

**BYLAWS AND RULES OF PROCEEDURE OF THE
CARROLL COUNTY BOARD OF ZONING APPEALS**
(As proposed 3/22/16)

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BYLAWS AND RULES OF PROCEDURE
OF THE CARROLL COUNTY BOARD OF ZONING APPEALS

ARTICLE ONE

NAME, PURPOSE, POWERS, DUTIES, AND JURISDICTION

A. Name

The name of the Board shall be the Carroll County Board of Zoning Appeals. Its office shall be located in the County Courthouse, 101 W. Main St., Delphi, In. 46923.

B. Purpose

The purpose of the Board is to approve or deny all applications for special exceptions; variances; special uses; contingent uses; and conditional uses; 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 a part of its approval. It shall also hear and determine appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator.

C. Powers and Duties

1. The powers and duties of the Carroll County Board of Zoning Appeals are specific and set out in Indiana Code §36-7-4-901 through §36-7-4-924 as amended from time to time.
2. The Board of Zoning Appeals renders final decisions concerning and approves
 - a. Special Exceptions;
 - b. Variances;
 - c. Special Uses;
 - d. Contingent or Conditional Uses; and
 - e. Appeals of decisions made by the Zoning Administrator.

D. Jurisdiction

The jurisdiction of the Commission shall be the Carroll County limits, as well as the established extra-territorial jurisdictional area, excluding the area within the Town of Flora.

**ARTICLE TWO
MEETINGS**

A. Regular Meetings

The Carroll County Board of Zoning Appeals shall meet as needed on the fourth Tuesday of each month (Indiana Code §36-7-4-912). The Board of Zoning Appeals shall elect a Chairman and Vice Chairman at its first meeting of each year. Regular meetings may be canceled if there is no business.

B. Special Meetings

All other meetings of the Carroll County Board of Zoning Appeals, which are not regular meetings, shall be designated as special meetings. All notices required by the Open Door Law of the State of Indiana shall be complied with in calling a special meeting.

1. The Chairman or Area Plan Commission Staff, upon written request to the Secretary may call special meetings. The Secretary shall then send to all members, at least three days before the special meeting, a written notice fixing the time and place of the meeting and specifying the subject matter of the meeting. A written notice of a special meeting is not required if the date, time, and place of the special meeting have been fixed at a regular meeting.

C. Place of Meeting

The Carroll County Board of Zoning Appeals shall meet in the Commissioner's Room of the county courthouse at **8:00 PM**, or upon the adjournment of the Area Plan Commission meeting. The Chairman may change the place of the meeting provided that notice of said change shall be given to all members, all interested parties, and the public.

D. Notice of Meetings

Notice of meetings shall be given to all members of the Board of Zoning Appeals in person, by telephone, by fax, or by regular United States mail. News media entitled to notice shall be notified by United States mail, fax, telephone, or e-mail. All notices that are required to be posted shall be posted in the county courthouse. The Area Plan Administrator shall be responsible for publishing meeting notices in the newspaper as required.

E. Minutes of Meetings

The Board shall keep minutes of each meeting. These minutes shall be presented to the Board at the next regular succeeding meeting for approval. ***When approved, the minutes shall be kept in the office of the Area Plan Commission in an archive book.***

F. Order of Business

The following order of business shall be followed at all meetings of the Board of Zoning Appeals.

1. Chairman Shall Call Meeting to Order
2. Approval of Minutes from Previous Meeting
3. Requests/Appeals/Public Hearings
4. Old Business
5. New Business
6. Administrative Reports
8. Adjournment

G. Quorum and Official Action

A majority of the Carroll County Board of Zoning Appeals that is qualified to vote, 3 members, shall constitute a quorum. Action of the Carroll County Board of Zoning Appeals is not official unless authorized at a regular or special meeting by a majority of the entire membership of the Carroll County Board of Zoning Appeals (Indiana Code §36-7-4-910). ***In the case that a tied vote should occur, the vote shall be considered as failed but eligible for reconsideration and a second vote at the next meeting of the Board of Zoning Appeals.***

