

WOODFORD COUNTY ZONING BOARD OF APPEALS

Woodford County
Woodford County Board Room
4:00 P. M. Tuesday, June 25, 2019
Minutes

- Call to Order: Ms. Gauger called the meeting to order.

- Roll Call: Jerry Lay, Teresa Gauger, Kim Holmes and Rodney Noe were present.
Others present: Erik Gibson, Blake Parsons, John Krug
Ms. Gauger declared a quorum and asked for a nomination for acting chairman.
Ms. Holmes made the motion to nominate Mr. Lay as acting chairman, seconded by Ms. Gauger. *Motion Carried.*

- Approval of minutes for May 28, 2019.
Mr. Lay asked for a motion to postpone approving the May 28, 2019 minutes. Motion to postpone until the next meeting made by Gauger. Seconded by Noe. *Motion Carried.*
 - ZBA By-Law/Rules of procedure Discussion and changes – Adoption of new bylaws/rules
The members discussed the necessary changes to the By-Laws. See attached for changes. The board discussed that as part of the rules of procedure they would like to clarify in the public comments information and modify the sign-in sheets to reflect the procedure changes that will go into effect.

The main changes to the by-laws include the order of business and procedures of entering evidence. The changes to the by-laws will be evaluated for adoption at the July 23 hearing.

- Executive Session (if necessary) None.

- Any action coming out of Executive Session
 - Adjournment
Ms. Holmes made the motion to adjourn at 7:15, seconded by Gauger. *Motion Carried.*

Lisa Jording, Secretary

Jerry Lay, Acting Chairman

Date

RULES OF PROCEDURE OR BYLAWS FOR THE ZONING BOARD OF APPEALS OF
WOODFORD COUNTY, ILLINOIS

ARTICLE I
General Provisions

Section 1: These rules are supplementary to the provisions of the Zoning ~~Resolution~~Ordinance of the County of Woodford as they relate to procedures of the Board of Appeals.

Section 2: Any member who has an interest in a matter before the Board shall not sit with the Board nor act with the Board in such matter under consideration. (Amendment No. 1)

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 Zoning Administrator's office at the Woodford County Courthouse in Eureka, Illinois.

Section 6: The Tri-County Regional Planning Commission shall be the consultant to the Board on ~~p~~Planning matters.

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 Secretary shall be designated in accordance with the Zoning Ordinance. ~~Board shall~~

~~designate the Secretary who may, or may not, be a member of the Board. The Secretary shall be determined at the first meeting of the Board following August 31, and shall hold office for one year, commencing on the first day of October, or until a successor is determined.~~ If the Secretary is absent or temporarily unable to serve, the Chairman shall designate, with concurrence of the Board, a Secretary Pro-Tem. In the event of death, removal, for cause, resignation, or term expiration, successors of Board Members 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 purpose of the Board, and shall provide for the oath to be administered to witnesses in cases before the Board. The Chairman shall be 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. The senior ranking member of the Board shall open the meeting and have roll call in order to nominate and elect an Acting Chairman. In the event the Chairman is unavailable to hear a petition as Hearing Officer, the next senior ranking member available shall ~~h~~Hear the ~~p~~Petition for Variation.

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; 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 records shall be a public record; shall be the custodian of the files of this Board and keep all records, shall assign to each appeal or application a number, the last two digits of the calendar year in which it is filed, followed by consecutive numbers, beginning each year with one (1), followed by the letter Z for Rezoning, V for Variance, S for Special Use and A for Appeals; and shall maintain a case docket.

ARTICLE III Meetings

Section 1: Regular meetings shall be held as required to accommodate petitions filed for public hearing. Meeting starting time shall be set by the Chairman and posted in accordance with applicable statutes. (Amendment No. 3) Preferred day of week may be designated by the Board. Meetings shall be held in the county Court~~h~~House unless otherwise specified by ordinance or at such location as deemed appropriate by the Board.

Section 2: 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 be given each member.

Section 3: All meetings shall be open to the public.

