

RULES AND REGULATIONS

FOR THE CITY OF EAU CLAIRE ZONING BOARD OF APPEALS

ARTICLE I

ORGANIZATION AND OFFICERS

1. The Board shall organize annually within 30 days after the first day of July each year and elect a vice-chairperson and secretary. They shall make a recommendation for chair person and shall submit such to the city manager who shall designate one of the members as chairperson.
2. The chairperson shall preside at all meetings of the Board. In the absence of the chairperson, the vice-chairperson shall preside.
3. Subject to these rules, the chairperson shall decide all points of order and procedure, unless overruled by a majority of the Board in session at that time. All meetings shall be conducted in accordance with the Wisconsin open meeting law.
4. The officer presiding at the meeting and the secretary shall sign the resolutions, minutes, and other official documents adopted or approved by the Board.
5. Subject to these rules, the chairperson shall decide all points of order and procedure, unless overruled by a majority of the Board in session at that time. All meetings shall be conducted in accordance with the Wisconsin open meeting law.

ARTICLE II

MEETINGS

1. Regular meetings of the Board for the hearing of cases and the transaction of other business shall be held on the first Tuesday of each month at 7:00 p.m. in Council Chambers at City Hall. Should the first Tuesday of the month fall on a legal holiday, the Wednesday following such Tuesday shall be the meeting day of the Board. The chairperson may cancel any such monthly meeting, provided the adequate notice of such cancellation is mailed to the other members of the Board.
2. Special meetings may be called by the chairperson or by two or more members, provided that notice of the same is mailed to each member at least three days before the time set.

3. All hearing sessions shall be opened to the public.
4. Four (4) members of the Board shall constitute a quorum.
5. The concurring vote of a majority of a quorum of the Board shall be necessary to reverse any order, requirements, decision or determination of the zoning administrator. (Three (3) members of a quorum shall constitute a majority.)
6. The proceedings of the Board shall be governed by Robert's Rules of Order, Newly Revised, insofar as applicable.

ARTICLE III

CASES BEFORE THE BOARD

1. The procedure of appeal.
 - A. A written appeal or variance shall be filed with the Secretary of the Board from any order, requirement, decision, or determination by the zoning administrator in the enforcement of the zoning ordinance. Except as otherwise provided by law, the Board's action on variances shall be guided by the following principles:
 - (1) That the exception or variance desired arises from some condition which is not common to other properties.
 - (2) That the granting of the variance will not prejudice the rights of or be detrimental to the adjacent property owners or residents.
 - (3) That the strict application of the terms of this ordinance will constitute unnecessary hardship or practical difficulty upon the development of the property represented in the appeal. The hardship or difficulty must be peculiar to the zoning parcel in question and different from that of other parcels, not one which
 - (4) That the exception or variance desired is not against the public interest.
 - (5) The variance cannot be considered a use variance, except in extreme circumstances.
 - B. Notice shall be given prior to the hearing to all property owners within a distance of 175 feet of the property concerned of the time, place and character of the proposed hearing.

C. The appeal shall be in writing on forms provided by the Secretary of the Board, which can be obtained in the office of the Zoning Administrator at City Hall.

- (1) This application for appeal shall be filed within thirty (30) days after a ruling has been made by the Zoning Administrator.
- (2) One copy of the application shall be filed with the Zoning Administrator.
- (3) When the application for appeal is filed, the Zoning Administrator shall forthwith transmit all of his records regarding the matter to the Board, and the Zoning Administrator or a designee shall be present at the hearing.

D. The appellant must include on the application form explicit, legible statements setting forth:

- (1) The principal points on which the appeal is made or variance is needed, stating the hardships or practical difficulty that will be encountered if not granted.
- (2) A clear and accurate description of the proposed work and use, including an accurately prepared site plan of the subject property.
- (3) Specific reference to that section of the zoning ordinance under which it is claimed the permit should be issued.
- (4) Names and addresses of all owners of property within a distance of 175 feet of the property concerned, accompanied by reasonable proof that this information is correct.

2. No appeal shall be considered, where an appeal case has been previously decided, involving the same premises and zoning ordinance requirements within one year except in cases where new plans or new facts pertaining to said requirements or regulations are presented, showing changed conditions or circumstances which in the opinion of the Board materially alter the aspect of the case.

