

Champaign County
Department of

**PLANNING &
ZONING**

**Brookens Administrative
Center**

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TO: Champaign County Zoning Board of Appeals
FROM: John Hall, Zoning Administrator
DATE: November 22, 2022
RE: Proposed Revisions to ZBA Bylaws

BACKGROUND

Two requests were received to amend the ZBA By-laws.

The first proposed amendment would add the Pledge of Allegiance as an agenda item under paragraph 5.9 of the By-Laws.

The second proposed amendment adds new paragraph 5.13 which would allow remote testimony by the public at regularly scheduled ZBA meetings. In-person attendance would still be required by the Board.

NEXT STEPS

Article 12 of the ZBA Bylaws requires “the proposed amendment must be presented at a regular or special meeting preceding the meeting at which the vote is taken.” A roll call vote and four affirmative votes are required for approving an amendment to the Bylaws.

ATTACHMENTS

A Annotated draft revision of Bylaws dated December 1, 2022

BYLAWS
CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
Proposed amendment 12/01/22

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ARTICLE 1 - AUTHORITY

1.1 The authority to establish the Zoning Board of Appeals is set forth under the *Illinois Counties Code*, Chapter 55, Section 5/5-12007 *et seq*, herein referred to as the County Enabling Legislation. Powers and duties are delegated to the Zoning Board of Appeals by the Champaign County Board, herein referred to as the Governing Body, pursuant to Section 9.1.6(B) of the Champaign County Zoning Ordinance, Resolution Number 971, dated September 11, 1973 and as amended, in accordance with the County Enabling Legislation.

ARTICLE 2 - GENERAL PROVISIONS

- 2.1** These rules are supplementary to the provisions of the Champaign County Zoning Ordinance as they relate to procedures of the Zoning Board of Appeals. If there is a conflict between these rules and the Zoning Ordinance, the Zoning Ordinance shall prevail.
- 2.2** Nothing herein shall be construed to give or grant to the Board the power or authority to alter or change the Zoning Ordinance, including the Zoning Map, which authority is granted to the Governing Body, except as provided in Section 4.1.6 of the Zoning Ordinance.
- 2.3** The State’s Attorney shall be consulted regarding questions of law. The Zoning Administrator shall be consulted regarding provisional interpretations of the Zoning Ordinance.

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Article 2 – continued

- 2.4 The Office of the Zoning Board of Appeals shall be located in The Champaign County Department of Planning and Zoning.

ARTICLE 3 - APPOINTMENT AND TERMS OF MEMBERS

- 3.1 Appointment of the Zoning Board of Appeals shall be as provided for by the Governing Body pursuant to Section 9.1.6(A) of the Zoning Ordinance.
- 3.2 Applications for appointment to the Zoning Board of Appeals may be submitted to the Office of the Champaign County Board, 1776 East Washington Street, Urbana Illinois, 61802, on forms provided by the Office of the County Board.
- 3.3 For each meeting attended, members shall be compensated in a manner established by the Governing Body.
- 3.4 The Governing Body shall have the power to remove any member of the Board for cause only after a public hearing. Such hearing shall be held no less than 10 days after the member concerned has been given written notice of the charges against him or her. The Chairperson may make a recommendation to the Governing Body for removal of a Zoning Board member due to malfeasance, misfeasance, or nonfeasance generally, and in particular:
- a) Failure to disclose any conflict of interest pursuant to Section 6.8 herein;
 - b) Failure to disclose any substantial or material *ex-parte* communications at the earliest opportunity subsequent to any such communications pursuant to Section 7.4 herein;
 - c) Failure to attend two meetings within a period of one year, without recorded consent of the Chairperson; or
 - d) Repeated or excessive tardiness, as determined by the Chairperson.
- 3.5 Upon death, removal for cause, or resignation of a Board member, the Secretary shall promptly notify the Governing Body that a vacancy exists. If a member becomes incapacitated permanently or for what appears likely to be a protracted period, or moves from the jurisdiction, or becomes for any other reason no longer qualified to serve, and does not resign, the Chairperson shall promptly notify the Governing Body. The Chairperson may also request that the Governing Body declare that member's seat vacant.

ARTICLE 4 - CHAIRPERSON

- 4.1 All proceedings and administrative functions of the Board shall be directed by a Chairperson, who shall preside over all meetings of the Board and shall otherwise supervise the affairs of the Board as outlined in Section 4.3 herein.

