

# **THE RULES OF PROCEDURE OR BYLAWS FOR THE FULTON COUNTY ZONING BOARD OF APPEALS**

## **Article I: General Provisions**

Section 1. These rules are supplementary to the provisions of the Zoning Ordinance of the County of Fulton 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 from any meeting or hearings at which said matter is at 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 States 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 the Fulton County Planning and Zoning Office, 257 W. Lincoln Ave., Lewistown, Illinois 61542.

## **Article II: Officers and Duties**

Section 1. The officers shall be a Chairman, an Acting Chairman, and a Clerk.

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 determine the Clerk who may or may not be a member of the Board.

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 sub-committees as may be necessary to carry out the purposes of the Board, and shall provide for the oath to be administered to all witnesses in cases before the Board. The Chairman shall be an ex-officio member of all committees and sub-committees so appointed.

Section 4. The Acting Chairman, in the absence or disability of the Chairman, shall perform all the duties and exercise all powers of the Chairman.

Section 5. The Clerk 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, indicate 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; shall, subject to the Board and Chairman, conduct the correspondence of the Board and have published in local newspaper Public Notice of meetings or hearings as required by law and these rules of procedures, and shall be the custodian of the files of this Board and keep all records.

### **Article III: Meetings**

Section 1. Meetings shall be called when Board business dictates or the request of the Chairman at his/her discretion or upon the request of two or more members, provided that seventy-two (72) hours' notice is given to each member.

Section 2. All meetings shall be open to the Public.

Section 3. A quorum shall consist of four (4) members for any regular or special meeting, and is required for any decision, determination or official action by the Board.

### **Article IV: Order of Business**

Section 1. All meetings of the Board shall proceed as follows:

- A. Roll Call and declaration of quorum.
- B. Approval of minutes of previous meetings.
- C. Communications
- D. Reports of committees.
- E. Call of cases of agenda and hearing of requests for continuance.

- (i) 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/her appearance as follows:

- (a) New Cases: First time on agenda continuances may be granted upon request

- (b) Continued Cases: All cases which have previously appeared on the agenda of this Board constitute continued cases. Request for further continuance will be considered upon application therefore by the party or his/her representative at the time the case is called and upon showing:

- (1.) That he has given reasonable notice in writing to all persons who have filed an appearance in the matter, and;

- (2.) That he will be unable to proceed with his/her evidence at this hearing.

- (ii) FAILURE OF APPLICANT TO APPEAR.

- (a) 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.
- (b) In cases which are dismissed for want of prosecution, the applicant will be furnished written notice by the Clerk of the Board.
- (c) The applicant shall have fifteen (15) days from the date of notice of dismissal to apply for reinstatement of case. In such cases, applicant must file a written request with the Clerk for reinstatement. Reinstatement shall be at the discretion of the Chairman for good cause shown, and upon payment of a fee equal to the original public hearing fee.
- (d) In all cases reinstated in the above described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.

- F. Hearing of cases on agenda.
- G. Unfinished business.
- H. New Business.
- I. Adjournment.

## **Article V: Procedures on Appeals**

Section 1. An appeal for an interpretation of the Enforcing Officer's decision may be taken by any person aggrieved, officer, department, board, or bureau of the County affected by the Enforcing Officer's decision.

Section 2. An appeal shall be considered only if the action taken by the Enforcing Officer was taken within twenty (20) days prior to the filing of the appeal application form with the Enforcing Officer and the Board of Appeals.

Section 3. The Enforcing Officer shall transmit to the Clerk of the Board all papers constituting the records upon which the action appealed was taken from.

Section 4. The applicant shall provide all the information required on the appeals 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 Clerk of the Board shall assign a case number and place it on the calendar of the Board for hearing within sixty (60) days. Application 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 variation.

Section 6. Filing of the appeal application form with the Enforcing Officer and Board, shall stay all proceedings in the furtherance of the action appealed for, unless the

Enforcing Officer certifies to the Board that, by reason of the facts stated in the appeal application, a stay would, in his/her 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 Enforcing Officer and due cause shown.

## **Article VI: Procedures on Variations and Conditional Use Permits**

Section 1. A request for a variation or conditional use permit may be taken by any aggrieved person where there may be practical difficulties or particular hardships under the strict letter of the Zoning Ordinance related to the use, construction, or alteration of buildings or structures or the use of the land.

Section 2. A request for a variation or conditional use permit shall be considered only upon the filing of a request for a variation application or conditional use permit with the Enforcing Officer and the Board of Appeals.

