

CITY OF COLUMBUS BOARD OF ZONING APPEALS

RULES OF PROCEDURE

ARTICLE I AUTHORITY, DUTIES

Section 1. Authority

The City of Columbus Board of Zoning Appeals (hereinafter called "Board") exists under the advisory planning law by authority of IC 36-7-4-901 and Chapter 17.61.010 of the Code of the City of Columbus, Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-916 and Chapter 17.61.030 A of the Code of the City of Columbus, and any amendments thereto.

Section 2. Duties

The duties of the Board shall be those set forth in IC 36-7-4-918.1 through 918.5 and Chapter 17.61 of the Code of the City of Columbus, and any amendments thereto.

Section 3. Membership

The Board shall consist of 5 voting members, appointed in accordance with IC 36-7-4-902, IC 36-7-4-903, and Chapter 17.61.010 of the Code of the City of Columbus. In addition, there shall be alternate members appointed as set forth in Chapter 17.61.020 of the Code of the City of Columbus and IC 36-7-4-907, with such member(s) having all rights of participation in the deliberations of the Board except the right to vote or hold office. An alternate member shall be entitled to vote when a regular member appointed by the same appointing authority (mayor, common council, or plan commission) as the alternate member abstains or disqualifies himself/herself from participating in consideration of a matter before the Board.

Section 4. Rules

In all matters not otherwise provided for by statute, ordinance, or these rules, the most recent edition of Robert's Rules of Order, as interpreted by the Board's presiding officer, shall govern the conduct of Board meetings.

Section 5. 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 a regular meeting on the fourth Tuesday of each month at 6:30 p.m. Whenever the regular meeting date falls on an official holiday of the City of Columbus, on December 31, or on a date that is otherwise impractical, another date shall be selected. A schedule of all regular meetings for each calendar year shall be approved by the Board, prior to January 1st of that year. All regular meetings will be held at the Columbus City Hall, unless another location is published.

b. Special Meetings

Special meetings of the Board may be called at any time by the chair or by two members upon request to the Board's staff. The staff shall notify Board members of such special meeting at least three 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 that regular meeting.

c. Cancellation

Whenever there is a lack of business for Board consideration, the chair 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 a quorum is not available for a regular or special meeting, the chair of the Board may dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. The chair of the Board also may dispense with a scheduled regular or special meeting in the event of 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 to 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 chair may require re-notification to interested parties, with such notice to be paid for by the petitioner or by the Board, as the chair deems appropriate.

ARTICLE II OFFICERS AND STAFF

Section 1. Board Officers

At its first regular meeting in each year, the Board shall elect from its members a chair, vice chair, and a secretary.

Section 2. Duties of Board Officers

a. Chair

The chair 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 Chair

The vice chair shall have authority to act as chair of the Board during the absence or disability of the chair.

c. Secretary

The secretary shall certify all official acts of the Board. In the event of the absence or disability of both the Chair and the Vice Chair, the Secretary shall serve as president pro tempore. In the event of the absence or disability of the secretary, the Chair of the Board shall select a secretary pro tempore.

Section 3. Board Staff

a. **Planning Department**

The Columbus/Bartholomew Planning Department shall serve as staff and primary technical advisor to the Board, and the planning director shall be the designated executive of the staff. The planning director shall be responsible for the administration of the Board's office, the employment and compensation of employees, and administration of any funds allocated to the Board. The planning director shall be delegated authority to perform ministerial acts in all cases except where final action of the Board is necessary. The planning director also shall be responsible for the keeping of an accurate record of all Board proceedings, including the keeping of records and approved 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. The staff shall prepare each year an annual report of the Board's activities. If the Board approves the report, the staff will forward it to the mayor and Common Council and make copies available to the public. All Board requests for information or technical advice shall be made to the planning 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.

b. **Code Enforcement**

The Code Enforcement Department shall serve as supplementary staff to the Board. The Code Enforcement office shall be responsible for issuing notices of violation and for follow-up action to such notices. The Code Enforcement office shall also be responsible for taking accurate minutes of each Board meeting and for employing the Board's recording secretary for this purpose.

c. **Directives**

Any policies or assignments to the staff not covered by these regulations shall be by resolution of the Board.