Article 4 – continued

- 4.2** The Governing Body shall designate the Chairperson pursuant to Section 9.1.6(A)3 of the Zoning Ordinance. In the event of death, removal for cause, or resignation of the Chairperson, successor(s) shall also be named by the Governing Body. Upon vacancy of the Chairperson, the Board may vote to recommend a current serving member to the Governing Body for appointment as Chairperson of the Zoning Board.
- 4.3** If present and able, the Chairperson shall supervise the affairs of the Board and shall:
- a) preside at all hearings and meetings of the Board;
 - b) assure and maintain proper order and decorum of the Board, staff, and the public in all proceedings of the Board;
 - c) decide all points of procedure or order in accordance with these and other applicable rules;
 - d) provide for the oath or affirmation to be administered to all witnesses in cases before the Board pursuant to Section 7.7 herein; and shall
 - e) take such actions and exercise such powers as are specifically outlined herein.
- 4.4** The Board shall elect from among its members an Acting Chairperson to serve at any meeting where the Chairperson is absent or is otherwise unable to supervise the affairs of the Board. An Acting Chairperson, in the absence or disability of the Chairperson, shall perform all duties and exercise all powers of the Chairperson.

ARTICLE 5 - MEETINGS

- 5.1** No less than two regular meetings shall be held each month at a place authorized in Section 9.2.1(E) of the Zoning Ordinance, except under the following circumstances:
- a) the Chairperson determines that cancellation of a regular meeting is appropriate under Section 5.2 herein; or
 - b) the Secretary determines that the cancellation of a regular meeting is appropriate under Section 5.3 herein; or
 - c) the regular meeting falls of a designated County Holiday, in which case the Board shall vote as to whether such a meeting shall proceed as scheduled, be cancelled, or be rescheduled.
- 5.2** Regular meetings may be canceled by the Chairperson, or with the oral approval of a quorum of the Board. Meetings may be cancelled when there are no cases pending, or in the event that the requirements of these By-laws or the Zoning Ordinance prevent the Board from conducting any business, or in the event of hazardous or inclement weather. In the event of hazardous or inclement weather, the Champaign County Sheriff's Department may be consulted as to road conditions and other factors which may affect transportation to and from the meeting place. Upon cancellation, the Secretary shall make a reasonable attempt to notify the members of the Board, the petitioners, and other interested parties.

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Article 5 – continued

- 5.3 In the event that after all publications of scheduled public hearings pursuant to Sections 5.5 and 6.2 have been made, but prior to the scheduled meeting of the Board, all petitioners of all scheduled hearings have requested continuances or withdrawn their cases, the Secretary shall have the authority to cancel the scheduled meeting of the Board. Upon making the decision to cancel a scheduled meeting of the Board, the Secretary shall make a reasonable attempt to notify the members of the Board and all other interested parties of record, and shall post the meeting place with a notice of cancellation.
- 5.4 Special meetings may be called only with the oral approval of no less than a quorum of the Board, provided that no less than 24 hours notice is given to each member, and provided that all notice requirements have been met pursuant to Section 5.4 herein.
- 5.5 All meetings shall be open to the public, noticed, and posted in accordance with the *Illinois Open Meetings Act*, (5 ILCS 120/1.01 *et seq.*). The Board may only go into closed session for appropriate reasons and only upon the advice of the Champaign County State’s Attorney.
- 5.6 A quorum shall consist of four members for any regular or special meeting, and is required for any decision, determination, or official action by the Board.
- 5.7 Any meeting of more than two Board members where matters pending before the Board would be discussed, including but not limited to visits to subject properties, shall be prohibited except as properly noticed and posted in accordance with the *Illinois Open Meetings Act*, (5 ILCS 120/1.01 *et seq.*).
- 5.8 Neither meetings nor public hearings shall be held by less than a quorum of the Board.
- 5.9 Meetings of the Board shall include the following agenda items and, unless the Board votes to vary the order, the agenda items shall proceed as follows:
- a) Introduction and Explanatory Comments by the Chairperson
 - b) Announcement of Witness Register requirement for persons wishing to testify to any agenda item
 - c) Roll call and declaration of quorum
 - d) Pledge of Allegiance (voluntary for those who choose to participate)
 - e) Correction and approval of minutes of previous meeting(s)
 - f) Communications
 - g) Audience Participation with respect to matters other than cases pending before the Board
 - h) Continued Public Hearings
 - i) New Public Hearings
 - j) Other Business
 - k) Staff Report
 - l) Adjournment

Article 5 – continued

- 5.10 All regular meetings of the Board shall begin at 6:30 p.m. Central Standard Time, or at 7:00 p.m. Central Daylight Savings Time, whichever applies. All meetings of the Board shall last no more than 3 hours unless the Board shall vote to extend the meeting to a specified time.
- 5.11 Applications for zoning cases shall be docketed on a first come-first serve basis, strictly based upon receipt of a completed application and its required fee. No application shall be docketed for a public hearing before the Board if the application is received less than 22 days in advance of the hearing date. In the event that four public hearings are docketed for a meeting of the Board, no additional public hearings shall be docketed for that meeting without prior approval of the Chairperson.
- 5.12 Audience participation with respect to matters other than cases pending before the Board shall be limited to 5 minutes per person totaling no more than one hour.
- 5.13 Members of the public may testify remotely rather than in person during regularly scheduled ZBA meetings, subject to any unforeseen technical difficulties that may occur.

