

BARGERSVILLE BOARD OF ZONING APPEALS

Rules of Procedure

Article I. Authority and Duties

Section 1. The Bargersville Board of Zoning Appeals ("Board") exists as an advisory board of zoning appeals under the authority of IC 36-7-4-901 and Ordinance 1971-2 of the Town of Bargersville Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-916.

Section 2. The duties of the Board shall be those set forth in IC 36-7-4-900 et seq., and such other responsibilities as may be required by state statute or town ordinance.

Article II. Officers, Members and Employees

Section 1. The Board shall consist of five (5) voting members. Four (4) of the members shall be appointed by the Bargersville Town Council ("Council"), in accordance with IC 36-7-4-901(h); and IC 36-7-4-902 and Ordinance 1971-2, and one (1) of those members shall be a member of the Bargersville Plan Commission ("Commission"). The fifth (5th) member shall be appointed by the Commission pursuant to IC 36-7-4-903(2), and he must be one of the two citizen members appointed to the Commission pursuant to IC 36-7-4-214 to represent the unincorporated area over which Bargersville exercises planning jurisdiction ("buffer zone"), and he must reside in the buffer zone.

Section 2. At its first meeting in each calendar year, the Board shall select from its membership a chairman and a vice-chairman. Each shall serve during the period of his membership on the Board for the balance of the calendar year.

Section 3. The chairman of the Board shall preside over meetings and hearings, decide questions of order, subject to appeal by Board members, and preserve decorum in the meeting room. The chairman may warn any person present that particular conduct is a breach of courtesy and may order a person expelled from the meeting for disruptive conduct. The vice-chairman shall have the authority to act as chairman of the Board during the absence or disability of the chairman.

Section 4. Upon resignation or replacement of the chairman or vice-chairman as a member of the Board, the Board shall elect a successor at its next meeting.

Section 5. If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.

Section 6. The Council employs a secretary for the Board. The secretary is not required to be a member of the Board. The secretary shall be charged with such duties as required under state statutes, town ordinances and these rules.

Section 7. The Council may employ such other employees as are necessary for the discharge of the Board's duties.

Article III. Meetings

Section 1. The regular meetings of the Board shall be held quarterly, on the fourth (4th) Monday of January, April, July and October each year at 7:00 p.m. The location of the meeting shall be in Bargersville Town Hall. If the date of a regular meeting falls on a legal holiday, or if it is impossible or impractical to conduct the meeting at that time or place, the chairman may set an alternate date, time or place for the regular meeting or may cancel the meeting with the unanimous consent of the members of the Board, provided the notice requirements of IC 5-14-1.5 are complied with.

Section 2. Special meetings may be called by the chairman or two (2) members of the Board upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice is not required if:

- (a) the date, time and place of the special meeting are fixed in a regular meeting;
- (b) all members of the Board are present at that regular meeting; and
- (c) the secretary complies with the notice requirements of IC 5-14-1.5.

Section 3. The Board shall keep minutes of its proceedings and record the vote on all actions taken. The Board shall make written findings of fact in all cases heard by it.

Article IV. Quorum and Official Action; Voting

Section 1. A majority of the members of the Board who are qualified to vote shall constitute a quorum.

Section 2. An action of the Board is not be official unless it is authorized at a meeting by a majority of the entire

5-14-1.5

membership of the Board.

Section 3. Voting by the Board shall be by roll call vote of the members. All members present shall vote on every question unless they are permitted to abstain by the presiding officer.

Section 4. No member of the Board shall participate in a hearing or decision of the Board upon any zoning matter in which the member has a direct or indirect financial interest. A member shall declare his known conflict of interest. The Board shall enter into its records the fact that the member has such a disqualification.

Section 5. In the event a majority vote of the Board cannot be achieved due to absences, abstentions, disqualifications or other reasons, the matter shall be rescheduled for the next meeting at the request of any Board member, a petitioner or a remonstrator.

Section 6. Any member of the Board who voted with the majority may call for a reconsideration of any vote at the same meeting of the Board at which it passed, and, if sustained by a majority of the votes, the reconsideration shall be ordered.

Article V. Minutes and Records

Section 1. The secretary of the Board shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or shall indicate that the member is absent, abstaining, or not voting because of a disqualification or other reason.

Section 2. The minutes of Board meetings and all records shall be maintained in the Town Hall or such other place as may be designated by the Council.

Section 3. The minutes shall be presented to the Board for approval at its next meeting. When approved, the minutes shall be signed by the president and attested by the secretary.

Article VI. Public Hearings

Section 1. The Board shall hold such public hearings as are required by state statute and town ordinances. The Board may hold additional hearings at such times and places upon such notice as it considers necessary.

Article VII. Appearances

Section 1. The petitioner or the petitioner's agent must appear in person or by counsel to present a petition or remonstrance to the Board and for the Board to consider the case. If no person appears on behalf of a petition, the petition may be tabled until the following meeting or dismissed under Section 2 of this Article.

Section 2. The Board's secretary or staff must be informed prior to the meeting if the petitioner requests a time extension. The chairman will determine whether the petitioner's reasons warrant an extension. If the petitioner or the petitioner's agent fails to appear at the meeting without sufficient reason, the petition may be dismissed.

Article VIII. Order and Conduct of Business

Section 1. The order of business at a meeting shall be:
(a) Call to order and determination of quorum;
(b) Consideration of minutes of previous meeting(s);
(c) Old business (tabled or continued items);
(d) New business;
(e) Adjournment.

The chairman may vary the order of business.

