

**RULES OF PROCEDURE
HENRY COUNTY BOARD OF ZONING APPEALS**

Article I. Authority

1. The Henry County Board of Zoning Appeals, hereinafter referred to as the Board, was established by the Board of County Commissioners of Henry County, Indiana, in accordance with the provisions of Chapter 174, Acts of 1947, of the General Assembly of the State of Indiana, and all Amendments thereto.

Article II. Jurisdiction and Purpose

1. The Board's jurisdiction includes the following areas:
 - a. All unincorporated land, both named and unnamed within Henry County.
 - b. Those incorporated land areas within a city or town that have selected the Planning Commission as the planning organization for their city or town.
 - c. The list, description and/or map identifying all those areas of jurisdiction shall be maintained in the Planning Commission Office.
2. The Board's purpose is to conduct public hearings and render decisions on appeals, variances, special exceptions or changes of non-conforming uses and to hear other petitions deemed to fall under its jurisdiction including appeals from and review of any decision or determination made by the Zoning Administrator, as provided for by the County Zoning Ordinance. The Board shall enforce the provisions of said ordinance and promote the health, safety and general welfare of the residents of the County.

Article III. Duties

1. The Board shall hold meetings, keep minutes and, pursuant to notice, shall conduct hearings, compel the attendance of witnesses, take sworn testimony and render decision in writing, all as required by law. When permitting any appeal, variance, special exception or change of a non-conforming use, the Board may impose such conditions and requirements as it deems necessary for the protection of adjacent property, the public interest and assure compliance with the purpose of the Zoning Ordinance.
2. The Board may appoint, prescribe the duties and fix the compensations of such employees as are necessary for the discharge of the duties and responsibilities of the Board. All compensations shall be subject to approval of the County Council. The Board may make

**RULES OF PROCEDURE
HENRY COUNTY BOARD OF ZONING APPEALS**

contracts for special or temporary services, professional counsel and technical services with such compensation as approved by the County Council.

3. The Board may approve the attendance at a state, regional or national conference of its members or employees, and approve the actual expenses of the attending member or employee provided the amount has been approved by the County Council in the Planning Commission budget.

Article IV. Membership and Offices

1. The Board shall consist of five (5) members who shall be appointed as follows:
 - a. One (1) citizen member shall be appointed by the County Council who is NOT a member of the Planning Commission;
 - b. One (1) member shall be the appointee of the County Commissioners and shall be from the Planning Commission;
 - c. Two (2) citizen members shall be the appointees of the County Commissioners and shall NOT be from the Planning Commission;
 - d. One (1) member shall be the Planning Commission's appointee from the Planning Commission membership other than the appointee of the County Commissioners.
2. A Chairman shall be elected at the first regular meeting of the Board in each calendar year. The chairman shall preside at all regular and special Board meetings,
3. A Vice-Chairman shall be elected in the manner prescribed for the President and shall have the authority to act as Chairman during the absence or disability of the President
4. A Secretary shall be elected in the manner prescribed for the Chairman and Vice-Chairman and shall have the authority to act as President during the absence or disability of the Chairman and Vice-Chairman.
5. The Zoning Administrator shall cause minutes of the Board's meetings to be maintained in a permanent volume, notice to be served of all public hearings, and notification to be served to all members of all meetings.
6. A Recording Secretary shall be appointed by the Zoning Administrator at such salary as approved by the County Council. The Recording Secretary, subject to the direction of the Chairman and the supervision of the Zoning Administrator, shall record all examinations and other official actions including all important facts pertaining to each meeting and hearing, all resolutions or motions acted upon by the Board, final determination on any question, indicating

**RULES OF PROCEDURE
HENRY COUNTY BOARD OF ZONING APPEALS**

the names of any members absent or failing to vote. All records shall be public and shall be immediately filed in the office of the Recording Secretary.

Article V. Meetings

1. Meetings shall be at the call of the Chairman and at other times as the Board may determine. The meeting shall normally be devoted to the consideration of petitions for variances, special exceptions, appeals, changes of non-conforming use or other legitimate request deemed to fall within the Board's authority, and shall be open to the public. Discussions of zoning in general, the introduction of resolutions by the Board, routine business and administration, and policy determination shall be considered as time permits.
2. A majority, three (3) of the members shall constitute a quorum. No action shall be official unless authorized by a concurring vote of three members.
3. It shall be the policy of the Board that no member who has a direct or indirect monetary or other personal interest in any project or petition being considered officially by the Board shall in any way act or vote upon such project or petition, but shall signify such interest and be excused from the Board's proceedings as they apply thereto. The minutes of such meetings shall clearly indicate the non-participation of such members.
4. All Board meetings shall be open to the public.
5. Public hearings shall be held within a reasonable time after the receipt of an application. However, the public hearing shall not be held sooner than ten (10) days after the application's receipt.
6. Notice of public hearing, including written notice to parties of interest shall be made as required by Section 156.195 of the Henry County Zoning Ordinance.
7. The order of business at regular monthly meetings shall be as follows:
 - a. The roll call of members present;
 - b. Approve minutes of previous meetings as required;
 - c. Public hearings on petitions and other business as scheduled by the Zoning Administrator;
 - d. Correspondence and reports;
 - e. Unfinished business;
 - f. New business;
 - g. Adjournment.

**RULES OF PROCEDURE
HENRY COUNTY BOARD OF ZONING APPEALS**

8. The order of business at special meetings shall be as follows:
 - a. The roll call of members present;
 - b. Statement of business as scheduled by the Zoning Administrator,
 - c. The special business;
 - d. Adjournment.