ARTICLE 6 - FORM AND CHARACTER OF MOTIONS AND DECISIONS

- 6.1 The Board shall conduct all votes in public session. Voting *in absentia* is not permitted.
- 6.2 The form and character of motions shall conform to those specified in the Appendix - Champaign County Zoning Board of Appeals Bylaws Summary of Actions, a copy of which is attached hereto, provided that all motions and decisions shall conform to applicable Illinois Law. In the event that the Bylaws Summary of Actions contained in the attached Appendix are not applicable to the question at hand, *Roberts Rules of Order, Newly Revised*, shall apply.
- 6.3 The Chairperson shall not make any motion, except as provided in Section 9.5 herein.
- 6.4 A second shall be required prior to the Board's voting on any motion, except as provided in Section 9.5 herein. A second shall not be construed as an indication of how the member offering the second intends to vote.
- 6.5 The Chairperson may second any motion, provided that he or she has not offered the motion pursuant to Section 9.5 herein. Alternately, the Chairperson may declare a motion dead for lack of second only after three requests to entertain a second to the motion have been offered.
- 6.6 Where a motion to disapprove an item other than a Final Determination of the Board has been defeated, a member of the Board who initially voted with the prevailing side of that motion, except the Chairperson, may offer a motion to reconsider the question.
- 6.7 In the event of a tie vote, the motion shall be defeated.

Article 6 – continued

- 6.8** Any member who becomes aware that he or she has a potential conflict of interest regarding a petition shall notify the Chairperson at the earliest opportunity. If it is determined that the member does have a direct conflict of interest, or prejudice sufficient to impair their ability to fairly weigh evidence, such member shall not participate in the public hearing or discussion at any meeting that relates to that particular matter, nor shall the member vote on the matter.
- 6.9** On any matter before the Board, any member declining to vote for any reason shall announce their intent to abstain and the reason for doing so before the public hearing is closed.
- 6.10** An abstention shall not be counted in the determination of a motion, but shall be recorded.
- 6.11** Upon the request of any member of the Board, a roll call vote shall be taken in lieu of a voice vote.
- 6.12** Votes on Final Determination with respect to any matter before the Board shall be by roll call vote and in accordance with Article 9.
- 6.13** All roll call votes shall be taken by the Recording Secretary in varied order, except that the Chairperson shall vote last.

ARTICLE 7– PUBLIC HEARING PROCEDURES

- 7.1** All public hearings shall include the following steps:
- a) Public Notice
 - b) Reading of the petition request by the Chairperson at each new or continued public hearing.
 - c) Presentation of the evidence
 - d) Adoption of a Summary of Evidence
 - e) Adoption of Documents of Record
 - f) Adoption of a Finding of Fact
 - g) Final Determination
- 7.2** **Public Notice.** The Secretary shall provide notice of the general location of the subject property, a brief statement of the nature of the petition, and the date, time, and place of the first scheduled public hearing for the petition. In addition to all statutorily required notices pursuant to the County Enabling Legislation, notice shall also be mailed by regular U.S. Mail no less than 15 days but no more than 30 days prior to the date of the first public hearing as follows:
- a) Notice of all petitions shall be provided to:
 - 1) the petitioner(s), applicant(s), or appellant(s) and their representative or counsel;

Article 7 – continued

- 2) the lot owner(s) of record of all property within 250 feet in each direction of the subject property. The lot owners of record shall be identified as those appearing in the authentic tax records of Champaign County. The measurements of right-of-way(s) for public streets, alleyways, and other public ways shall be excluded in calculating the 250 foot notification distance. In the event that the subject property is part of a larger tract, such 250 foot distance shall be calculated from the exterior boundaries of the larger tract;

- b) In addition to the notices required above, in the case of Map Amendments and Special Use Permits, notice shall also be provided to:
 - 1) the clerk of any zoned municipality with corporate limits within one and one-half miles of the subject site;
 - 2) the planning staff or planning consultant for any municipality with corporate limits within one and one-half miles of the subject site;
 - 3) the Supervisor of the Township within which the subject site is located;
 - 4) no less than one commissioner of the drainage district within which the subject site is located, if applicable;
 - 5) any provider of public sanitary sewer or public water service, if applicable; and
 - 6) the Chief of the Fire Protection District within which the subject site is located, if applicable.

- 7.3** The Board shall decide all matters presented during administrative proceedings and proposed amendments in accordance with Sections 9.1.7 and 9.2 of the Zoning Ordinance.

- 7.4** ***Ex parte Communications.***
 - a) Communications regarding any pending public hearing before the Board with any individual outside of the public hearing, including communications with any other Board member, or any member of the Governing Body, or any employee of Champaign County, except for purely procedural matters or legal subjects specifically approved by the State’s Attorney’s Office, are considered *ex-parte* communications.