ARTICLE III CONDUCT OF MEETINGS

Section 1. Quorum

Three voting 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. Method
All votes of the Board on matters requiring a public hearing shall be by voice vote. Secret ballot votes shall not be permitted. If the outcome of a particular vote is unclear, the chairman or any member may request a roll call vote.
- c. Conflict of Interest
In accordance with IC 36-7-4-909 and Chapter 17.61.020 (D), a Board member may not participate in a hearing or decision concerning a matter in which he has a 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 or the Board attorney. 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 or alternate 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.
- d. Required
Except as provided in "c" 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.
- e. 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 of a continuance, only members who were present at the meeting(s) at which the remainder of the hearing was held are eligible to vote. An alternate member who was present for the entire hearing may vote in the place of a regular member for whom he/she is an alternate if the regular member was not present for the entire hearing. In the event that a decisive vote cannot be obtained from members and alternates who were present for the entire hearing, a member or alternate who has listened to the entire tape of such hearing may vote.

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 chair upon the consenting vote of a majority of those members present.

- a. Roll call of members
- b. Public hearings for matters continued from earlier meetings
- c. Public Hearings for newly docket matters
- d. Findings of Fact
- e. Old business
- f. New business
- g. Communications
- h. Reports and recommendations

- i. Minutes
- j. Adjournment

ARTICLE IV PUBLIC HEARINGS

Section 1. Procedure

- a. Opening the Hearing
The chair shall call the docket number of the item scheduled for public hearing and ask the staff for evidence of legal notice. The chair shall then ask, before each docketed item, if any member or alternate has a conflict of interest, and require anyone declaring such conflict to leave the board table. If legal notice has been given, the chair shall declare the public hearing open.
- b. Order of Testimony
The order of testimony shall be as follows:
 - 1. Presentation of request by staff
 - 2. Declaration of any material changes in the petitioner's request
 - 3. Presentation of request by petitioner
 - 4. Comments and questions by board members and staff
 - 5. Questions by members of the audience
 - 6. Public testimony concerning the request
 - 7. Comments and questions by Board members and staff
 - 8. Rebuttal(s) by petitioner
 - 9. Summations
- c. Closing the Hearing
After all public comments have been heard under the rules of this section, the presiding officer 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 presiding officer specifically re-opens the public hearing to allow such discussion. The presiding officer shall have the authority to limit such discussion by the public or the Board members.
- d. 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. At the conclusion of the vote, the chair shall report the vote and it shall be so recorded. The vote 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 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, if physically able, 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 presiding officer. Such commentary shall not be permitted between opposing parties without the consent of said officer.
- e. **Authority of Presiding Officer**
The presiding officer shall have the authority to prohibit repetitious and irrelevant testimony and shall have authority to limit the length of testimony by each speaker as 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 presiding officer. Discourteous, disorderly, or contemptuous conduct shall not be tolerated, and the presiding officer 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 and stating all findings of fact required by IC 36-4-7-918.4, IC 36-4-7-918.5, or Chapter 17.61.030 (D) (E) (G) of the Code of Laws of Columbus.

Section 2. Dismissal

- 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.
- b. **Lack of jurisdiction**
The Board shall dismiss a petition if it finds it has no jurisdiction over such matter.

Section 3. Withdrawal

- 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 14 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. A petition that is withdrawn less than 14 days before the scheduled hearing shall not be placed on the docket for hearing again within a period of one year 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 presiding officer.

Section 4. Amendment

- a. **Increased Variance**
No petition can be amended in a manner that increases the amount of variance from the terms of the zoning ordinance requested or alters a special exception after the filing deadline. Any such amendment request will result in postponing the docketing of 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 Variance**
It shall be within the discretion of the Board to approve a petitioner's request to amend the petition in a manner that decreases the amount of variance from the standards contained in the zoning ordinance. 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.

c. Type of Variance

A petition for a use variance may be amended during the hearing to a petition for a development standards variance or vice versa only with the Board's permission. Before granting such permission, the Board must find that such amendment does not alter the request in a manner that would make the notice of hearing inadequate and that proper findings of fact for the variance can be made based upon information available at the meeting. Any change in the type of variance that has a significant effect on the nature of the request or the adequacy of the notice shall not be permitted without re-filing and re-notification. In no case shall the Board permit a change in the type of relief requested (i.e., variance, developmental standards, administrative appeal) without the filing of a new application and issuance of required notice.