Section 2. The chairman may determine the amount of time to be allowed for the presentation of proposals, objections, rebuttal and counterrebuttal, and the chairman may limit or terminate repetitive comments.

Section 3. The Board shall act on petitions in the following order:

(a) A person wishing to speak for or against an application must register that person's name and address with the secretary.

(b) The chairman or his designee shall read the application and describe the location of the affected area. The chairman, secretary, Board attorney and/or staff may give background and comments regarding the application.

(c) Witnesses will be sworn.

(d) The petitioner shall present facts relating to the

proposal.

(e) Persons who have registered against the proposal shall then present their objections.

(f) The petitioner may then present rebuttal, and the opponents may present counterrebuttal.

(g) Board members may direct questions to any petitioner, proponent or opponent following any presentation or at any time.

(h) Upon conclusion of questioning and discussion, the chairman shall entertain a motion to conclude the public hearing or discussion on the proposal and to vote thereon.

Section 4. The Board may continue any item that has not be dismissed from one meeting to another without further public notice provided that an announcement of the date, time and place of the reconvened meeting is made at the original meeting and recorded in the minutes.

Article IX. Appeal Procedure

Section 1. Every petitioner for an appeal shall complete an application form supplied by the Board. Any required filing fee must be paid at the time of submitting the appeal. The Board may require the petitioner to submit any additional information it deems relevant for consideration.

Section 2. Any appeal of an administrative decision shall be filed with the Board within thirty (30) days following such decision.

Article X. Variance and Special Exception Filing Procedure

Section 1. Applications.

(a) The application for a variance or special exception shall be completed on a form supplied by the Board.

(b) The application must be filed with the Board on or before the appropriate filing deadline, and the required filing fee must be paid at the time of submitting an application.

(c) A notarized letter of consent is required for any petition if the applicant does not own the property involved.

Section 2. Interested parties and notice.

(a) For purposes of IC 36-7-4-920(b), interested parties are (1) any person with a legal interest in property subject to a petition before the Board and (2) all property owners within 600 feet or two property owners (whichever is greater) of the affected property.

(b) The petitioner shall be required to give notice by newspaper publication and to give notice to interested parties.

(c) Notice by newspaper publication and due notice to interested parties shall be given at least ten (10) days before the date set for the hearing. Newspaper publication shall be by legal publication in the Daily Journal. Due notice to interested parties shall be by certified mail, return receipt requested.

(d) The newspaper publication and the notice sent to interested parties must contain the place, date and time of the hearing, the address or legal description of the property and the reason for the petition.

(e) An affidavit of notice form must be completed in ink or typed. The names and addresses of those sent notice need to be listed on the form, the form must be notarized, and a copy of the notice to interested parties must be attached to or filed with the form.

(f) If the petitioner is unable to give due notice to an interested party, the petitioner must execute an affidavit under the penalties of perjury stating the reasons for the failure to give notice. This affidavit shall be attached to or filed with the affidavit of notice form.

(g) The affidavit of notice form and proof of newspaper publication must be filed with the Board on or before the Friday preceding the Board meeting (hearing date).

(h) If the affidavit of notice (including green cards and white receipts) and proof of newspaper publication are not filed with the Board on or before the Friday preceding the Board meeting, the petition will automatically be continued to the next monthly meeting.

Section 3. Site plan requirement.

(a) A detailed site plan is required at the time of filing

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with each petition. A minimum of seven (7) copies is required. The site plan must show the entire layout of the property with all buildings, structures, drives, parking areas, and uses related to or proposed with the petition clearly delineated on the plan.

(b) The site plan must indicate the adjacent property within 600 feet as well as any special uses of that property. A copy of the aerial photo from the Auditor's Office/Mapping Department may be used for this purpose.

Section 4. Determining interested parties.

(a) The names and addresses of interested parties may be determined from the Johnson County Auditor's Office/Mapping Department's most current records.

(b) Highways, county roads, streets, alleys, creeks, rivers, ponds or other natural elements are not a boundary for notification.

Article XI. Commitments

Section 1. The Board may require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.

Section 2. For the purposes of IC 36-7-4-921(b), the Board or any person claiming to be adversely affected by any commitment is entitled to enforce the commitment.

Section 3. A commitment shall be created by the owner of the property by affixing his signature to a written statement of the terms of the commitment. The signed commitment shall be attached to the petition and entered into the minutes of the Board by the secretary.

Section 4. A commitment may be modified or terminated only by a decision of the Board made at a public hearing after notice is given in accordance with the requirements set forth in Article XI of these Rules.

Section 5. If any person fails to abide by a commitment, that person commits a violation of the zoning ordinance. The commitment shall be enforced in accordance with the provisions of the zoning ordinance.

Article XII. Reconsideration

Unless the petitioner shows a significant change of circumstances, the Board will not consider a repetitive petition or application until the passage of one (1) year from an earlier denial of the petition or application.

Article XIII. Amendments

Amendments to these rules of procedure may be made by the Board at any meeting upon the affirmative vote of a majority of the members of the Board. The suspension of any rule may be ordered at any meeting by the unanimous vote of the quorum.

Article IV. Repeal

All rules and regulations heretofore adopted by the Bargersville Board of Zoning Appeals are hereby expressly repealed, as of the effective date of these rules. (These rules do not affect of use of forms in use now or in the future. The secretary and Town counsel may determine and modify such forms as they deem necessary.)

These Rules of Procedure of the Bargersville Board of Zoning Appeals, of Bargersville, Indiana, were properly approved by the members of said Board at a meeting of the Board held on the _____ day of _____, 1997.

Chairman

Attest:

Secretary