H. Late Night Meeting Policy

It shall be the policy of the Board to conclude all Board meetings at or before 10:00 pm. In the event that agenda items or other Commission matters have not been acted on by 10:00 pm on any meeting day, the meeting shall be recessed and reconvened the following evening, in the same

location at 7:00 pm, unless otherwise announced. All items or matters not acted on during the recessed meeting may be acted on during the reconvened meeting without further advertisement. The above notwithstanding, the Board may extend any meeting beyond the hour of 10:00 pm with a vote of at least $\frac{3}{4}$ of all members present provided a quorum of the Board exists.

ARTICLE THREE MEMBERSHIP AND OFFICERS

A. Membership

The Board of Zoning Appeals membership shall be consistent with the provisions of Indiana Code §36-7-4-902(d), as amended from time to time.

The Board of Zoning Appeals shall consist of the following five (5) members:

1. One (1) citizen member appointed by the Area Plan Commission from its membership;
2. One (1) citizen member appointed by the Mayor of Delphi provided said citizen member is not a member of any Plan Commission;
3. Two (2) citizen members, one who must be a member of the Plan Commission and one who is not a member of any plan commission, appointed by the County Commissioners; and
4. One (1) citizen member appointed by the Camden Town Counsel provided said citizen member is not a member of any Plan Commission.

B. Terms, Removal or Vacancy

Terms of Plan Commission members shall be consistent with the provisions of Indiana Code §36-7-4-906(a) & (b).

1. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four years.

2. An appointing authority may remove a member from the Board of Zoning Appeals for cause. The appointing authority must mail notice of the removal, along with written reason for removal, to the member at his or her residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Circuit or Superior Court of Carroll County. The court may, pending the outcome of the appeal, order the removal or stay the removal of the member. (Indiana Code 36-7-4-906(f).)

4. If a vacancy occurs by resignation or otherwise among the citizen members, the original appointing body shall appoint a member for the un-expired term of the member so removed (Indiana Code §36-7-4-906).

C. Officers

The Carroll County Board of Zoning Appeals shall have the following officers:

1. Chairman
2. Vice-Chairman

The officers shall be elected from the members of the Board of Zoning Appeals at its first regular meeting of each year. The Board may appoint and fix the duties of a Secretary, who is not required to be a member of the Commission (Indiana Code §36-7-4-912 & 913).

D. Duties of the Officers

The Chairman shall preside over each regular or special meeting of the Carroll County Board of Zoning Appeals. The Vice-Chairman shall preside over and assume the duties and responsibilities of the Chairman at any meetings at which the Chairman is absent. The Secretary shall keep records of all meetings, applications, petitions, and other items of the Carroll County Board of Zoning Appeals.

E. Conflict of Interest

Pursuant to IC 36-7-4-909, a member of the Board of Zoning Appeals may not participate in a hearing or decision of the Board concerning a zoning matter in which he or she has a direct or indirect financial interest. The Board shall enter in its records the fact that its member has such a disqualification.

F. Voting

1. Each member of the Carroll County Board of Zoning Appeals shall have one vote.
2. Decisions of the Board shall be by voice vote. If the voice vote is not decipherable or any Board member desires a more specific count, a roll call vote shall be taken upon request. Roll call votes shall be called in alphabetical order by the member's last name.
3. All members present shall vote on every question unless prevented by conflict.

ARTICLE FOUR

HEARINGS, AGENDA PLACEMENT, AND CONDUCT OF HEARINGS

A. Hearings

1. Public hearings shall be held as required by Indiana Code and the Carroll County Zoning Ordinance. The Board of Zoning Appeals shall have exclusive subject matter jurisdiction for the following:

- a. Development standards variance.
- b. Special exception uses.
- c. Administrative Appeals.