 - b) If a member of the Board has participated in a substantial or material *ex-parte* communication, that member shall disclose the following information to the Board at the earliest public hearing subsequent to any such communication:
 - 1) the person or persons with whom the Board member has spoken;
 - 2) the circumstances under which the communication(s) took place;
 - 3) the general content of the communication(s); and
 - 4) any response given to the person or persons by the Board member

- 7.5** At the time of the public hearing before the Board, the Petitioner may appear in his or her own behalf, or he or she may be represented by counsel or agent.

Article 7– continued

- 7.6 In the event that parties other than the petitioner retain counsel or other agent to represent them at a hearing before the Board, then such representative shall state that he or she has been so retained, by whom, and shall also disclose the extent of their authorization.
- 7.7 All witnesses shall swear or affirm in written form on the Witness Register to the truthfulness of their oral or written testimony and any exhibits they submit. The Witness Register shall contain the witnesses(s) printed name, signature, and address, and shall be confirmed and signed by the Chairperson of the Board.
- 7.8 **Presentation of Evidence.** Evidence shall be presented in the following order unless altered by the Chairperson or by Motion:
- a) Announcement by the Chairperson that all testimony is given under oath or affirmation pursuant to the signing of the Witness Register for each agenda item;
 - b) The Petitioner or representative shall make a statement outlining the nature of his or her request prior to introducing evidence or alternatively the Board may ask Staff to review the request. The Chairperson or Staff may give restatement of the case if the presentation of the Petitioner or the representative needs clarification;
 - c) The Petitioner or representative presents evidence, subject to section 7.9;
 - d) Staff presents and summarizes any distributed memorandum, materials or reports;
 - d) Parties other than the Petitioner present evidence, subject to section 7.9;
 - e) The Petitioner or representative presents rebuttal evidence, subject to section 7.9, but may not introduce new evidence;
 - f) At the discretion of the Board, further surrebuttal evidence may be presented by parties other than the Petitioner. However, the Petitioner shall always have the final opportunity to present evidence;
 - g) Questions, comments, requests, or continuance by the Staff or Board.
 - h) The Board shall then vote to Close the Witness Register.
- 7.9 **Inquiry of Witness.**
- a) Each witness' testimony shall proceed in the following manner:
 - 1) The witness may present oral testimony, and tender any documents to the Board;
 - 2) Staff may then ask questions of the witness;
 - 3) In an administrative case, the Chair shall then invite and allow the Petitioner or representative to then ask questions of the witness;
 - 4) In an administrative case, the Chair shall then invite and allow other members of the public to then ask questions of the witness;
 - 5) Any of the above persons may then ask follow-up questions of the witness, but those other than the Board and Staff may address only those matters addressed in earlier questions of this witness or in response to such questioning.
 - b) For purposes of these rules, an “administrative case” is a Special Use permit case, a Variance case, a conditional Rezoning case, or any matter combined in the same hearing with one of these cases.

Article 7– continued

- c) At any point during the course of a public hearing, the Chairperson, Board members, or Staff may ask questions of any party to bring out pertinent facts, and may make appropriate comments pertinent to the case.
- d) If, at any point during a public hearing, a witness is unable or unwilling to respond to a question, the Chair shall make note of this in the minutes of the public hearing, unless the question has been deemed improper, pursuant to section 7.10 (b) or (c).
- e) The Board may place limitations on the right of cross-examination, which may include, but shall not be limited to, the following:
 - 1) Requesting that groups who are associated with the same affected property or organization to select one representative who alone shall be entitled to cross-examine adverse witnesses.
 - 2) Requiring those represented in the matter by licensed attorneys who are also present at the public hearing to exercise the right of cross examination only through the attorney.
 - 3) Restricting the class of those who may be cross-examined to witnesses who have offered testimony that includes factual allegations that are relevant and material to deciding the issues before the Board.

7.10 Admissibility of Evidence.

- a) The Board shall consider competent and material evidence as necessary for a full and fair presentation of the issues presented.
 - 1) The Board shall not be bound by the strict rules of evidence. However, the Board shall not consider hearsay inadmissible in a court of law, if this hearsay is uncorroborated, more than once-removed, or otherwise unreliable.
 - 2) Testimony shall be limited to factual statements and qualified expert or relevant lay opinion and shall not relate to personalities or conjecture.
 - 3) Testimony or other evidence may be excluded if it is irrelevant, immaterial, incompetent, or repetitious.
 - 4) Failure strictly to enforce these Bylaws, or to reject matters which may be irrelevant or immaterial shall not affect the validity of the hearing.
- b) A question, documentary materials, or testimony presented by any witness may be barred by the Chair if:
 - 1) It relates only to a matter of personal taste;
 - 2) It is an argumentative or rhetorical question, or seeks testimony or evidence in violation of section 7.10 (a); or
 - 3) It is beyond the scope of allowable questions under section 7.9 (a)(5), above.
- c) Any person present at the public hearing may request that the Chairperson rule on the admissibility of specific evidence or the permissibility of a question, which ruling may, upon motion by any person present, be overruled by a majority of Board members present but not abstaining.

