



## **BOARD OF APPEALS**

## **RULES OF PROCEDURE**

Revised August 8, 2023

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**I. GENERAL GOVERNING RULES**

The Board of Appeals (Board) of the City of Beloit, Wisconsin shall be governed by the Zoning Law as contained in section 62.23 of the Wisconsin Statutes and the Zoning Ordinances of the City of Beloit, as amended, and by the Rules of Procedure hereinafter set forth. Whenever any conflict shall exist between these Rules and the laws of the State or the ordinances of the City, the State laws and local Ordinances shall prevail.

**II. MEMBERSHIP**

The Board shall consist of seven members (five regular with two alternates as outlined in State law) appointed by the President of the City Council, subject to the confirmation of the City Council. The members term shall be for a period of three years beginning on June 1 of the first year and ending on May 31 of the third year. The Council President shall designate alternate members. Vacancies shall be filled for the unexpired term of a former member of the Board the same as appointments for a full term.

**III. OFFICERS AND DUTIES**

**A. Selection of Officers**

The board shall elect a chair, a vice chair and second vice chair annually at the board's first meeting in June. The board shall submit the chair's name to the City Clerk immediately after selection.

**B. Duties**

The chair shall preside over all meetings of the board. The vice chair shall preside over the meetings in the chair's absence and the second vice chair shall preside in the absence of both the chair and vice chair. In the absence of the chair, vice chair and second vice chair, a president pro tem shall be chosen from those present and shall preside. The presiding officer may compel the attendance of witnesses and administer oaths.

**C. Staff Support**

The Community Development Department shall provide staff support services to the board. The staff support person shall conduct all correspondence of the Board; receive, file, and docket all appeals, applications, papers and records; prepare, publish, and mail all notices required by law, ordinance, rule or request of the Board or Chair; prepare and keep calendars, minutes of Board proceedings; and, generally, attend to all administrative work of the Board. The minutes shall include the vote of the Board upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Community Development Department. The staff person shall transmit a written copy of the minutes and records of the board to the City Clerk. The City Clerk shall be the custodian of the records of the board.

The Director of Planning and Building Services or designee shall attend all meetings for the purpose of providing technical assistance when requested by the Board. Such technical assistance shall include a staff report setting forth the position of the Director

of Planning and Building Services or designee in relation to each appeal or application listed on the agenda for consideration by the Board. Said staff report shall be available for the examination of the appellant or applicant and all interested parties.

**D. Oaths of Office**

Official oaths shall be taken by all members in accordance with section 19.01 of Wisconsin Statutes. A Statement of Economic Interest must be filed in accordance with section 1.12(3) City of Beloit Code of General Ordinances.

**IV. MEETINGS**

**A. Regular Meetings**

Regular meetings of the Board shall be held on the second Tuesday of each month.

**B. Special Meetings**

Special meetings may be called by the Chair, or at the request of two Board members. Notice of a special meeting must be sent to each member at least 48 hours prior to the time set for the meeting. Electronic mail shall be the method of communication.

**C. Annual Meeting**

The first regular meeting in June shall be the Board's annual meeting at which its officers shall be elected.

**D. Open to the Public**

All meetings of the Board shall be open to the public, except that the Board may go into closed session, pursuant to Section 19.85(1)(a), Wisconsin Statutes, to discuss cases and arrive at its decision. The decision and vote shall be announced in open session.

**E. Cancellation of Regular Meetings**

Whenever there are no cases or other business to be considered at any regular meeting, other than the annual meeting, the meeting may be cancelled by notifying each member by electronic mail after the deadline to file for the meeting.

**F. Hearings**

Hearings may be held at any regular or special meeting, at any time set by the Chair.

**G. Quorum**

A quorum for any meeting shall consist of three members.

