

VILLAGE OF MAPLE BLUFF

BOARD OF APPEALS

RULES OF PROCEDURE

RULE 1. GENERAL GOVERNING RULES.

The Zoning Board of Appeals (Board) shall be governed by the State zoning enabling law as contained in §62.23 of the Wisconsin Statutes, the Zoning Code of the Village of Maple Bluff (Village) contained in Article III, and by these rules of procedure. Whenever any conflict exists between these rules and the laws of the State or ordinances of the Village, the State laws or Village ordinances shall prevail. All references are to the current Wisconsin Statutes.

RULE 2. MEETING.

(A) OPEN TO PUBLIC. All meetings and hearings of the Board shall be open to the public. The final vote on an appeal shall be taken by roll call vote, recorded and open for public inspection in the Village office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meetings Law.

(B) REGULAR MEETINGS. Regular meetings shall be held at the call of the Chair and at such other times as the Board may determine.

(C) HEARINGS. Hearing may be held at any regular or special meeting at the time set by the Chair.

(D) QUORUM. A quorum for any meeting or hearing shall consist of four members but a lesser number may meet and adjourn to a specified time.

(E) ORDER OF BUSINESS. The order of business at regular meetings shall be substantially as follows:

- (1) Roll call.
- (2) In the absence of the Chair, elect a temporary Chair by the members present.
- (3) Read and approve minutes of previous meeting.
- (4) Unfinished business.
- (5) General hearing and contested cases.
- (6) New business.
- (7) Communications and miscellaneous business.

(F) VOTING.

(1) Member Interest. Members shall disclose any financial or personal interest in a decision. The Chair shall decide whether a member shall participate in the decision or vote upon any case in which the member is financially or personally interested. The Chair may direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.

(2) Record of Vote. The Secretary shall record the vote of each member on every question in the minutes or, if the member is absent or fails to vote, shall indicate such fact in the record of the proceedings.

RULE 3. BOARD DUTIES AND POWERS.

The Board shall have the powers granted by Wis. Stats. 62.23(7)(e) and Zoning Code Article III. Any future amendments, revisions or modifications of the statutes or ordinances incorporated herein are intended to be made a part of these Rules of Procedure.

RULE 4. APPEALS AND APPLICATION.

(A) TIME OF APPEAL. Appeals from a decision or order of an officer, or department of the Village shall be filed in writing with the Village Administrator and Appeals from the Building Board shall be filed with the Building Inspector, within 30 days after the date of the written decision or order from which the appeal is taken, specifying the grounds thereof. Sundays and holiday shall be counted, except if the last day fall on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next business day.

(B) WHO MAY APPEAL. Appeals to the Board may be made by any person aggrieved by a decision or order of an officer, department or Building Board.

(C) ELECTION TO HAVE APPEAL HANDLED AS A CONTESTED CASE. The appellant may elect in his/her written appeal to have his/her appeal handled as a contested case.

(D) FEE. All appeals filed with the Building Inspector shall be accompanied by a receipt from the Village Treasurer showing payment of such fees as may be required by the Village Board.

RULE 5. STAYS

An appeal shall stay all proceedings of the action appealed from, unless the officer or Board from which the appeal is taken certifies to the Board, after the appeal has been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application and notice to the officer or Board from which the appeal is taken and on due cause shown.

RULE 6. HEARINGS.

(A) NOTICE OF HEARING. Notice of the time, date and place of the hearing of an appeal shall be given as provided by Article II Public Notice Requirements of the Village Zoning Code.

(B) APPEARANCES. The appellant may appear in person or by his/her agent or attorney. In the absence of an appearance for or against an appeal, the Board may dismiss the appeal or may dispose of the matter on the record before it.

(C) COMPELLING ATTENDANCE OF WITNESSES. The Chair, and in his/her absence the temporary Chair, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Secretary not less than 2 business days prior to the hearing except by special permission of the Chair.

(D) The chair, and in his/her absence, the temporary Chair shall have the authority to issue a Pre-Hearing Order for the purpose of narrowing the issues.

(E) ORDER OF BUSINESS.