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Article 7– continued

- d) Procedural errors which do not materially affect the rights of the parties shall be disregarded and shall not affect the validity of the proceeding.
- 7.11** Any party appearing before the Board may submit a list of persons favoring or opposing the zoning case application. Such list will be received by the Board, although it contains nothing more than a brief statement of the position of the persons favoring or opposing the application together with the signature and address of the persons subscribing to such statement. The Board shall determine the weight to be given to such evidence.
- 7.12** Any evidence that any party wishes to have considered by the Board must be presented prior to the closing of the Witness Register (end of public testimony) or, if a Finding of Fact has been approved but the Board has not made a motion for a specific Final Determination, and any party wishes to present new evidence, the new evidence may be presented only upon the majority vote of those Board members present and not abstaining from the final vote.
- 7.13** The Board may request any relevant information or evidence from any party only prior to any motion for a specific Final Determination.
- 7.14** In the event that the petitioner fails to appear either in person or by agent, the case shall be deemed dismissed unless the Board shall vote otherwise. In such cases, the Petitioner shall be furnished with written notice of the dismissal by the Secretary of the Board. A petitioner may reactivate a dismissed case only upon filing a new petition and upon payment of the fee specified in Section 9.3.3(A)4 of the Zoning Ordinance. Such reactivated cases shall be noticed in the usual manner pursuant to Section 6.2 herein.
- 7.15** Upon presentation of all evidence, the Board shall consider the following motions prior to making a Final Determination:
- a) to close the Witness Register;
 - b) to amend, correct, add or delete points of evidence from the Summary of Evidence and Documents of Record;
 - c) to consider approval of the Summary of Evidence and Documents of Record, either as submitted or as amended;
 - d) to consider any waivers of standard conditions for specific Special Use Permits contained in Section 6.1.3 of the Zoning Ordinance. Said waivers may be approved individually or en masse by the affirmative vote of a majority of those members voting on the issue, and shall be incorporated into the Findings of Fact with the reason for granting each waiver described;
 - e) to consider any conditions proposed by Staff or the Board. Said conditions may be adopted either individually or en masse, but shall be incorporated into the Findings of Fact, with the purpose of each condition described;

Article 7– continued

- f) to consider any proposed Findings of Fact as required by Sections 9.1.9(D) of the Zoning Ordinance for variance criteria or 9.1.11(C) of the Zoning Ordinance for special use permit criteria, whichever is applicable or for any proposed amendment. Said Findings of Fact may be adopted individually or en masse.

7.16 A Final Determination consistent with Article 9 or a dismissal consistent with section 7.1.4 shall end the public hearing.

ARTICLE 8 – PUBLIC HEARING REQUEST TO WITHDRAW, AMEND, CONTINUE, OR REHEAR APPLICATIONS

- 8.1** Upon written request from the applicant or authorized agent, a petition or an appeal may be withdrawn at any time prior to the Board’s making its final determination on the case.
- 8.2** The Board may consider a request to amend a petition or an appeal prior to or during the course of the public hearing on the issue. In the event that the request to amend is denied, the cause for such denial being stated in the motion, the hearing and decision on the case as it was originally proposed shall proceed.
- 8.3** If the request to amend the petition or appeal is granted, or if a text amendment has been altered, the Board shall determine whether there is a substantial or material difference between the case as it was described in the public notice and the case as amended such as to render the notice insufficient. When there is material difference, a new public notice shall be required before the public hearing of the zoning case may proceed, with fees for the new legal advertisement to be paid by the applicant pursuant to Section 9.3.3(B) 5 of the Zoning Ordinance.
- 8.4** The Board shall also determine whether the nature of the amendment is such as to require re-examination by counsel or staff members having made reports on the original application or appeal. If referral for re-examination is found necessary, the Board may proceed with the hearing, or may continue it to a specified time, and shall not make a final determination on the case until it has considered any revised staff reports that result from the amendment to the petition.
- 8.5** The Board may, upon majority vote of those members present, continue a public hearing in order to receive additional information from staff, the petitioner, other agencies, technical experts, or other interested parties. A request from the applicant or any other interested party to continue the public hearing may be permitted only for good cause. In the event of such continuances, further publication of such action need not be made.
- 8.6** All continuances shall be made to a date certain. The Board shall not grant a request for a continuance for more than 100 days from the date the continuance is requested. The Board shall not grant more than one request for a continuance except in the following

Article 8 – continued

instances:

- a) a continuance initiated by the Board for purpose of receiving additional information from staff, the petitioner, other agencies, technical experts, or other interested parties;
- a) a continuance due to the absence of two or more Board members;
- b) a continuance due to a bona fide illness or incapacity of the petitioner, the petitioner’s representatives, or other interested party; or
- c) a continuance due to faulty public or mail notice.

8.7 No matter previously decided by the Board may be reconsidered unless upon submission of a new petition, the Board finds that the petition or the circumstances of a particular case have changed significantly, or unless a period of no less than one year has passed.