Section 4: A quorum shall consist of three (3) members for any regular or special meeting and is required for general business of the Board. No public hearing shall 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) Approval of minutes of previous meeting.~~
- ~~c) Announcement of decisions from last meeting.~~
- ~~d) Call of cases of agenda and hearing of requests for continuance.~~
- ~~e) Communications.~~
- ~~f) Report of committees.~~
- ~~g) Adjourn.~~
- a) Roll call and declaration of a quorum.
- b) Approval of minutes of previous meeting
- c) Permit extensions
- d) Call of cases on agenda and hearing of requests for continuance
- e) Unfinished business
- f) New business
- g) By-Laws discussion
- h) Report of previous months petitions
- i) Report of upcoming petitions
- j) Other business
- k) Public comment
- l) Adjournment

PUBLIC COMMENT

Public comment is limited to 5 minutes and will not be considered as evidence. The public is encouraged to avoid redundant statements and the Chairman shall not allow repetitious, harassing, or discourteous statements.

CONTINUANCES

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:

- (1) New cases – first time on agenda.
Continuances may be granted upon request.
- (2) Continued cases

All cases which have previously appeared on the agenda of the Board constitute continued cases except where the proceedings under the prior petition have been fully terminated by a hearing of the Board. Request for

further continuance will considered upon application therefor by the party or his representative at the time the case is called, and upon showing:

- (a) That he has given reasonable notice in writing to all persons who have filed an appearance in the matter, and
- (b) That he will be unable to proceed with his evidence at this hearing.

FAILURE OF APPLICANT TO APPEAR

- (1) 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.
- (2) In cases which are dismissed for want of prosecution, the applicant shall be furnished written notice by the Secretary of the Board.
- (3) The applicant shall have seven (7) days from the date 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 in the amount originally required to file the case.
- (4) In all cases reinstated in above described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.
- (5) A case which has been dismissed and not reinstated shall not be refiled within one (1) year of dismissal.

REHEARING ON APPEAL OR PETITION PREVIOUSLY DENIED

- (1) No rehearing on an appeal or petition previously denied by the Board shall again be entertained unless in the judgement of the [Zoning Administrator Board](#) new evidence should be heard or new plans or new conditions change a material aspect of the case.

~~g) Hearing of cases on agenda.~~

~~h) Unfinished business.~~

~~i) New business.~~

~~j) Adjournment.~~

ARTICLE V Procedures on Appeals

- Section 1: An appeal for an interpretation of the Zoning Administrator's decision may be taken by any person aggrieved, officer, department, board, or bureau of the county affected by the Zoning Administrator's decision.
- Section 2: An appeal shall be considered only if the action taken by the Zoning Administrator was taken within 30 days prior to the filing of the appeal application form with the Zoning Administrator and the Board of Appeals.
- Section 3: The Zoning Administrator shall transmit to the Secretary of the Board all papers constituting the records upon which the action appealed from was taken.
- Section 4: The application shall provide all the information required on the appeal application form as well as any additional information that may be required by the Board to aid it in reaching a decision.
- Section 5: Upon receipt of the properly filed appeal application form, the Secretary of the Board shall assign a case number and place it on the calendar of the Board for hearing within sixty (60) days. Applications for appeals shall be assigned for hearing in the order in which they are received. Said application may be filed with an accompanying application for a request for a Variation.
- Section 6: Filing of the appeal application form with the Zoning Administrator and the Board shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board that, by reason of the facts stated in the appeal application, a stay would, in his opinion, cause imminent peril to life or property. In this event, proceedings cannot be stayed other than by a restraining order granted by the Board or by a court of record on application, and on notice to the Zoning Administrator and due cause shown.

ARTICLE VI
Procedures on Variations

Section 1: A request for a Variation may be taken by any person where there may be practical difficulties or particular hardships under the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of structures or in the use of land.

Section 2: A request for a Variation shall be considered only upon filing of a request for a Variation with the Zoning Administrator and the Board of Appeals or Hearing Officer.

Section 3: The applicant shall provide all the information required on the request for Variation application as well as any additional information that may be required by the Board or Hearing Officer to aid in reaching a decision.