Section 5. Continuance

a. Requests by Interested Party

Any interested party as defined by the applicable ordinances may request a continuance in writing prior to the hearing and/or orally at the beginning of the hearing. The party requesting such continuance shall be required to show good and sufficient cause for such continuance, and it shall be within the discretion of the Board to grant or deny such request.

b. Motion by Board

Any member 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 instruction for re-advertising and/or re-notification of interested parties, as defined in **Article VII, Section 3a**. If such re-notification is required, the petitioner may be required to pay the costs associated therewith.

c. Improper Notice

If proper notice under applicable laws and **Article VII** of these rules has not been given, the Board shall continue the petition to allow time for proper notice to be given.

Section 6. Indecisive Vote

In all cases before the Board except administrative appeals, if the Board does not achieve the required three votes to approve or deny a petition, such vote shall be declared indecisive, and the matter shall be continued to the next regular meeting of the Board.

Section 7. 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 following criteria have been satisfied:

1. The approval will not be injurious to the public health, safety, 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.
4. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.
5. That the granting of the variance will be in harmony with the general spirit, purpose, and intent the zoning ordinance and in the interest of determining substantial justice done.

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 following criteria have been satisfied:

1. The approval will not be injurious to the public health, safety, 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 master plan.
6. That the granting of the variance will be in harmony with the general spirit, purpose, and intent the zoning ordinance and in the interest of determining substantial justice done.

c. 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 conditions of approval shall be specifically stated and recited to the petitioner. The Board may impose a time limit upon the fulfillment of any such requirements. The petitioner shall be required to notify the Board's staff of the fulfillment of such requirement. In the event any condition of the decision has not been fulfilled or the time for compliance has expired, the staff shall issue a request to the petitioner to show cause why the decision should not be revoked and rescinded. The Board may investigate the matter and take such remedy, as it deems appropriate.

d. Commitments

The Board may require or permit the petitioner to make written commitments concerning the use or development of property. The Board may require in such commitment the designation of any specially affected persons or categories of persons who shall be entitled to enforcement thereof pursuant to Chapter 17.61.090 D of the Code of Laws of Columbus. The commitments may be modified or terminated by a decision of the Board made at a public hearing after proper notice has been given.

Section 8. Disapproval

a. Variances

The Board shall disapprove any request for a variance for which the petitioner fails to show to the Board's satisfaction that all required criteria for approval have been met. The Board shall make written findings on each of the criteria.

b. Re-filing

No petition for a variance which has been denied with prejudice by the Board shall again be placed on the docket for hearing within a period of one year from the date of such disapproval, unless the Board finds that there is a substantial change in the petition or circumstances affecting the petition, in which case the matter may again be placed on the docket only if a motion to permit re-docketing is duly adopted by the Board.

Section 9. Administrative Appeal

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 that upholds such intent and purposes. A majority vote of the entire membership of the Board is required to overturn a decision of the planning director. Failure to achieve such majority shall result in affirmation of decision so appealed.

d. Re-filing

Once the Board has decided an appeal, the same appeal shall not again be placed on the docket for hearing with- in one year from the date of the original decision, unless the Board finds that there is a substantial change in the appeal or circumstances affecting the case. In such instance, the appeal may again be

placed on the docket only if a motion to permit re-docketing is duly adopted by the Board.

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 and/or variances from the development standards. Separate application forms are required for each of the two types of variances the Board is empowered to consider. 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 that are clearly for variances of use.

b. Determination

The planning director shall make a determination as to the type of variance required in each case. The petitioner may appeal that decision to the Board; however, the petitioner shall apply for the type of variance determined by the planning director along with the appeal. If the Board upholds the appeal, the variance may be considered under the other classification, provided that adequate notice has been given in accordance with Article V, Section 4-c of these rules.

Section 3. Filing Deadlines

The staff shall prepare, no later than the first day of December of each year, a schedule of the filing deadlines 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 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 signature of the property owners of record shall be determined from the property ownership records of the auditor of Bartholomew County or their duly authorized agents shall be required.

ARTICLE VII 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. General location by address or other identifiable geographic characteristic of the property
- c. Name of the person or agency initiating the matter to be heard
- d. Time and place of the hearing
- e. Statement that the petition may be examined at the office of the Board
- f. Statement that interested parties, as defined in Article VII, Section 3a, 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 that may be required by law to be contained in such notice.

Section 2. Publication

When the Board is required by law to publish in a newspaper of general circulation a notice prior to any hearing of the Board, the staff shall cause such notice to be published in accordance with the time periods established by the applicable law. Proof of such publication shall be obtained by the staff and kept in the appropriate file.