ARTICLE 9 PUBLIC HEARING FINAL DETERMINATIONS

9.1 The Board shall vote on the petition only as it was filed or subsequently amended by the Petitioner, except for amendments to the text of the Zoning Ordinance.

9.2 Upon review of the full public record and due deliberation by the Board, any of its members other than the Chairperson, except as provided in Section 9.5 herein, may make a motion for Final Determination. The motion may include direction in the form of approval, approval with specified conditions, or denial.

9.3 No Final Determination shall be made at a public hearing where less than four board members are present. A concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to grant any Variance or Special Use Permit under the terms of the Ordinance, or to recommend any amendment of the Zoning Map or Ordinance Text to the Governing Body.

9.4 In the event of a final determination where the Chairperson has requested a motion three times, the Chairperson shall make a Motion to Approve, which need not be seconded prior to the Board voting on the motion.

9.5 In the case of a final determination, a Motion to Approve which fails either by failure to receive a second or by failure to receive the required number of affirmative votes shall be deemed a denial and shall be dispositive of the issue.

9.6 Also in the case of a final determination, an initial Motion to Deny which fails shall not be deemed dispositive, and an alternate motion shall be made.

9.7 The Summary of Evidence and the Findings of Fact and Record of Decision of the case shall be acknowledged as to accuracy by the Secretary and the Chairperson, and shall be part of the public record of the Board.

Article 9 – continued

- 9.8** Notice of the decision of the Board, including the Findings of Fact and Record of Decision, shall be given by the Secretary to the Petitioner and any other parties that have requested such notice, as soon as reasonably possible after the decision is reached.
- 9.9** All decisions or determinations made by the Zoning Board of Appeals shall be final, and shall not be reconsidered other than in accordance with Section 9.7 herein.

ARTICLE 10 - RECORDS

- 10.1** A file of materials and decisions relating to each public hearing shall be kept as part of the records of the Board by the Secretary to the Zoning Board of Appeals.
- 10.2** All records of the Board shall be public records. Such records shall be maintained in accordance with the *Illinois Public Records Act*, (50 ILCS 205/1 *et seq.*), and shall be made available to the public pursuant to the provisions of the *Illinois Freedom of Information Act*, (5 ILCS 140/01 *et seq.*).
- 10.3** The Zoning Administrator, or the Zoning Administrator’s representative, shall serve as Secretary to the Board pursuant to Section 9.1.7(F) of the Zoning Ordinance.
- 10.4** The Secretary to the Board shall perform or supervise all clerical work of the Board and shall:
- a) maintain the case docket, case log, and all case files;
 - b) set the agenda for the meetings of the Board pursuant to Section 5.11 herein;
 - c) cause to be published all required legal publications pursuant to the County Enabling Legislation;
 - d) send out all other notices pursuant to Section 7.2 herein;
 - e) furnish the Board with all pertinent information and memorandum regarding items before the Board;
 - f) attend all Board meetings and hearings;
 - g) summarize the testimony of those appearing before the Board;
 - h) record and maintain permanent minutes of the Board’s proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact;
 - i) maintain the audio tapes of the Board’s proceedings for a period of no less than one year after the date of each hearing of the Board;
 - j) make a record of examinations and official actions;
 - k) record the names and mailing addresses of all persons appearing before the Board; and
 - l) conduct the routine correspondence of the Board and such other correspondence as directed by the Board.

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ARTICLE 11 - SEPARABILITY

- 11.1** Should any Article or Section of the By-Laws of the Champaign County Zoning Board of Appeals be found to be illegal, the remaining articles and sections shall remain in effect.

ARTICLE 12 - AMENDMENTS

- 12.1** These rules may be amended by the affirmative vote of four members of the Board.
- 12.2** The proposed amendment must be presented at a regular or special meeting preceding the meeting at which the vote is taken.
- 12.3** These rules may be suspended for cause upon affirmative vote of five members, unless such rule is required by state statute or the Zoning Ordinance.

APPENDICES

- A Champaign County Zoning Board of Appeals Bylaws Summary of Actions
- B Example statement to be read at the beginning of Administrative Hearings

* * *

The foregoing rules and regulations are hereby adopted by the Zoning Board of Appeals of Champaign County.