Section 4: Upon receipt of the properly filed application for request for Variation and proof of receipt of fee paid, the ~~Zoning Administrator~~~~Secretary of the Board~~ shall assign a case number and place it on the calendar of the Board for hearing within sixty (60) days. Applications for requests for Variations shall be assigned for hearing in the order in which they are received. Said applications may be filed accompanying a request for an appeals. ~~Such hearing may be held in any township.~~

ARTICLE VII
Procedures for Special Use Applications

Section 1: A request for a Special Use may be ~~taken-made~~ by any person when the proposed use or alteration ~~isn~~ potentially incompatible with the uses normally permitted in the Zoning districts and such use is listed as a Special Use in the Zoning Ordinance.

Section 2: A Special Use request shall be considered only upon the proper filing of a request application with the Zoning Administrator and the Board of Appeals.

Section 3: ~~€~~The applicant shall provide all the information required by the Zoning ~~Resolution~~Ordinance-Ordinance for such request as well as any additional information that may be required by the Board to aid it in reaching a decision.

Section 4: Upon receipt of the properly filed application for a Special Use and proof of receipt of fee paid, the ~~Secretary-Zoning Administrator~~of the Board shall assign a case number and place it on the calendar of the Board for hearing within sixty (60) days. Applications for Special Uses shall be assigned for hearings in the order in which they are received. ~~and any such hearings may be held in any township.~~

ARTICLE VIII

Procedures for Amendment to the Zoning ~~Resolution~~Ordinance and Map

Section 1: A request for an amendment to the Zoning ~~Resolution~~Ordinance and /or Map shall be considered only upon filing of a request through the Zoning Administrator to the Board of Appeals.

Section 2: The applicant shall provide all the information required by the Zoning ~~Resolution~~Ordinance for such request as well as any additional information that may be required by the Board of Appeals to aid it in reaching a decision.

Section 3: Upon receipt of the properly filed application for an amendment and proof of receipt of fee paid, the ~~Secretary of the Board~~Zoning Administrator shall assign a case number and place it on the calendar of the Board for hearing within sixty (60) days. Application for amendments shall be assigned for hearing in the County Courthouse ~~unless anyone~~ township or person affected by the terms of such proposed action

~~submits written request for the hearing to be held in the township.; except that for~~
~~€~~The consideration of general amendments to this Ordinance ~~shall, hearing may~~ be held in the County Court~~h~~House.

ARTICLE IX
Amendment of Original Application by Petitioner

Section 1: With the permission and at the discretion of the Board for being a good and sufficient reason, any person who is the petitioner in a case may modify in part a request on which the Board has not made a decision.

Section 2: Amendments to a petition may be made only if such amendment would more closely satisfy the standards and requirements of the Zoning ~~Resolution~~Ordinance.

Section 3: If any such amendment is requested and approved by the Board after the termination of the public hearing on the petition, the petitioner shall pay a fee in the amount originally required to file the case and the Secretary of the Board shall place it on the calendar of the Board for a rehearing within sixty (60) days.

ARTICLE X
Notices for Hearings

Section 1: The Secretary of the Board shall give due notice of the place and time for hearings of the appeal application, request for Variation, Special Use, or amendment, or all to the parties concerned either in person or by ~~registered mail, return receipt requested~~ U.S. mail, not less than fifteen (15) days and not more than thirty (30) days prior to the hearing. Said notice shall ~~contain the statutorily required information, state the name and address of the applicant, the name and address of the owner of the property, the address and location of the property and a brief statement of the nature of the appeal, request for Variation, Special Use and amendment, or all.~~

Section 2: The Secretary of the Board, in case of application for a request for Variation or for applications for appeal accompanied by a request for variation, or for applications for Special Uses or amendments shall provide for a public notice to be published at least once in a newspaper published of general circulation in the County not more than thirty (30) day nor less than fifteen (15) days before the hearing. ~~The notice shall state the place of the hearing, the location of the property for which the request is sought, as well as a statement of the nature of the application. It shall not only contain a legal description of the property affected, the common or rural route address, but also its location by distances from the nearest major street or road intersection so that the property can be easily identified. Said notice shall contain the~~ statutorily required information.

