

THE TOWN OF PENDLETON BOARD OF ZONING APPEALS RULES

WHEREAS, The Town of Pendleton Board of Zoning Appeals is authorized and required by IC 36-7-4-916 (a), 919 (a), 920 (d), and 921 to supervise and make rules for the filing of appeals, and the application for variances and conditional uses, special exceptions, special uses, contingent uses, the giving of notice, the conduct of hearings and the determination of whether a variance application is for a variance of use or for a variance from the development standards such as height, bulk, or area and the creation, form, recording, modification, enforcement, and termination of commitments, and

WHEREAS, The Board of Zoning Appeals determines that its rules should be printed and organized in a coherent fashion and be made readily available to all applicants and other interested persons,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF PENDLETON BOARD OF ZONING APPEALS, THAT THE FOLLOWING RULES BE ADOPTED AS REQUIRED BY IC36-7-4-916 (a), 919 (a), 920 (d) and 921.

RULE 1

DEFINITIONS AND CITATION FORM

1.1 DEFINTIONS:

These terms shall be defined as follows for the purpose of these rules:

1.2 BOARD – DEFINED:

Board means the Town of Pendleton Board of Zoning Appeals.
5 members

1.3 CHAIRMAN – DEFINED:

Chairman means the Chairman of the Town of Pendleton Board of Zoning Appeals.

1.4 DIRECTOR:

Director means the Planning Director of the Town of Pendleton Board of Zoning Appeals; as set forth in Section 153.05 of the Town of Pendleton Zoning Ordinance.

1.5 SECRETARY - DEFINED:

Secretary means the Secretary of the Town of Pendleton Board of Zoning Appeals. Non-voting

1.6 VICE-CHAIRMAN – CHAIRMAN:

Vice-Chairman means the Vice-Chairman of the Town of Pendleton Board of Zoning Appeals.

1.7 PLANNING DEPARTMENT – DEFINED:

Planning Department means staff members who provide assistance to the Town of Pendleton Board of Zoning Appeals under the supervision of the Planning Director.

1.8 CITATION:

These rules shall be cited as “The Town of Pendleton Board of Zoning Appeals Rule(s) 0.0”.

RULE 2

OFFICERS AND STAFF

2.1 PRESIDING OFFICER:

- (a) The Chairman shall preside over all regular and special meetings of the Board. The Vice-Chairman shall act as Chairman during the absence or disability of that officer. The Board shall elect a Chairman pro tempore from among its members if both the Chairman and Vice-Chairman are absent or disabled.
- (b) The Chairman shall appoint committees and execute contracts. The Chairman shall also rule on all points of procedure, unless overruled by a majority of the Board. The Chairman shall sign all official documents on behalf of the Board.
- (c) The Board shall, at its first meeting of the year, elect a Chairman and a Vice-Chairman from its members.
- (d) A person who receives a majority vote of the entire membership of the Board shall be declared elected and shall serve until a new person is declared elected to the office at the first meeting of the following year.

2.2 SECRETARY:

The Board may assign the duties of the Secretary to the Planning Director and the Planning Staff. The Secretary shall keep a complete and accurate record of all proceedings and votes of the Board, record and file all bonds and contracts and assume all responsibility for the custody and preservation of all papers and documents of the Board, and shall prepare, publish and distribute reports, ordinances and other material relating to Board activities.

2.3 SEAL:

The Board adopts a seal with the caption "Town of Pendleton Board of Zoning Appeals". The Planning Department shall employ the seal to certify to all official acts of the board.

2.4 OTHER EMPLOYEES:

The Board may appoint and fix the compensation of the employees necessary for the discharge of its duties.

RULE 3

MEETINGS AND PUBLIC HEARINGS

3.1 APPLICATIONS:

This rule shall apply to all public hearings required by State Law or by the Town Zoning and Subdivision Ordinances and to all regular and special meetings of the Board.

3.2 REGULAR MEETINGS:

The Board shall conduct regular meetings on the first Wednesday of each month at 7:00 P.M. in the Pendleton Town Hall in the Town of Pendleton, Indiana. If the date of a regular meeting falls on a legal holiday recognized by the Town of Pendleton, or if it is impossible to conduct the meeting at that time or place, the Chairman may set an alternative date, time or place for the regular meeting or may cancel the meeting with the unanimous consent of the members of the Board, subject to the State Open Door Law. (IC 5-14.5-1)

3.3 PUBLIC HEARINGS:

The Board may conduct a public hearing as part of any regular or special meeting or at any other place or time if the notice required by State Law is given.

3.4 APPEARANCES:

- (a) 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 Rule 3.4 (b).
- (b) The Board staff must be informed prior to the meeting if the petitioner requests a time extension. The staff will determine whether the petitioner's reasons warrant an extension. If the petitioner or the petitioner's agent fails to appear without sufficient reason, the petition may be dismissed.

3.5 ORDER AND COURTESY:

The Chairman shall preserve order and may warn any member or other person present that particular conduct is a breach of courtesy. If any member persists in this conduct following the warning, the Board may vote to censure the offending member. If any other person present persists in this conduct following the warning, the Chairman may order that person to be expelled from the meeting.