SIGNED:

Ryan Elwell
Champaign County Zoning Board of Appeals

ATTEST:

Secretary
Champaign County Zoning Board of Appeals

DATE: _____

**APPENDIX
CHAMPAIGN COUNTY ZONING BOARD OF APPEALS BY-LAWS**

Type of Motion or Action	Requires a Second	Debatable	Amendable	Type of Vote	Affirmative Votes Req'd	Explanatory Notes Regarding Use of Motion or Action <i>Italics indicate pertinent By-Laws Sections</i>
ACTIONS OF THE CHAIRPERSON						
Call to Order	N	N	N	None	NA	Action of the Chairperson to bring the Board members, staff, and the audience into order, either at the onset of a hearing, or after a recess.
Roll Call and Declaration of a Quorum	N	N	N	None	NA	Action of the Chairperson to request the Recording Secretary to call the roll. Upon declaration of a quorum, the Board may commence its official business.
To Open Public Hearing on an Agenda Item	N	N	N	None	NA	The point at which the Board recesses into a public hearing in order to take public testimony on a specific agenda item.
Action to Rule Out of Order	N	N	N	None	NA	To assure orderly progress in a meeting or a hearing, the Chair may rule any individual -- other Board members, staff, or the public -- out of order where a) comments are irrelevant to the item under discussion; b) substantially similar comments have already been made; or c) comments or actions are disruptive to the order of the meeting. <i>(4.3, 6.8, 6.9, and 6.10)</i>
Instruction to Disregard	N	N	N	None	NA	To ensure the objectivity of hearings, the Chair may instruct the Board to disregard comments or written or visual materials that are inflammatory or prejudicial. Such comments are, however, retained in the minutes, and are considered public record. <i>(4.3, 6.9 and 6.10)</i>
To Recess	N	N	N	None	NA	Action of the Chair to permit a very brief suspension of the meeting or hearing to facilitate the Board's operations and the comfort of the public. Board members should avoid contact with petitioners and other interested parties during recess in order to avoid accusations of bias or impartiality.
Call to Entertain a Motion	N	N	N	None	NA	After Board discussion and deliberation among members, the Chair may invite a motion, but may not make a motion unless three requests for a main motion have gone unanswered. <i>(7.3, 7.5 and 8.5)</i>
To Cancel a Meeting	N	N	N	None	NA	The Chair or a quorum of the Board may cancel a meeting of the Board in the event of inclement weather, lack of agenda items, etc. <i>(5.2)</i>

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MEETING PROCEDURE						
To Amend the Order of the Agenda	Y	Y	Y	Voice	Majority of those present	For various reasons including but not limited to failure of the petitioner to appear, inconvenience, or expected length of the hearing, any member may move to alter the order, but not the content of, the agenda. <i>(6.7)</i>
To Approve Minutes	Y	Y	Y	Voice	Majority of those present	Action to approve the minutes from previous meeting(s). The minutes are amendable to improve clarity, accuracy, and completeness, but not to re-open a debate on a previously decided agenda item. Failure of an affirmative motion would require evaluation of hearing tape and resubmittal of minutes by staff.
To Extend the Time to Adjourn	Y	N	Y	Voice	Majority of those present	The Board may vote to extend the adjournment time in order complete deliberation on a particular item or items. <i>(5.10)</i>
To Adjourn	Y	N	N	Voice	Majority of those present	Always appropriate, however, this motion is best used when all agenda items have been decided or continued to a set date.
To Reschedule a Cancelled Meeting	N	NA	NA	See Notes	4	Canceled meetings are generally rescheduled via phone, fax, or other equivalent, however, this procedure can also be done during the course of a meeting.
To Schedule a Special Meeting	Y	Y	Y	Voice	4	Special Meetings are for various reasons including overloaded dockets, etc. <i>(5.3 and 5.4)</i>
GENERAL PROCEDURE						
Point of Personal Privilege	N	N	N	None	NA	A right of any member of the Board to express matters of serious concern such as announcing a conflict of interest, or an ex-parte communication. Points of Personal Privilege should be made at the opening of the hearing, and when regarding a conflict of interest, should be followed with that member withdrawing from all further testimony on that item.
To Request a Roll Call Vote in lieu of a Voice Vote	N	N	N	None	NA	Any Board member may call for a roll call vote in lieu of a voice vote on any matter before the Board. <i>(7.11)</i>

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GENERAL PROCEDURE CONTINUED						
To Suspend the Rules	Y	N	N	Voice	5	Where, in extraordinary circumstances, established rules would hinder rather than promote effective deliberation, specific rules may be suspended for a time within a meeting. The reasons for such suspension should be entered into the minutes of the meeting. No rule may be suspended which is otherwise required by the Zoning Ordinance or by law. <i>(12.3)</i>
To Overrule the Chair on a Matter of Procedure	Y	Y	N	Voice	Majority of those present and voting	A right of members to challenge the actions of the Chair, so as to ensure that proper procedures are followed, and not to impede the deliberation or decision of the Board.
Point of Order	N	N	N	None	NA	A right of members to request that the Chair follow proper order. The intent is to ensure proper progress of deliberation, and not to contest the action of the Chair as in a Motion to Overrule the Chair. The Point of Order seeks to address an immediate concern, and not to debate larger procedural issues. Repeated use of a Point of Order to delay or frustrate decision making is inappropriate.
Point of Information	N	N	N	None	NA	A right of members to request from the Chair the clarification of specific matters of fact.
Friendly Amendment to a Previous Motion	Approval of Secunder Required	N	Y	None	NA	Procedural or Substantive (Main) Motions may be amended. When a motion has been moved and seconded, and is within the period of debate, it is subject to alteration. When the amendment is "friendly," that is, compatible with the previous motion by the initial mover and seconder, it may be incorporated into the previous motion by verbal approval. If the amendment is seen as "unfriendly," it must be debated and decided first. All amendments to previous motions must be decided prior to deliberation and vote on the Main Motion.
Unfriendly Amendment to a Previous Motion	Y	Y	Y	Voice	Majority of those present and voting	
To Divide a Motion	Y	N	Y	Voice	Majority of those present and voting	Where a motion has been both moved and seconded and is under deliberation, but where that motion is complex. Any member may seek to divide the motion, thereby permitting individual votes on specific issues, such as Findings of Fact. A substantive motion dividing the requests of a single petition CANNOT be divided.