**H. Order of Business**

The order of business at regular meetings shall be substantially as follows:

1. Call to Order and Roll Call
2. Minutes

3. Variances
4. Appeals
5. Such Other Matters as May be Authorized by Law
6. Adjournment.

**I. Voting**

1. Personal Interest. No Board member shall take any official action, including participating in and voting upon, any matter in which the Board member, or a member of his or her immediate family, or an organization, with which the Board member is associated, has a substantial financial interest. Nor shall any member use their position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the Board member, or a member of his or her immediate family, or an organization with which the Board member is associated.

In the event a Board member cannot serve, the Chair shall direct the alternate member to act in his or her stead. Disqualification of a member for interest shall not decrease the number of votes required for action upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business. If three financially disinterested Board members are not available to transact business, the business shall be adjourned until such time as three financially disinterested Board members are available. Any issue of financial interest shall be brought to the attention of the Chair prior to the hearing of the appeal in question. In the event a Board member has a possible conflict, the Chair shall be asked to make a determination. If the Chair has an issue of a possible conflict, it shall be referred to the Vice-Chair, or to the Board if no Vice-Chair has been approved.

2. Record of Vote. A record of the vote of each member on every question shall be recorded in the minutes, or, if the member is absent or fails to vote, shall indicate such fact in the record of the proceedings.

**V. APPEALS AND APPLICATIONS**

**A. Time of Appeal**

Appeals shall be filed within 30 days after the date of receipt of the written decision or order from which the appeal is taken. The date of receipt of the decision shall not be counted in determining the time for filing of the appeal. Saturdays, Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day.

**B. Who May Appeal**

Appeals or applications to the Board may be made by:

1. Any person aggrieved by an order, requirement, decision or determination of an administrative official of the City in the Administration of the Zoning Code.

2. Any officer, department, board, or bureau of the City affected by a decision of an administrative official of the City in the Administration of the Zoning Code.

**C. Appeal/Application Forms**

Every appeal or application shall be made upon forms furnished by and available from the Community Development Department. A scale drawing shall accompany each application for a variance showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the Chair which is necessary to inform the Board of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application. The Board may waive these requirements where it is felt that such information is not necessary in order to reach a determination.

**D. Filing Appeal/Application**

All appeals/applications shall be filed with the Community Development Department.

**E. Fee**

Appeals and applications filed with the Community Development Department shall be accompanied by the required filing fee. No fee shall be refunded after the appeal has been filed except that in the event of an error by Board staff.

**VI. HEARINGS**

**A. Notice of Hearing**

Notice of the time, date and place of the hearing of an appeal or application shall be given in the following manner:

1. To the appellant/applicant by electronic mail or personal service not less than five days prior to the date of the hearing. The notice shall contain a listing of the date, time, and place of the hearing. A copy of the City's staff report shall be electronically mailed to the appellant/applicant no less than five days prior to the date of hearing.
2. In every case involving a variance, city staff shall mail notice to the owners of record of all land within 150 feet of any part of the proposed building or premises not less than seven days prior to the date of the hearing.
3. A Class I notice of the hearing shall be published in the official newspaper not less than seven days prior thereto. The Beloit Daily News shall be considered the official newspaper.
4. Notice of all appeals and petitions for variances under the Flood Plain District

of the Zoning Ordinance and a copy of all decisions by the Board of Appeals shall be mailed to the Southern District office of the Wisconsin Department of Natural Resources at least ten days in advance of the hearing and within ten days after the decision.

**B. Time of Hearing, Docketing**

Each appeal or application properly filed shall be numbered serially, and put on the Board calendar. Cases docketed 25 or more days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed less than 25 days prior to a regular meeting shall be set for hearing on the next regular meeting day thereafter.

**C. Appearance**

The appellant or applicant may appear in person or by his agent or attorney. In the absence of an appearance for or against an application, the Board may dismiss the appeal or may dispose of the matter on the records before it.

**D. Oath**

Witnesses may be sworn before testifying at the direction of the presiding officer.

**E. Compelling Attendance of Witnesses**

The presiding officer may compel the attendance of witnesses by subpoena. Written request for subpoenas must be filed with the staff support for the Board not less than five days prior to the hearing, except by special permission of the presiding officer.

