planning and Zoning, shall be posted on the subject site at least twenty-one (21) calendar days before the date of hearing. Said notice shall be located in a conspicuous place on the property along each public street frontage, except Interstate highways, and shall remain posted until resolution of the petition. Said notice shall not be located within any public street right-of-way, unless authorized by the Director. The Director may require a nominal, refundable deposit for said on-site notice.

Section 6. Notice for Hearing Before the Variance Hearing Officer

Rules adopted by the Board of Zoning Appeals regarding notice requirements for public hearings (including legal ad publication) shall apply to hearings before the Variance Hearing Officer, with the following exceptions:

- a. Individual notice need be given only to an owner of a parcel immediately adjoining the petitioned parcel, and need not necessarily be accomplished by certificate of mailing. The petitioner may, as an alternative, present a list of all such owners, signed by such owners and acknowledging notice of the petition and hearing, said list having affidavit affixed attesting to the veracity of the list, with the petitioner's signature being notarized. Said list shall be considered evidence of notice. (Land separated from the petitioned parcel by streets, railways, easements, and the like shall be deemed to be land adjoining the petitioned parcel.)
- b. Posting of a public hearing sign on the subject property shall not be required.
- c. In the case of a hearing transferred from the Variance Hearing Officer to the Board, no notice of the transfer or scheduling of the public hearing before the Board need be given by the Hearing Officer, except for notice by publication under IC 5-3-1.

ARTICLE IX COMMITTEES

Section 1. Authority

The Chairman is hereby authorized to appoint permanent and temporary committees to facilitate the work of or advise the Board. Such committees may be comprised of Board members and other interested parties. A chairman shall be appointed for each committee, and reports on their assignments shall be made a part of the record. The Chairman shall be an ex officio member of any committee as appointed.

Section 2. Committee Meetings

The staff shall assist any and all committees established under this section in scheduling the times and places for meetings.

ARTICLE X

BOARD RECORDS

Section 1. Responsibility

It shall be the duty of the staff of the Board to maintain all Board files and records, including the official minutes of all meetings.

Section 2. Minutes

The staff shall prepare an accurate record of all hearings and official actions of the Board, and the minutes representing such record shall be made available within a reasonable time after such hearing or action to all members of the Board. Approved minutes shall be made available for inspection by the public.

Section 3. Tape Recordings

The Recording Secretary may make taped or other mechanical recordings of the Board's proceedings. Such recording products shall remain on file in the Board's office for a period not less than one (1) year from the date of the hearing or determination, whichever is later. Such recordings shall not be removed from the Board's office other than by order of a court of competent jurisdiction.

Interested parties may listen to such recordings in the Board's office and may copy (at their cost) such recordings, under the supervision of the Board's staff.

Section 4. Board Case Files

A file shall be maintained for each item placed on the docket of the Board. Such files shall contain, as a minimum, the application form and supporting materials and any exhibits pertinent to the decision, conditions, or safeguards or other material related to the binding effects of the Board's actions.

Section 5. Public Records

The records and files for the Board shall be made available to the public under the provisions of IC 5-14-3, the Indiana Access to Public Records Law, and any amendments thereto. The Planning Director is hereby designated as the officer responsible for determining which documents of the staff and Board are public records. Any person may file a written objection to a decision of the Planning Director under this section. Upon receipt of such objection, the Planning Director shall consult the Board Chairman and the Board attorney who shall decide whether a requested document is a public record.

ARTICLE XI AMENDMENTS

Amendments to the Rules of Procedure may be made by the Board at any regular or special meeting

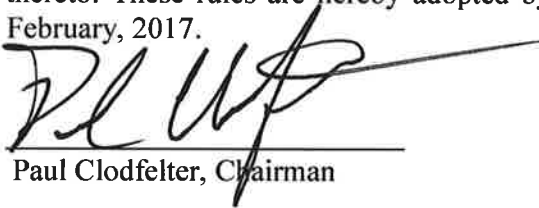
upon the affirmative vote of a majority of the membership of the Board, provided, however, that the proposed amendment shall have been presented in writing at a previous regular meeting of the Board.

ARTICLE XII SEPARABILITY

If any section, clause, provision, or portion of these rules shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section, clause, provision, or portion of these rules.

ARTICLE XIII CERTIFICATE OF ADOPTION

The foregoing Rules of Procedure of the Johnson County Board of Zoning Appeals specifically repeal the Rules of Procedure adopted by the Board on August 28, 2007, and any amendments thereto. These rules are hereby adopted by the affirmative vote of the Board this 28th day of February, 2017.



Paul Clodfelter, Chairman

Chad Bowman, Secretary