2. An applicant/petitioner who seeks a variance, special exception or ruling on appeal from the Board shall file the appropriate application/petition with the Board. Upon the receipt of such application/petition, payment of filing fees, and confirmation that all necessary information is included, the Plan Administrator shall place the application/petition on the agenda of the next eligible Board of Zoning Appeals meeting.

a. Filing Requirements:

36-7-4-1605 30 days for judicial review

- i. Every petition for an appeal, use, exception or variance shall be filed with the Zoning Administrator no later than 15 days prior to its consideration by the Board.**
- ii. Any appeal to the Board shall be filed with the Zoning Administrator within 15 days following the decision of the Zoning Administrator or Area Plan Commission.**

3. In order for an application/petition to be heard at a public hearing, the petitioner or an agent for the petitioner, shall be in attendance to present the application/petition, evidence and support thereof, and answer questions about the application/petition. Area Plan

Commission Staff will not represent an applicant/petitioner. If no one is present to represent the application/petition, then the Board shall dispose of the application/petition in accordance with Article V.

B. Conduct of Hearings

1. Public hearings shall be conducted according to the following procedure. Please note the time limitations for each hearing segment. To maintain orderly procedure, each side should proceed without interruption by the other side. After being recognized by the Chairman, each speaker will stand up, state his/her name and address for the record and state whether they support or oppose the application/petition.
 - a. For any application/petition for which a public hearing is required, the Chairman shall introduce the application/petition.
 - b. The Chairman shall request the applicant/petitioner present the application/petition. The applicant/petitioner shall first present the facts and arguments in support of the case. *(15 minutes)* Comments and questions from the Board concerning the initial presentation shall be held until the end of the initial presentation.
 - c. The Chairman shall ask for Area Plan Commission Staff comments on the application/petition.
 - d. The Chairman shall ask for comments and questions from the Board.
 - e. The hearing shall then be opened for comments from others.
 - i. Supporting comments from organized groups, committees, and individuals, other than the applicant/petitioner, shall then follow. Speakers should try to present new points and not repeat previous speakers. *(5 minutes)*
 - ii. Opposing comments shall then be heard. Speakers should try to express new points and not repeat previous speakers. *(15 minutes)*
 - iii. The Board of Zoning Appeals reserves the right to question any speaker at the end of his or her presentation.
 - f. The applicant/petitioner shall then receive time for rebuttal. *(5 minutes)* In its discretion or upon request, the Board may permit the opposition to address new information presented in the rebuttal. *(5 minutes)*
 - g. Once the Board has no final questions, the public hearing shall be closed.
 - h. After the hearing is closed, the Board of Zoning Appeals shall deliberate the application/petition and shall have the right to ask questions to clarify information.
2. In the presentation of a case:
 - a. The burden shall be upon the applicant/petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the request.
 - b. Statements to the Board made by the applicant/petitioner at the meeting regarding anticipated methods of operation, siting or other details relevant to the decision shall be binding agreements between the applicant/petitioner and Board and shall be reflected in the minutes of that meeting.
 - c. Drawings, displays, or documents presented at the meeting by the

applicant/petitioner illustrating details shall also be binding as to their contents and representation on the applicant/petitioner if the application/petition receives approval. Said documentation shall become part of the public record, and shall be maintained with the case file.

d. Exhibits, documents and drawings should be provided in digital or electronic format if possible.

3. Every person appearing before the Board shall abide by the orders and directions of the Chairman. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Chairman directs.

4. The Board may continue or postpone any hearing when it needs more time to deliberate. The Board, at its discretion and on an affirmative vote of a majority of the Board, may continue or postpone a hearing upon request of any party.

5. Postponement/continuation of hearings to a date more than six (6) months beyond the initial public hearing shall not be granted. The Board shall dismiss such pending requests. The right of applicants/petitioners to re-file such applications shall be preserved, providing no final disposition of the prior request was granted. Such applications/petitions shall again be subject to the payment of filing fees.

ARTICLE FIVE FINAL DISPOSITION OF CASES

A. Final Disposition

1. The final disposition of cases requiring Carroll County Board of Zoning Appeals approval shall set forth the findings and determinations of the Board, together with any modification, specification, or limitation it makes in the Board minutes.