ARTICLE XI Procedures on Hearings

Section 1: At the time of the hearing, the applicant may appear on his own behalf or be represented by agent or attorney.

Section 2: All witnesses shall testify under oath.

Section 3: The applicant or his representative may make a statement outlining the nature of his request prior to introducing evidence.

Section 4: Evidence shall be introduced in the following order:

- ~~a) Chairman/Hearing Officer may give restatement of case if applicants, or his representative's presentation needs clarification.~~ Chairman introduces case item
- ~~a) b) Chairman at his option may have staff personnel explain the nature of the case before the board~~
- c) Applicant presents opening statement

- ~~b)d) Applicant presents evidence in support of the application.~~
- ~~e)e) Board and/or objectors cross-examine applicant (or their representative if the applicant is not present) and/or applicant's witnesses.~~
- ~~f)f) Objectors present evidence.~~
- ~~g) Board and/or applicant cross-examine objector(s) (or their representative if the objector(s) is/are not present) and/or objector(s) witnesses.~~
- ~~h) Evidence or reports from any interested governmental agency or staff~~
- ~~i) Board, applicant, or objector(s) cross-examine government agency or staff~~
- ~~e)j) Questions from the Board~~
- ~~f) Rebuttal evidence by applicant.~~
 - ~~g) Rebuttal by objectors.~~
- ~~k) Closing statement from objectors~~
- ~~l) Closing statement from applicant~~
- ~~m) Compilation of Findings of Fact~~
- ~~n) Vote on petition~~
- ~~h) Evidence by Board:~~
 - ~~i) Report of the Executive Director of the Tri-County Regional Planning Commission, if requested.~~

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: An applicant or objector, or his agent or attorney, may submit a notarized list of persons together with the signature and address of such persons favoring or opposing the application. ~~Such list will be accepted as an exhibit if it contains a brief statement of the position of the person favoring or opposing the appeal or application, the reasons for stating such a position, together with and the signature and address of the persons subscribing to such statement.~~

Section 7: The Chairman/Hearing Officer shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board.

ARTICLE XII Decisions

Section 1: Final decisions or recommendations shall be made within 30 days of the conclusion of the hearing.

Section 2: The Board shall conduct its vote in public session at the meeting in which evidence is concluded, unless the Board considers additional time for deliberation is necessary.

Section 3: All decision of the Board shall be made at a public meeting by motion made, seconded, and the Chairman polling the membership by 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 of the Board. If conditions are imposed in the granting of a variation, or in recommending the granting of a Special Use or an Amendment of the Ordinance by the Governing Body, such conditions shall be included in the motion.

Section 4: The [transcriptminutes](#) 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 5: Notice of the decision of the Board shall be given to the applicant, the Zoning Administrator, and other interested parties as soon as possible after the decision is reached.

Section 6: Unless otherwise specified by the Board/Hearing Officer, any order or decision of the Board (Hearing officer for Variation) authorizing a Variation, or of the Governing Body authorizing a Special Use, shall expire if the Applicant fails to obtain a building permit within **ninety (90)** days from date of decision.

Section 7: All Hearing Officer decisions shall be made at a public meeting. The Decision shall be in the form of findings of fact and shall state the reasons for the findings of the Hearing Officer. Notice of the Decision of the Hearing Officer shall be given to the applicant, the Zoning Administrator, and other interested parties as soon as possible after the decision is reached.

ARTICLE XIII Records

Section 1: A file of materials and decision 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 XIV
Amendment of Board of Appeals 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 Board of Appeals of Woodford

County, Illinois, on ~~January 24, 1966.~~

~~Amendment No. 1 proposed October 10, 1966; adopted November 14, 1966.~~

~~Amendment No. 2 proposed September 9, 1987; adopted September 30, 1987.~~

~~Amendment No. 3 proposed May 22, 2012; adopted September 25, 2012~~

~~Amendment No. 4 proposed January 23, 2018; adopted January 23, 2018~~July 23,
2019

Jerry Smith, Chairman.

Lisa Jording, Secretary