9. In the conduct of public hearings the Chairman shall:
 - a. Request the Zoning Administrator to present the petition, with a brief background and graphic illustrations;
 - b. Recognize the petitioner, clarify the petition as required so all present understand, and swear in the petitioner.
 - c. Recognize those appearing on behalf of the petitioner.
 - d. Recognize those appearing against the petitioner, including any questions about the petition.
 - e. Allow presentations, questions/comments, and rebuttal as follows:
 - A. Unless otherwise permitted by the Chairman, ten minutes for the petitioner to present their case;
 - B. Unless otherwise permitted by the Chairman, ten minutes for attendees to question/comment
 - C. Unless otherwise permitted by the Chairman, five minutes for government/public elected officials to comment;
 - f. Ask the Board members if there are any questions regarding the petition.
 - g. Call for any motions from Board Members regarding the petition, and call for a vote on any such motions.
 - h. Call for a vote on the petition and announce the decision.

10. In reaching a decision on a petition, the Board shall recognize its responsibility to promote the health, safety and general welfare of the residents of the entire county. It shall recognize that the burden of proof for a variance, special exception, and change of non-conforming use, appeal or other legitimate petition lies with the petitioner and that all decisions must be based on an analysis of the facts, presented both for and against at the hearing, and the requirements of the Zoning Ordinance.

**RULES OF PROCEDURE
HENRY COUNTY BOARD OF ZONING APPEALS**

Article VI. Petitions

1. Unless otherwise permitted by the Zoning Administrator, all petitions to the Board shall be filed with the office of the Zoning Administrator on forms provided by the Plan Commission at least 30 days prior to the date of the hearing. A legal notice of the public hearing shall be published by the petitioner in a newspaper of general circulation within Henry County at least 10 days prior to the hearing at the expense of the petitioner. Notice of such hearing shall be **given by first class letter with Certificate of Mailing to the property owners of all adjoining parcels of land to a depth of two (2) ownerships or 660 feet, whichever is less, at least ten (10) calendar days prior to the date of the hearing.** ~~served by the petitioner to abutting property owners at least 10 days prior to the hearing.~~ Proof of such advertising and notification of abutting property owners shall be filed with the office of the Zoning Administrator prior to the hearing. ~~A “Notice of Hearing” card, provided by the Zoning Administrator, shall be posted by the petitioner on the property within 15 feet of the road easement and clearly visible from the road or street for at least 10 days prior to the hearing.~~ Failure to comply with the above requirements shall be grounds for continuing the petition until the next regularly scheduled public hearing of the Board. Appeals filed with the Board must meet the same requirements, including legal notice advertising requirements.

2. All petitions filed with the Board shall be accompanied by the required filing fee.

3. All petitions must include the following items:

- a. Name and address of the petitioner ~~and the notarized signature of the petitioner.~~
- b. Affidavit of Notice of Public Hearing including the list of property owners notified by certified mail.
- c. The legal description of the property.
- d. The date the property was purchased by the petitioner.
- e. A statement as to the purpose of the petition.
- f. The location of the property by road numbers and how the property is zoned.
- g. Seven copies of a plat map or accurate drawing, drawn to scale, of the property, including location, dimensions of the property, all buildings, setbacks, parking areas, the location of septic systems and wells, if applicable, and the proposed changes.

**RULES OF PROCEDURE
HENRY COUNTY BOARD OF ZONING APPEALS**

Article VII. Final Disposition of Petitions

1. The Board may dismiss an appeal for want of prosecution or the lack of jurisdiction.
2. No petition may be withdrawn by the petitioner after a vote has been ordered by the Chairman.
3. No request, petition or appeal which has been decided adversely against the petitioner shall again be placed before the Board for consideration within a period of twelve months from the date of the decision previously rendered.
4. No appeal concerning a decision of the Zoning Administrator shall be heard by the Board unless filed with the Board within thirty days after the final disposition or decision has been made by the Zoning Administrator.
5. Any order, special exception or variance granted by the Board shall automatically expire after one year, except as otherwise provided by the Board, unless any necessary improvement location permit is issued within 60 days after the Board's approval. The Board may grant extensions or renewals for a period of time as determined by the Board to be appropriate.

Article VIII. General

1. Every person appearing before the Board shall abide by the order and direction of the Chairman. Discourteous, disorderly, disrespectful or contemptuous conduct may be regarded as a breach of the privilege to appear before Board, and shall be dealt with as the Chairman deems fair and proper.
2. The Board reserves the right to continue any petition, if during the course of the hearing, the Board receives new information by either testimony, documents, or in any other format which it deems significant and which it is believed additional time is needed in order to properly evaluate and assimilate.
3. Prior to hearing a petition an inspection of the property involved in said petition shall be made by the Board members, the Zoning Administrator, or a combination of the two. The results of the inspection shall be presented at the hearing and will be included as part of the minutes of the bearing.
4. Amendments to these Governing Rules, Policies and Procedures may be made by the Board at any regular or special meeting upon the affirmative vote of a majority of the members. Any amendment to the governing rules must be presented at least 30 days prior to voting on the amendment. The suspension of any rule or procedure may be ordered at any meeting by a unanimous vote of those present.

**RULES OF PROCEDURE
HENRY COUNTY BOARD OF ZONING APPEALS**

ADOPTED:

This ____ day of _____, 2020 by the Henry County Advisory Board of Zoning Appeals after a motion, and a second, being duly made and a vote of ___ yes ___ no ___ abstain.

ATTESTED:

Chairman: _____

Dan Roach

Vice-Chairman: _____

Larry Brayton

Secretary: _____

Darrin Jacobs