ARTICLE IV

CALENDAR

1. The Zoning Administrator shall maintain a docket for all appeals, numbering the appeals on the docket consecutively.
2. Appeals shall be placed on the hearing calendar of the Board within thirty (30) days from the date filed.

3. Appeals shall be assigned for hearing in the order in which they appear on the calendar, except that the hearing of any appeal may be advanced or postponed by order of the Board upon good cause being shown.

ARTICLE V

NOTICE OF HEARING

1. Notice to the appellant shall be given not less than seven (7) days prior to the date of hearing and shall be by certified mail to his last known address.
2. Notice to all owners of the property within a distance of 175 feet of the property concerned shall be given not less than seven (7) days prior to the date of hearing.
3. All notices by mail shall be directed to the addresses stated in the appeal petition.
4. The Zoning Administrator shall furnish the official city newspaper with a brief notice of the cases on the calendar of the Board for publication as a news item prior to the public hearing.
5. The Zoning Administrator shall cause publication of hearing in the official city newspaper in one issue, the same to be made at least ten (10) days prior to the date of hearing.
6. The Zoning Administrator shall forthwith, upon the making and filing of the Board's order or decision, mail a copy thereby to appellant(s) and to any parties aggrieved by said order or decision who appeared at said hearing or whose names were upon any written protest or communication pertaining to the appeal.

ARTICLE VI

HEARING OF CASES

1. All hearings of the Board and all official actions taken by the Board shall be public, but in the consideration of any case before it, the Board may go into executive session for the purpose of discussion, as may be permitted by the Open Meeting Law.
2. The appellant shall be present at the public hearing either in person or by counsel or agent. The appellant, and the persons appearing in his/her behalf, shall be heard first and thereafter the individuals appearing in opposition to the appeal. In the event of the absence of the appellant, the Board may at its discretion hear from the persons appearing in opposition, and may have the transcript of their statements presented for consideration in arriving at a decision, or, at the discretion of the Board, a subsequent meeting may be held to review these statements.

3. The Board may summon witnesses.

ARTICLE VII

FINAL DISPOSITION OF APPEAL

1. The final disposition of every appeal shall be in the form of a resolution or motion containing all pertinent findings.
2. In exercising its powers, the Board by its resolution may:
 - A. Reverse or affirm wholly or partly; or
 - B. Modify the order, requirement, decision, or determination appealed from; or
 - C. Grant such variance or exception in accordance with the evidence and law as it deems proper.
3. Every variance or exception granted or denied by the Board shall be accompanied by written findings of fact and reasons for granting or denying the variance or exception, and various conditions may be stipulated by the Board to be fulfilled before granting of a variance or exception.
4. In case of failure to reach a decision in the case of any appeal, the matter shall be presented at the next meeting.
5. An appellant may withdraw an appeal at any time prior to the adoption of the resolution which would dispose of the appeal.
6. The secretary shall transmit to the appellant a copy of the resolution of the final action of the Board within then (10) days after a decision has been reached by the Board.
7. In the event that the appellant fails to perfect his appeal, the Board may at any time thirty (30) days or more after the filing of the appeal, by the vote of the majority of the members, dismiss the appeal for want of prosecution.

ARTICLE VIII

REHEARINGS

1. Requests for rehearing shall be in writing. They shall recite the reasons for the request. No request for rehearing will be entertained unless new evidence is submitted which could not reasonably have been presented at the previous hearing. If the request is granted, the same procedure will be followed, in all particulars, as in the case of an original appeal.
2. The allowance of a request for rehearing shall require the concurrence of three (3) members of the Board.
3. When a rehearing is permitted, the Board may, in its resolution, stipulate the conditions to which the rehearing shall be subject.

ARTICLE IX

AMENDMENTS

1. Amendments to these rules may be introduced at any meeting of the Board and voted on at any subsequent regular meeting provided that notice of the consideration of any such amendment or passage is mailed to each member prior to the regular meeting.

ARTICLE X

RECORDS

1. The records of appeal cases shall be kept on file in the office of the Zoning Administrator in such manner as to be available for public inspection at all reasonable times.

ARTICLE XI

ORDER OF BUSINESS AT REGULAR MEETINGS

1. The order of business at regular meetings of the Board shall be as follows:
 - A. Roll call.
 - B. Approval of minutes of previous meetings and action thereon.
 - C. Hearing of cases.
 - D. Resolutions for adoption.
 - E. Miscellaneous matters.
 - F. Adjournment.