(1) General Hearing. At a hearing, the order of business shall be as follows:

- a. Statement of the nature of the case by the Chairman.
- b. Appellant's side of the case.
- c. Questions by members and Village Attorney.
- d. Zoning Administrator or Building Inspector's side of the case.
- e. Questions by members and Village Attorney.
- f. Statements by interested parties.
- g. Questions by members and Village Attorney.
- h. Appellant's rebuttal.

(2) Contested Cases. If the appellant elects to have his/her appeal treated as a contested case, and the case does not involve an appeal of a decision by the Building Board, the order of business shall be as follows:

- a. Call to order by the Chair.
- b. Appellant's opening statement.
- c. Zoning Administrator or Building Inspector's opening statement.

- d. Opening statement of persons aggrieved and other interested parties. The right to make an opening statement is limited to persons who will present evidence.
- e. Appellant's case-in-chief.
- f. Questions by members and Village Attorney.
- g. Cross-examination. No more than one person for each party shall cross-examine witnesses. The Chair may limit the number of parties who may cross-examine.
- h. Zoning Administrator or Building Inspector's case-in-chief.
- i. Questions by members and Village Attorney.
- j. Cross-examination as under g.
- k. Case-in-chief of other parties.
- l. Questions by members and Village Attorney.
- m. Cross-examination as under g.
- n. Rebuttal by appellant. Rebuttal is limited to matters raised by the adverse parties by way of evidence or argument.
- o. Statements of opinion of neighbors or abutting land owners – not subject to cross-examination.
- p. Closing statements of those who made or waived opening statements.

(F) EVIDENCE AND OFFICIAL NOTICE. See 227.45, Wis. Stats.

(G) ADJOURNMENTS. When all appeals cannot be disposed of on the day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board.

(H) WITHDRAWAL. An appellant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the application shall not entitle the appellant to return of the filing fee.

RULE 7. DECISION AND DISPOSITION OF CASES.

(A) TIME OF DECISION. The Board shall render its decision either at the termination of the hearing or within 15 calendar days thereafter and shall notify the parties in interest in writing of its decision.

(B) FORM OF DECISION. The final disposition of an appeal shall be in the form of a written decision or order signed by the Chair and Secretary. Such decision shall state the reasons for the Board's determination and its finding of fact and shall either affirm, reverse, vary, modify or dismiss the order, requirement, decision or determination appealed, in whole or in part.

(C) VOTE REQUIRED. All orders or decisions of the Board granting a variance or permit, or reversing any action or order of the Zoning Administrator, Building Inspector or Building Board requires the affirmative vote of 4 members.

(D) CONDITIONS. Conditions with variances or conditions imposed in any permit shall be stated in the decision or order embodying the Board's decision and shall also be set forth in the building permit issued under that order by the Building Inspector. A permit shall be valid only as long as the conditions upon which it is granted are observed. The Board may upon request extend such authorization for a specific period without the necessity of another public hearing.

(E) FILING OF DECISION. Every order or decision of the Board shall be immediately filed with the Secretary and shall be a public record.

RULE 8. RECONSIDERATION.

(A) RESUBMISSION. No appeal which has been dismissed or denied shall be considered again without material substitutions or evidence within one year of the Board's decision except by motion to reconsider made by a member voting with the majority or as provided in sub. (B).

(B) REHEARING. No rehearing shall be held except upon the affirmative vote of 4 or more members of the Board upon finding that substantial, new evidence is submitted which could not reasonably have been presented at the previous hearing, or proof of change of conditions found to be valid by the Board. Requests for rehearing shall be in writing and shall state the reasons for the request and be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice requirements as original hearings.

RULE 9. AMENDMENTS OR SUSPENSION OF RULES.

These rules may be amended or revoked by a majority vote of the Board at any meeting, provided written notice of the proposed amendment or change is given to each member at least 10 days before such meeting. Suspension of the rules may be ordered at any meeting by a vote of not less than 4 members.

RULE 10. APPEALS TO COURT

Decision of the Board may be appealed under Wisconsin Law.