Section 3. The applicant shall provide all the information required on the request for variation application or conditional use permit application as well as any additional information that may be required by the Board to aid it in reaching a decision and making recommendation to the governing body.

Section 4. The applicant shall pay a fee, which is established by the Fulton County Board, which amount shall be deposited with the County Treasurer for each request for variation or conditional use permit filed.

Section 5. Upon receipt of the properly filed application for request for variation or conditional use permit and proof of receipt of fee, the Clerk 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 or conditional use permits may be assigned for hearing in the order in which they are received. Said applications may be filed accompanying a request for appeal.

## **Article VII: Notices for Hearings**

Section 1. The Clerk of the Board shall give due notice of the place and time for hearing of the appeal application, request for recommendation to the governing body on request for variation or conditional use permit, or both, to the parties concerned by first class mail, postage pre-paid, not less than ten (10) days and not more than thirty (30) days before the hearing. Said notice shall state the name and address of the applicant, the name and address of the owner of the property, the location of the property and a brief statement of the nature of the appeal, request for recommendation to the governing body on request for variation or conditional use permit, or both.

Said notice shall be sent to the property owners, as recorded in the County Recorder of Deeds or the Registrar of Titles Office of the County, or as appears from the authentic

tax records of this County, of all property adjacent to, or within two hundred fifty (250) feet in each direction of the location for which the appeal, variation, or conditional use permit is requested and the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in determining the two hundred fifty (250) feet requirement.

The applicant shall furnish the Board a complete list containing the names and last known addresses of the owners of property required to be served at the time the application is filed.

Section 2. The Clerk of the Board, in the case of applications for appeal accompanied by a request for variation or conditional use permit or for application for a request for variation or conditional use permit, shall provide for a public notice to be published at least once in a newspaper of general circulation where such property is located, not more than thirty (30) days, nor less than fifteen (15) days before the hearing.

The notice shall state the place of hearing, the location of the property for which the request for variation or conditional use permit is requested, as well as a statement of the nature of the application. It shall not only contain a short 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.

## **Article VIII: Procedures 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 his/her request prior to introducing evidence.

Section 4. Evidence shall be presented in the following order:

- (i) Chairman may give restatement of case if applicant's, or his/her representative's presentation needs clarification.
- (ii) Applicant presents evidence.
- (iii) Board and/or objectors cross-examine applicant's witnesses.
- (iv) Objectors present evidence.
- (v) Board and/or applicant cross-examine objector's witnesses.
- (vi) Rebuttal by applicant
- (vii) Rebuttal by objectors.
- (viii) Evidence 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. An applicant or objector, or his/her agent or attorney, may submit a list of the persons favoring or opposing the application. Such lists 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 signatures 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 over-ruled by a majority of the Board.

## **Article IX: Decisions**

Section 1. Final decisions or recommendations shall be made within fourteen (14) days from the date 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. A concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Enforcing Officer, or to grant any variation in the Ordinance or to recommend any variation or modification in the Ordinance to the Fulton County Board.

Section 4. 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. The motion that approves or denies a request for variation, conditional use permit, or special use shall also include a finding of fact by the Board. If conditions are imposed in the granting of a variation or conditional use permit or special use by the corporate authorities, such conditions shall be included in the motion.

Section 5. The transcript of the case shall be acknowledged as to accuracy by the Chairman and the Clerk and shall be a part of the public record of the Board.

Section 6. Notice of the decision of the Board shall be given to the applicant, the Enforcing Officer and other interested parties as soon as possible after a decision is reached.

Section 7. Unless otherwise specified by the Board, any order or decision of the Board authorizing a variation, conditional use permit, or special use shall expire if the applicant fails to obtain a zoning permit within sixty (60) days from the date of the decision.

## **Article X: Records**

Section 1. A file of materials and decisions relating to each case shall be kept by the Clerk as part of the records of the Board.

Section 2. All records of the Board shall be a public record.

### **Article XI: Amendment of 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 FULTON COUNTY ON FEBRUARY 1<sup>ST</sup>, 1971.**

**John A. Ladd, Chairman  
Charles Sandburg, Secretary**

**Amended and adopted October 9<sup>th</sup>, 1980.**

**James Malone, Chairman  
Lori Zehring, Secretary**

**Amended and adopted May 3<sup>rd</sup>, 1984.**

**James Malone, Chairman  
Lori Neill, Secretary**

**Amended and adopted March 24<sup>th</sup>, 1999.**

**Marie Wickert, Chairperson  
Barbara Sinclair, Secretary**

**Amended and adopted June 25<sup>th</sup>, 2025.**

**William Phillips, Chairman  
Kimberly Mayberry, Clerk**