

# **Chapter Ten**

## **Organizational Structure**

Board of Zoning Appeals and Plan Commission

## Notice Requirements

All appeal, variance, and special exception requests shall comply with the notice requirements of state law and the zoning ordinance. Such notice will be completed by the petitioner, at the petitioner's expense.

A. Contents. Any notice of public hearing shall contain the following information:

1. Petition number and the substance of the matter to be heard.
2. General location by address and other identifiable geographical characteristics of the property.
3. Name of the person or agency initiating the matter to be heard.
4. Time and place of the hearing.
5. Statement that the petition may be examined at the office of the Board.
6. Statement that interested parties may offer an oral opinion at the hearing or may file written comments concerning the matter to be heard prior to or at the hearing.
7. Any other information which may be required by law to be contained in such notice.

B. Certification of Public Notice (newspaper advertisement). The applicant or petitioner shall submit to the Board's office the original proof of publication from the newspaper showing the advertisement, and date of publication. A photocopy of said notice will not be considered as properly completing this requirement. This notification must appear in the newspaper not less than ten (10) days before the meeting at which the petition is to be heard.

C. Certification of Notice to Adjacent Property Owners. The petitioner shall cause notification of said hearing to all property owners of record of all land ~~adjacent~~ adjoining to the area included in the petition to a depth of two (2) property ownerships, or 660 feet, whichever is less, from the property lines of the area included in the petition. Adjacent property will include those properties across roads since roads are not considered a barrier. This notification can be by certified mail, with the green cards submitted for the file, or by certificate of mailing, with the postmarked certificate of mailing submitted for the file, or by signature of the adjacent property owner on the certification form, or by a combination of these methods. In any case, the notification to all adjacent property owners ~~and completion of the certification form~~ must be accomplished no less than ten (10) days prior to the meeting at which the petition is being heard.

~~C.D.~~ On-site Notice. The Petitioner shall place a notice of the public hearing on the property included in the petition at least ten (10) days before the date of the hearing. The notice shall remain on-site until final action on the petition has been taken. The on-site notice shall consist of a sign to be provided by the Board Staff. The sign must be placed on the subject property within five (5) feet of the right-of-way line of the public road adjacent to the property. For properties with more than one road frontage, the sign must be placed adjacent to the road deemed by the Board Staff to have a higher traffic volume. The sign text must be visible from the public road. The Board Staff may require additional notices to be posted for properties with more than one road frontage and/or those properties with greater than 600 feet of road frontage, at a reasonable rate as determined by the Board Staff.

## Mobile Home Special Exceptions; Conditions; Renewals and Changes of Ownership

Whenever the Board approves a special exception for the placement of a mobile home, the special exception shall be subject to the conditions set forth in this Rule unless the Board specifically provides otherwise. In any case, the Board may modify the conditions set forth in this Rule and may attached additional conditions to the special exception.

- A. The special exception shall be limited to the parties who are requesting the special exception. Any change with respect to the ownership of the mobile home or the person(s) residing in the mobile home shall require approval in accordance with this Rule. In the absence of such approval, the mobile home must be removed from the property within six (6) months of such change.
- B. So long as the mobile home remains on the property, the special exception must be renewed each year through the Columbia City/Whitley County Joint Planning and Building Department (the

objection, the Director shall consult the Board Chairman and Board Attorney who shall decide whether a requested document is a public record.

### **Fees**

In no case shall the Board take action on any petition for which applicable fees have not been paid in full. No part of any fee paid pursuant to this section shall be returnable to the petitioner.

### **Waivers**

Nothing herein shall be construed to require a fee for actions initiated in the public interest by the Board.

### **Amendments and Suspension**

- A. Amendments. Amendments to the Rules of Procedure may be made by the Board at any regular or special meeting upon the affirmative vote of three members.
- B. Suspension. The suspension of any rule of procedure herein may be authorized by the Board at any regular or special meeting upon the affirmative vote of three members, provided that no rule which is required to comply with federal, state, or local law may be so suspended.

### **Separability**

In any section, clause, provision, or portion of these rules shall be held invalid or unconstitutional by a court of competent jurisdiction; such decision shall not affect the validity or constitutionality of any other section, clause, provision, or portion of these rules.

## **10.8 Appeals**

The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant or refusal made by the Executive Director in the administration of this Ordinance.

Every decision of the Board of Zoning Appeals shall be subject to review by a writ of certiorari as prescribed in IC 36-7-4-1000 series. Such appeals shall be presented to a court of jurisdiction within thirty (30) days of the Board's decision and not thereafter.

## **10.9 Special Exceptions**

There shall be no cases or application therefore, nor any particular situation in which these rules authorize special exceptions without the approval of the BZA. Further, no previous applications shall set precedence for any other application before the BZA.