B. "No Show"

The Board may dismiss an application/petition if no one shows up to present the request. If an application/petition is dismissed for this reason, the applicant/petitioner may re-file. Such application/petition shall again be subject to the payment of filing fees.

C. Withdraw of Petitions

1. An applicant/petitioner may not withdraw a case after a motion has been made concerning the application/petition.

2. An applicant/petitioner that has received an adverse decision may re-file the application/petition 12 months after the date of the decision and only if there has been a change of circumstances. Said change of circumstances must be specified in the re-filed application/petition.

ARTICLE SIX NOTICE

A. Notice for All Meetings

1. For all meetings, other than public hearings, of the Board, a notice shall be posted at the entrance of the building where the meeting will occur giving the meeting time and location. This notice shall be posted at least 48 hours before the meeting occurs. No other notice shall be required.

2. The Board shall bear the cost of and responsibility for newspaper notice and posting the notice at the meeting location. The applicant/petitioner requesting the hearing shall bear the cost of and responsibility for newspaper notice and notice to interested parties.

B. Notice Requirements for Public Hearings

1. For the purpose of complying with I.C. 36-7-4-920, any person with a legal interest in property subject to a petition before the Board or the owner of any abutting property is an interested party.

2. Adequate notice is given under these rules if:

a. The petitioner obtains the signatures of all interested parties on a form supplied by the Zoning Administrator.

i. The form shall state the date, time and place of the hearing, the name of the petitioner, and briefly describe the variance or special exception requested.

ii. The signature of any person on the form is not to be construed as a waiver or consent to the Petition, but simply evidence that the person has received the notice of the hearing.

iii. If the petitioner cannot obtain the signatures of an interested party because the party is not a resident of Carroll County, is unable for some other reason to sign the form, or refuses to sign the form, the petitioner must notify the Zoning Administrator of the failure to obtain the signature at least 7 days before the hearing and execute a statement under penalty of perjury stating the reasons for the failure to obtain the signature.

iv. The Zoning Administrator shall, at least 7 days before the hearing, send a copy of the notice by First Class Mail to any interested party whose signature the petitioner has not been able to obtain.

v. The completed form must be filed with the Board of Zoning Appeals before it may act on the petition.

b. The Board shall give legal notice of the public hearing in accordance with I.C. 5-3-1, with the notice stating the date, time and place of the hearing, the name of the petitioner, and a brief description of the property subject to the petition. Such notice shall contain the warning that objectors to such petition should file a written summary thereof with the Zoning Administrator at least 7 days before the hearing and interested persons desiring to present their views, either in writing or verbally, will be given the opportunity to be heard.

**ARTICLE SEVEN
AMENDMENT**

A. Amendment

These By-Laws may be amended by a majority of the membership at any regular meeting or special meeting called for the purpose of amending these By-Laws of the Carroll County Board of Zoning Appeals. Any amendment of these By-Laws shall be attached hereto and made a part hereof by the Secretary.

**ARTICLE EIGHT
CONFLICTING STATUTES**

A. Powers and Duties

The powers and duties of the Carroll County Board of Zoning Appeals are contained in State Statutes enacted and promulgated by the State of Indiana. If any statute of the State of Indiana conflicts with these By-Laws then the provisions of said statute shall control unless said By-Laws create stricter notice provision than those contained in said statutes. If any statutes, which are incorporated in these By-Laws, are amended by the legislature, then these By-Laws shall be automatically amended to conform with the provisions of said statutes. The Chairman of the Board of Zoning Appeals shall have the By-Laws reviewed annually by legal counsel in order to keep these By-Laws current.

B. Incorporation by Reference

All statutes of the State of Indiana and amendments concerning area plan commissions, which are not specifically incorporated in these By-Laws, are hereby incorporated by reference as part of the By-Laws of the Carroll County Board of Zoning Appeals.

Adopted by the Carroll County Board of Zoning Appeals on the 28th day of June, 2016.

_____, Chairman