

BOARD OF ZONING APPEALS RULES OF PROCEDURE

ARTICLE I ORGANIZATION

1. Under the provisions of Chapter 223 of the Carroll County Code of Public Local Laws and Ordinances (CCCPLA), the following rules and regulations are prescribed. These rules and regulations are supplementary to the provisions of the CCCPLA as they relate to the Board of Zoning Appeals (BZA).

2. Officers.

The Officers of the BZA shall be a chairman and vice chairman who shall be elected to a one (1) year term at the first meeting of the BZA in March of each calendar year. The chairman and vice chairman shall be voted into term by the members of the BZA. The chairman and vice chairman shall be nominated prior to the vote by the members of the BZA. A member who is nominated for an Office may cast a vote for his or herself. The vote will be based upon a majority of votes cast by the members of the BZA. In the event of a tie in voting for either Office, the vote fails. Any member of the BZA may defer or decline to serve as chairman or vice chairman, until the next vacancy occurs by announcing such decision to the other members of the BZA at the time each vacancy occurs.

a) *Terms of Officers.*

*The Officers of the BZA shall serve terms of one (1) year. –
(Amended 03-28-12)*

3. Chairman.

The Chairman shall be a voting member of the BZA and shall:

- Call meetings of the BZA;
- Preside at meetings and hearings and swear in witnesses;
- Act as spokesperson for the BZA;
- Sign documents for the BZA; and
- Perform other duties approved by the BZA.

4. Vice Chairman.

The Vice Chairman shall exercise the duties of the Chairman in the absence, disability or disqualification of the Chairman. In the absence of the Chairman and Vice Chairman, the members present shall elect an Acting Chairman.

5. Secretary.

The Secretary shall:

- Provide and publish notices of appeals and meetings;
- Assist the Chairman in preparation of the agenda;
- Ensure that property involved in appeals is properly posted;

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- Keep minutes of meetings and hearings;
 - Maintain BZA records as public records;
 - Attend to BZA correspondence; and
 - Perform other duties normally carried out by a Secretary.
6. Legal Advisor.
The County Attorney shall serve as the legal advisor and assist in the preparation of decisions for the BZA.

**ARTICLE II
MEETINGS**

1. Time and Place.
An annual tentative schedule of meetings shall be adopted and maintained by the BZA in November of each year. Meetings shall be held after required legal notices are posted and published, and shall be open to the public.
2. Quorum.
A majority of the total membership of the BZA shall constitute a quorum. No action shall be binding unless approved by the majority of the BZA at a meeting. A recusal of a member constitutes an act not to participate on a case, thereby reducing the number of members present. An abstention by a member shall not reduce the number of members present but shall not be considered a vote and shall not be counted toward the majority.
3. Order of Business.
- a) Roll call and declaration of Quorum
 - b) Call of agenda cases
 - c) New/Old Business

**ARTICLE III
CONDUCT OF HEARING**

1. Appearances.
Any appellant or applicant shall appear before the BZA in person or be represented by an attorney at the hearing.
2. Testimony.
The witness whose testimony may be desired at any hearing before the BZA shall testify orally, under oath, unless the BZA, for good cause shown, deems it proper in special cases that written evidence, under affidavit or otherwise, be submitted.
3. Order of Hearing.

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Participants in a hearing shall appear in the following order:

- a) Introduction of the case by the Chairman.
- b) Zoning Administrator's statement (in case of appeal from action of Zoning Administrator).
- c) Appellant's or applicant's presentation.
- d) Protestant's presentation.
- e) Appellant's or applicant's rebuttal.

Every person before the rostrum shall abide by the order and direction of the Chairman. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the BZA and shall be dealt with, as the Chairman deems proper.

4. Voting.

Upon the termination of the hearing or within a reasonable time thereafter, a discussion among the members shall be convoked and a voice vote on the appeal or application shall occur. Each member shall provide a voice vote to the Secretary. Each member will vote on each motion, application or appeal, unless the member abstains or recuses. A member must recuse himself/herself when he/she becomes aware of a conflict of interest. The member should inform the Chairman and shall not participate in any further discussion.

An affirmative vote of a majority of the members voting is required to approve an application, appeal or motion. A tie vote or a negative vote of a majority defeats the application, appeal or motion.

5. Determinations.

a) Form of decision.

Final decisions of the BZA in an appeal for a variance, review administrative order or of any application for conditional use shall be made by a written order in the form of a decision duly entered and signed by the Chairman, or in his absence, the Vice-Chairman. Such order shall set forth the reason or reasons for the BZA's determination. It may grant the application, or may affirm, reverse or modify the order, requirement, decision or determination.

b) Notice of decision.

The Secretary shall notify all parties of interest, including the County Zoning Administrator, of such decision and shall transmit to the appellant or applicant a true and exact copy of the written order of the BZA denying or granting the appeal or application.

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- c) Conditions imposed by BZA determination.

Whenever the BZA imposes any condition with respect to granting a variance or conditional use, such condition must be stated in the BZA's order and in the certificate issued pursuant thereto by the County Zoning Administrator. Such certificate shall remain valid only as long as the condition or conditions upon which it was granted or the conditions imposed by the Carroll County Zoning Ordinance are effective.

- d) Time limit on obtaining certificate.

Unless otherwise specified by the BZA, a conditional use or variance authorized by the BZA shall expire if the applicant or appellant fails to utilize the authority granted pursuant thereto within twelve (12) months from the date of authorization of the special exception or variance. The applicant or appellant shall be notified of this limitation. An extension of up to twelve (12) additional months may be granted by the BZA upon a showing of good cause. However, if a site plan becomes void in accordance with the Carroll County Code of Public Local Laws and Ordinances Chapter 103-19 (C), the variance or conditional use approval shall automatically terminate.

6. Records of Hearings.

- a) Required records.

The BZA shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations or other official actions.

- b) Maintenance of records

The Secretary shall be the custodian of BZA records and shall file such in the office of the BZA. All minutes of meetings and records of or examinations and other official actions shall be a public record.

- c) Maintenance of docket.

The Secretary shall maintain a docket, shall note each appeal or application under an appropriate caption, and shall record thereafter, by suitable and appropriate entries, the course of said appeal or application.

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7. Rehearings.
No request to grant a rehearing will be entertained after the issuance of the Board's official written decision. A request for rehearing must be supported by new evidence that could not be reasonably presented at the previous hearing. If the request for a rehearing is granted, the case shall be put on the docket for a rehearing after posting and advertising requirements have been met at requestor's expense. In all cases, the request for a rehearing shall be in writing reciting the reasons for the request, and shall be duly verified and accompanied by the necessary data and diagrams. The person requesting the hearing shall be notified to appear before the BZA on a date to be set by the BZA.
8. Amendments.
The BZA may from time to time amend any part or parts of these Rules and Regulations.
9. Parliamentary Procedure.
Robert's Rules of Order, Revised shall serve as a guide for the BZA where these Rules are silent.

Adopted, *as amended*, by the Board of Zoning Appeals of Carroll County on March 28, 2012.

Richard J. Simmons, Chairman