- A. The Board may grant a special exception for a use in a district if the following requirements are met:
  - 1. the special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;
  - 2. the special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;
  - 3. the special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;
  - 4. the special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,
  - 5. the special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.
- B. When considering a Special Exception the Board of Zoning Appeals may examine the following performance standards:

### **Eligible Applicants**

The owner(s) of property included in any petition before the Commission must consent to the filing of the application. Such consent may be evidenced by the owner's notarized signature on said application or by signature of a person having power of attorney authorizing such signature. In the case of property which is being purchased under a land contract, the signatures of both the contract purchasers and the contract sellers or their duly authorized agents shall be required.

## **10.19 Notice Requirements**

### **Contents**

- A. Any notice of public hearing required by Federal, State, or Local law shall contain as a minimum the following information:
- B. Docket number and the substance of the matter to be heard.
- C. General location by address or other identifiable geographical characteristics of the property.
- D. Name of the person or agency initiating the matter to be heard.
- E. Time and place of the hearing.
- F. Statement that the petition may be examined at the office of the Commission.
- G. Statement that interested parties may offer an oral opinion at the hearing or may file written comments concerning the matter to be heard prior to or at the hearing.
- H. Any other information which may be required by law to be contained in such notice.

### **Publication**

When the Commission is required by law to publish a newspaper of general circulation a notice prior to any hearing of the Commission, the staff shall cause such notice to be published in accordance with the time periods established by the applicable law. Proof of such publication shall be obtained by the staff and kept in the appropriate file.

### **Notice**

Method of Notice. ~~The petitioner shall cause notification of said hearing to all property owners of record of all land adjoining the area included in the petition to a depth of two (2) property ownerships, or 660 feet, whichever is less, from the property lines of the area included in the petition. Adjacent property will include those properties across roads since roads are not considered a barrier. The petitioner shall cause notification of said hearing to all property owners, of record, of all land abutting, or facing the area included in the petition.~~ The petitioner shall also cause due notification to any property owners involved within the petitioned area. ~~Notification to the property owners shall be given on a form supplied by the Plan Commission.~~ This notification can be by certified mail, with the green cards submitted for the file, or by certificate of mailing, with the postmarked certificate of mailing submitted for the file. In any case, the notification to all adjacent property owners and completion of the certification form must be accomplished no less than ten (10) days prior to the meeting at which the petition is being heard.

On-site Notice. The Petitioner shall place a notice of the public hearing on the property included in the petition at least ten (10) days before the date of the hearing. The notice shall remain on-site until final action on the petition has been taken. The on-site notice shall consist of a sign to be provided by the Commission Staff. The sign must be placed on the subject property within five (5) feet of the right-of-way line of the public road adjacent to the property. For properties with more than one road frontage, the sign must be placed adjacent to the road deemed by the Commission Staff to have a higher traffic volume. The sign text must be visible from the public road. The Commission Staff may require additional notices to be posted for

properties with more than one road frontage and/or those properties with greater than 600 feet of road frontage, at a reasonable rate as determined by the Commission Staff.

### **Evidence of Notice**

Affidavit of notice to adjacent property owners must be notarized to the considered evidence. Certified mail receipts or postmarked certificate of mailing ~~personal signatures of the adjacent property owners~~ shall be considered as proof of proper notification.

## **10.20 Committees**

### **Authority**

The presiding officer is hereby authorized to appoint permanent and temporary committees to facilitate the work of or advise the Commission. Such committees may be comprised of Commission members only, or they may include other interested parties. A chairman shall be appointed for each committee, and reports on their assignments shall be made a part of the record. The president shall be an ex officio member of any committee so appointed.

### **Standing Committees**

The following shall be standing committees:

Executive Committee. An executive committee consisting of the officers of the Commission shall be a permanent committee which shall be authorized to act on behalf of the Commission on all matters except those where final action of the Commission or Plat Committee is required. The president shall be chairman of said committee.

Plat Committee: A plat committee consisting of up to five (5) members shall be a permanent committee. At least one of the members must be a citizen member of the Plan Commission. Each member of the committee shall be appointed by the Commission for one year. The Commission may appoint alternative members to the Plat Committee who may serve as voting members in the event the regular member is unable to attend or abstains from voting. The alternate for the Commission member(s) shall be another citizen member of the Commission.

Subdivision Review Committee. A Subdivision Review Committee shall be permanent committee consisting of the following members: planning director, county engineer, county sanitarian, representative of United Telephone Company, representative of Northern Indiana Public Service Company, representative of REMC, representative of Columbia City Municipal Utilities, and such other representative as the planning director may invite to aid in the review of scheduled petitions. Members may designate representatives to participate in any and all meetings of the committee. The planning director or his/her designee shall serve as chairman of the committee. The Subdivision Review Committee is established for the purposes listed below. In no way is the existence of the committee to be construed to limit the scope of discussion or findings of fact on any matter before the Commission or to prevent any member of the committee for raising additional issues which may come to light after the committee meeting.

1. To review all subdivision petitions filed with the Commission for compliance with the technical requirements of the Subdivision Control Ordinance.
2. To enhance the coordination of efforts to evaluate proposed land development.
3. To encourage cooperation between the Commission, staff, and petitioners by resolving problems at the staff level where possible.
4. To provide non-binding findings of fact and recommendations on subdivision petitions before the Commission.