Section 3. Mailed Notice

- a. Definition-Interested Parties
 1. **For Variances of Use**, interested parties include all owners of all property within a distance of one city block or 300 feet, whichever is less, or in the case of property owned by the Columbus Municipal Airport, all property owners, leaseholders, and building owners within one city block or 300 feet, whichever is less.
 2. **For Variances from the Development Standards**, interested parties shall include all adjoining owners of property, or in the case of property owned by the Columbus Municipal Airport, all property owners, leaseholders, and building owners who adjoin the subject property.

3. **For Conditional Uses**, interested parties include all owners of all property within a distance of one city block or 300 feet, whichever is less, or in the case of property owned by the Columbus Municipal Airport, all property owners, leaseholders, and building owners within one city block or 300 feet, whichever is less.
 4. No mailed notice is required for administrative appeals.
- b. **Method of Notice**: The staff shall give notice of any matter requiring public hearing or action by the Commission to all Interested Parties, as defined in Article VII, Section 3a, by a letter verified by a certificate of mailing at least ten (10) calendar days before the Commission meeting. In addition, the staff shall place a public notice sign on the subject property at least 10 days before the public hearing.
- c. **Determination of Owners**
1. The names of property owners to be notified shall be determined from the property ownership records of the Bartholomew County Public Access Geographic Information System as maintained and operated by the surveyor of Bartholomew County. Such list shall be obtained no more than one month prior to the appropriate hearing. If there is evidence of notice (as set forth in Section 5 of this Article) to these persons, for purposes of the hearing before the Commission, such notice shall be deemed proper.
 2. For notification purposes, the land described in said petition shall be deemed to also include any adjoining land owned by the applicant (The Columbus Municipal Airport is exempted from this requirement). Land separated from petitioned property by streets, railways, easements and the like shall be deemed to be land adjoining the petitioned land.
 3. In the case of property that is subject to the Horizontal Property Law (I.C.32-1-6), each condominium unit shall be deemed one property ownership and the common area designated in the appropriate condominium ownerships shall be deemed one property ownership, and notice to the co-owners of such common area may be given to the association of co-owners set forth in the condominium instrument recorded in the offices of the Recorder of Bartholomew County, Indiana.

Section 4. General Public Notice Sign

Planning staff shall cause such notice to be placed on the subject property in accordance with the time periods established by the applicable law. When bound by two street fronts, the sign shall be placed on street with the highest thoroughfare classification. Proof of such placement of the sign shall be obtained by the staff and kept in the appropriate file.

Section 5. Evidence of Notice

Postal Service Certification as recorded in the *Firm Mailing Book for Accountable Mail* shall be considered evidence that notice has been given. Personal contact with the Planning Department prior to the hearing or personal appearance at the hearing shall also constitute evidence of notice.

A date stamped photograph of the general public notice sign at the subject property shall also constitute evidence of notice.

ARTICLE VIII COMMITTEES

Section 1. Authority

The presiding officer 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 only, or they may include other interested parties. A chair shall be appointed for each committee, and reports on their assignments shall be made a part of the record. The chair shall be an ex officio member of any committee so 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 IX 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 as specified in **Article II, Section 3**, 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. Upon approval by the Board, copies of such minutes shall be made available to interested parties.

Section 3. Tape Recording

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 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 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 action.

Section 5. Public Records

The records and files of 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 city attorney who shall decide whether a requested document is a public record.

ARTICLE X AMENDMENTS AND SUSPENSION

Section 1. Amendments

Amendments to the Rules of Procedure may be made by the Board at any regular or special meeting upon the affirmative vote of three members, provided, however, that the proposed amendment shall have been presented in writing at a previous regular meeting of the Board.

Section 2. Suspension of Rules

The suspension of any rule of procedure herein may be authorized by the Board at any regular or special meeting upon the affirmative vote of four members, provided, however, that no rule which is required to comply with federal, state, or local law may be so suspended.

ARTICLE XI 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 XII CERTIFICATE OF ADOPTION

The foregoing Rules of Procedure of the City of Columbus Board of Zoning Appeals specifically repeal the By-Laws adopted by the Board on April 1, 1949, and the Rules of Procedure adopted by the Board on November 1, 1977, and February 26, 1991 and any amendments thereto. These rules are hereby adopted by the affirmative vote of the Board this ____ day of _____, 2005.

Patricia Zeigler, Chairperson