**F. Order of Hearing**

Appeals and applications shall be heard in numerical order, except by order of the Board on good cause shown.

**G. Order of Business**

The order of business shall generally be as follows:

1. Calling of the case by the presiding officer
2. Statement of the case and presentation of the City's side of the case
3. Questions by Board members
4. Applicant's side of the case
5. Questions by Board members
6. Statements by interested persons
7. Questions by Board members
8. Applicant's, staff, and interested persons rebuttal

The presiding officer may determine an alternate order of business depending upon the facts of a particular hearing.

**H. Evidence and Official Notice**

The Board shall not be bound by strict rules of evidence, not limited to consideration



of such evidence as would be admissible in a court of law, but it may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence. The presiding officer shall rule on all questions relating to the admissibility of evidence, but may be overruled by a majority of the Board members present. Written and oral testimony will be received. The presiding officer shall rule on cross-examination of any witnesses.

The Board may take official notice of the ordinances of the municipality, the zoning and location of the subject property and geographical features or other facts, which are common knowledge in the municipality or can be verified by reference to public record.

**I. 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.

**J. Withdrawal**

An appellant may withdraw an appeal at any time prior to decision thereon, but if a motion is pending to grant or dismiss the appeal, such motion shall have precedence. Withdrawal of the appeal shall not entitle the applicant or appellant to remission of the filing fee.

**VII. DECISION AND DISPOSITION OF CASES**

**A. Time of Decision**

The Board shall render its decision either at the termination of the hearing or within 30 days thereafter. Staff support to the Board shall notify the parties in interest in writing of the Board's decision.

**B. Form of Decision**

The final disposition of an appeal or application shall be in the form of a written decision or order signed by the presiding officer. Such decision shall state the reasons for the Board's determination, with findings of fact and conclusions of law, and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal or grant or deny the variance requested.

**C. Vote Required**

All orders or decisions of the Board granting a variance or affirming or reversing any action or order of an administrative officer shall require the affirmative vote of the majority of members present, including alternates empowered to act in the absence of regular members.

**D. Conditions**

Conditions imposed as part of approval of any application considered by the Board shall be stated in the decision or order embodying the Board's decision and shall be set forth in the applicable permit issued. A permit shall be valid only as long as the conditions upon which it is granted are observed. Appeals or applications approved by the Board shall expire six months after issuance if the performance of work is required and substantial work has not commenced.

**E. Filing of Decision**

Every order or decision of the Board shall be immediately filed with and maintained in the Community Development Department. Staff Support for the Board shall mail a copy of the decision to the applicant or appellant and to the applicable administrative official. Copies of decision granting variances in a floodplain ordinance shall be mailed to the Southern District office of the Wisconsin Department of Natural Resources.

**F. Appeal From Decision of the Board**

A decision of the Board of Appeals may within 30 days after the filing of the decision in the office of the Board of Appeals commence an action seeking to remedy available by certiorari as provided by Wisconsin Statutes.

**VIII. RECONSIDERATION AND REHEARING**

**A. Resubmission**

No appeal or application which has been dismissed or denied shall be considered again without material alteration or revision within one year of the Board's decision except pursuant to court order or by motion to reconsider made by a member voting with the majority or as provided in subparagraph (B).

**B. Rehearing**

No rehearing shall be held except upon the affirmative vote of four 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. Requests for a rehearing shall be in writing, shall state the reasons for the request and shall be accompanied by necessary data and diagrams.

**C. Notice**

Any resubmission or rehearing shall be subject to the same notice requirements as original hearings.

**D. Fees**

In the event that the request for resubmission or rehearing shall come from a member of the Board, there shall be no filing fee required. In the event the request for resubmission or rehearing shall come from any other person, not a member of the Board, a filing fee as required for original applications shall accompany the request.

**IX. AMENDMENTS**

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 ten days before such meeting. Suspension of the rules may be ordered at any meeting by a majority vote of the members present, including alternates empowered to act in the absence of regular members.