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GENERAL PROCEDURE CONTINUED						
To Withdraw a Motion	Approval of Secunder Required	N	N	None	NA	Where the mover finds that an initial motion is flawed, inappropriate, or premature, the mover may seek to withdraw the motion as a whole. The action is not permissible if the initial motion has been amended.
To Reconsider NOTE: FINAL ACTIONS ON ZONING CASES CANNOT BE RECONSIDERED	Y	Y	N	Voice	Majority of those present and voting	A procedural motion used where a Board member in the majority on a previously decided item wishes to have the Board reconsider its vote. The motion is appropriate only where a) crucial information not available at the time of the initial vote is now available; or b) there has been a substantial change of circumstances since the initial vote. The absence of one or more Board members at the time of the initial motion, does NOT constitute a change of circumstance. In the event a Motion to Reconsider passes, the item is re-presented in total, after which, a new Main Motion may be made. <i>(7.6)</i>
To Request the Chair Rule on the Admissibility of Specific Evidence	N	N	N	None	NA	Any Board member, petitioner, or other interested audience member may request that the Chair Rule on the admissibility of specific evidence or testimony, such as petitions, visual aids, etc. <i>(6.12)</i>
To Override the Chair's Ruling on the Admissibility of Evidence	Y	N	N	Voice	Majority of those present and voting	Any member may move to override the Chairperson's ruling on the admissibility of evidence. <i>(6.12)</i>
To Continue Hearing to a Set Time	Y	N	N	Voice	Majority of those present and voting	Where testimony on a public hearing or deliberation by the Board on an agenda item cannot be concluded within a single session, this motion is appropriate. <i>(9.5 and 9.6)</i>
To Close the Public Hearing	Y	Y	N	Voice	Majority of those present and voting	A procedural motion made when all public testimony has been concluded. The Board is now free to deliberate the merits of the submitted evidence. <i>(8.2f)</i>

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FINAL DETERMINATION PROCEDURE						
To Approve Summary of Evidence and Documents of Record	Y	Y	Y	Voice	Majority of those present and voting	A procedural motion to officially incorporate the Summary of Evidence, the petitioner's application, staff report(s), correspondence, petitions, or other written or visual materials into the public record. <i>(8.2a and 8.2b)</i>
To Waive Standard Zoning Ordinance Conditions of Section 6.1.3	Y	Y	Y	Voice	Majority of those present and voting	Upon application, one or more waivers of otherwise standard conditions for Special Use Permits may be requested. Waivers may be adopted individually or en masse, and shall be incorporated into the Findings of Fact with reasons stated <i>(8.2c)</i>
To Impose Conditions of Approval	Y	Y	Y	Voice	Majority of those present and voting	The Board may impose conditions of approval of Variances and Special Use Permits. Conditions may also be adopted individually or en masse, and shall be incorporated into the Findings of Fact with reasons stated. <i>(8.2d)</i>
To Adopt Findings of Fact individually or en masse	Y	Y	Y	Voice	Majority of those present and voting	During deliberation, the Board must adopt Findings of Fact related to the specific criteria outlined in the Ordinance, and may do so either individually or en masse. <i>(8.2e)</i>
To Approve Petition, or to Approve with Conditions	Y (except as in Section 7.3)	Y	Y	Roll Call	6	A substantive motion, often called the Main Motion, it may take one of two forms: a) a definitive action where the Board is the final authority; or b) a recommendation to the Governing Body. A Motion to Approve which fails constitutes denial and is final, and is not subject to reconsideration. <i>(7.3, 8.4, 8.5, 8.6, and 9.7)</i>
To Deny Petition	Y	Y	Y	Roll Call	4	Also a substantive motion, and it may also take form as either a definitive action or a recommendation. When a Motion to Deny fails for any reason, a converse motion to either approve or approve with conditions should be made. <i>(8.4 and 8.7)</i>
BY-LAWS						
Amendment to the By-Laws	Y	Y	Y	Roll Call	5	Action to incorporate, alter, or eliminate policies which guide the decision making of the Board. Adoption of or amendments to the By-Laws requires a two-thirds vote. <i>(12.1)</i>