3.6 EVIDENCE:

The Chairman shall determine the admissibility of any evidence before the Board.

3.7 ORDER OF BUSINESS:

(a) The order of business at a regular meeting shall be:

- (1) Call to Order
- (2) Roll Call and determination of quorum
- (3) Approval of minutes of previous meeting
- (4) Old business (tabled or continued items)
- (5) New business
- (6) Report of Officers and Committees
- (7) Communications and Bills
- (8) Adjournment

(b) The order of business for special meetings shall be:

- (1) Call to Order
- (2) Roll call and determination of quorum
- (3) The business for which special meeting was called
- (4) Adjournment

3.8 PRESENTATIONS:

- (a) The Board shall act on petition in the following order:
 - (1) The Secretary or the Director shall read the application and locate the affected area on a Town of Pendleton map.
 - (2) The Director shall present the staff report.
 - (3) The petitioner shall present facts relating to the case, with up to twenty (20) minutes being available for the presentation.
 - (4) Board members may direct questions to the petitioner.
 - (5) The Chairman shall recognize those who desire to speak against the proposal to present objections, with up to a total of twenty (20) minutes being available for the presentation.
 - (6) The petitioner may rebut the objections, with up to 5 (five) minutes being available for the rebuttal.
 - (7) The Chairman shall call for a motion.

3.9 CONTINUANCES:

The Board may continue any item from one meeting to another. No notice shall be required for the continued consideration of any item except that required by State Law.

3.10 PROCEDURAL RULES:

The most recent edition of Robert's Rules of Order shall govern the conduct of all meetings and public hearings except to the extent that it conflicts with the Pendleton Town law or these Rules.

3.11 AGENDA:

The agenda shall list all items to be considered by the Board at the regular or special meeting. The items shall be listed on the agenda in the order in which the petition or other document was filed with the Planning Department. No item shall be considered by the Board unless it appears on the agenda. Any petitioner may withdraw any petition prior to the meeting at which it was to be considered.

The agenda shall be sent by US mail or placed in members mailbox in the Town Hall and shall be made available for public inspection at the Planning Department office no later than five (5) days before any regular meeting.

RULE 4

VARIANCE AND EXCEPTIONS APPEALS NOTICE AND PROCEDURE

4.1 APPLICATIONS:

- (a) Every petitioner for an appeal, variance, use or exception shall complete an application supplied by the Director.
- (b) The Director may require the petitioner to submit any additional information he or she deems relevant for consideration by the Board, including written proof that the petitioner is the agent of the property owner or owners if the petitioner is not the sole owner of the property.

4.2 FILING REQUIREMENTS:

- (a) Every petitioner for an appeal, conditional use, exception or variance shall be filed with the Planning Department no later than thirty (30) days prior to its consideration by the Board.
- (b) Any appeal to the Board shall be filed with the Planning Department within thirty (30) days following the decision of the Director.
- (c) The Director shall determine if an application for a variance is a variance of use or a variance from developmental standards.

4.3 NOTICE REQUIREMENTS:

- (a) All persons with a legal interest in the property to be changed and all owners of real estate within a 150-foot perimeter of the property seeking a change are interested parties.
- (b) Adequate notice is provided under these rules if:
 - (1) Petitioner obtains a list of all owners of real estate within the 150-foot perimeter along with their (property owner) addresses obtained from the Madison County Auditor's office.

- (2) At least ten (10) days prior to the meeting date but not more than thirty (30) days, send each of the above listed property owners, by certified mail or certificate of mailing, the notice of public hearing supplied by the Planning Department. The stamped white receipt(s) (if certified mail) or the postmarked mailing receipt(s) (if certificate of mailing), a list of the property owner's name and addresses, and a signed affidavit must be filed with the Planning Department. (Res. 22-01 updated 2-15-22)
- (3) The Board of Zoning Appeals publishes a notice of the Public Hearing as required by IC 5-3-1-2. This notice must state the date, time and place of the hearing, the name of the petitioner, and a brief description of the property to be considered stating its mailing address and a general description of its location deemed adequate by the Director.

4.4 COMMITMENTS:

- (a) The Board may require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.
- (b) For the purposes of IC 36-7-4-921 (b), the Director is the only interested party as defined by this Rule who may enforce this commitment.
- (c) A commitment shall be created by the owner of the property affixing his or her signature to 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.
- (d) 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 the Board of Zoning Appeals Rule 4.3.
- (e) 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.

RULE 5

AMENDMENTS AND SUSPENSION

5.1 AMENDMENTS:

These Rules may be amended by a two-thirds (2/3) vote of the membership of the Board.

5.2 SUSPENSION:

These Rules or any portion of them may be suspended by a two-thirds (2/3) vote of the membership of the Board. No suspension shall continue beyond the adjournment of the meeting which the motion to suspend was passed.

5.3 EFFECTIVE DATE:

These Rules enter into effect immediately upon adoption of this Resolution.

RULE 6

FORMS

6.1 FORMS:

All petitions for:

- (1) Variances;
- (2) Special Use;
- (3) Special Exceptions;
- (4) Contingent Use;
- (5) Commitments;
- (6) Conditional Uses;
- (7) Appeals; and

Proofs of notice of public hearings must be submitted on the forms supplied by the Board.