

# Grant County Area Board of Zoning Appeals\*

## Rules of Procedure

### 1. General Statement

The following rules as adopted by the Grant County Area Board of Zoning Appeals (BZA) shall be utilized to conduct all BZA business. These rules shall be used in conjunction with the Grant County, Indiana Areawide Zoning Ordinance, Subdivision Ordinance, Animal Feeding Operation Ordinance, Wireless Facilities Ordinance, and IC 36-7-4-100 et.seq.

### 2. Powers and Composition of the Board

2.1 **Powers.** The powers of the Board shall be those set forth in IC 36-7-4-918.1 through 36-7-4-918.5 in conjunction with the Grant County, Indiana, Areawide Zoning Ordinance, Subdivision Ordinance, Animal Feeding Operation Ordinance, and Wireless Facilities Ordinance.

2.1.1 **Variance of Development Standards.** Pursuant to 36-7-4-918.5, The Board may grant a variance with respect to a specific property if, after a public hearing, the Board finds that:

2.1.1.1 The variance will not be injurious to the public health, safety, morals and general welfare of the community.

2.1.1.2 The use or value of the area adjacent to the property included in the variance will not be adversely affected.

2.1.1.3 The need for the variance arises from some condition peculiar to the property involved and does not exist in similar property in the same district

2.1.1.4 The strict application of the terms of the Ordinance will constitute to usual and unnecessary hardship as applied to the property for which the variance is sought.

2.1.1.5 Per IC 36-7-4-921 (a) (5) the Board may require the owner of the parcel to make a written commitment concerning the use or development of the parcel.

2.1.2 **Variance of Use.** The Board shall not grant a variance from a use district or classification.

2.1.3 **Special Exception.** Pursuant to IC 36-7-4-918.2, the Board may grant a special exception with respect to a specific property if after a public hearing, the Board finds that:

2.1.3.1 The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare of the community.

2.1.3.2 The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity from the purposes already permitted.

2.1.3.3 The establishment of the special exception will not impede or substantially alter the normal and orderly development and improvements of surrounding property uses permitted in the district.

2.1.3.4 Adequate utilities, access road, drainage, and other necessary facilities have been or are being provided.

2.1.3.5 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public roadways.

2.1.3.6 The special exception will be located in a district where such use is permitted and all other requirements set forth in the Grant County Areawide Zoning Ordinance which are applicable to such use will be met.

Per IC 36-7-4-918.2, the Board may impose reasonable conditions as part of any approval. Per IC 36-7-4-921 (a) (1), the Board may also require the owner of the parcel to make a written commitment concerning the use or development of that parcel.

2.1.4 **Classification of Use.** Pursuant to the Grant County, Indiana, Areawide Zoning Ordinance, the Board may classify uses not listed in Table 20, Authorized Uses, of the Zoning Ordinance.

The director shall first attempt to determine if the requested use is similar to a permitted use. In case of uncertainty, the Director may refer the request for clarification or classification to the Board for consideration.

2.1.5 In classifying a use, the Board shall first make a finding that all of the following conditions exist:

2.1.5.1 That investigations have disclosed that the subject use and its operations are compatible with the uses permitted in the district wherein it proposed to be located; and

2.1.5.2 That the subject use is similar to one or more uses permitted in the district within which it is proposed to be located; and

2.1.5.3 That the subject use will not cause substantial injury to the values of property in the neighborhood or district within which it is proposed to be located; and

2.1.5.4 That the subject use will be so designed, located, and operated that the public health, safety, and general welfare will be protected.

2.1.6 The Board shall classify such use as to permitting such use by right or subject to special exception.

2.1.7 **Appeal.** Pursuant to IC36-7-4-918.1, the Board shall hear and determine an appeal from any order, requirement, decision, or determination made by the Executive Director in enforcement of the Zoning Ordinance. The Board shall have all of the powers of the Executive Director from whom the appeal is

taken. When an appeal from the Executive Director has been filed with the Board, all proceedings, operation, and work on the premises concerned shall be stayed, unless the Executive Director shall certify to the Board that, by reasons of facts stated in the certificate, a stay would cause imminent peril to life or property.

- 2.2. **Composition.** The Grant County Area Board of Zoning Appeals shall consist of seven (7) citizen members who: (may hold other elective or appointive office in municipal, county, or state government); resides within the jurisdictional area of the Grant County Area Plan Commission; and are appointed as follows:
  - 2.2.1 Appointment to the Grant County Area Board of Zoning Appeals:
    - 2.2.1.1 Two (2) citizen members appointed by the Grant County Area Plan Commission from its membership, one (1) of whom must be a municipal representative and the other must be a county representative.
    - 2.2.1.2 Three (3) citizen members, who may not be members of any plan commission, appointed by the President of the Upland Town Council.
    - 2.2.1.3 Two (2) citizen members, who may not be members of any plan commission, appointed by the Grant County Council.

### 3. **Officers and Staff**

- 3.1 **Election of Officers.** At its first regular meeting of each year, the Board shall elect from its members a Chairperson and a Vice-Chairperson. The election shall be a public process and is to be accomplished as follows:
  - 3.1.1 The currently elected Chairperson shall preside over the election process. The process shall begin by hearing comments and discussion by Board members.
  - 3.1.2 Upon the end of the discussion, the Chairperson shall request nominations for the position of Chairperson and nominations shall be heard. Upon completion, the Chairperson shall request a motion to close nominations.
  - 3.1.3 If only one member has been nominated, election may comprise of a standard vote. However, if more than one individual has been nominated, each member shall choose one (1) candidate by paper ballot. Any Plan Commission member receiving a majority of votes shall be elected Chairperson.
  - 3.1.4 In the instance of a tie vote, the current Chairperson shall continue, as Chairperson until such tie can be broken.
  - 3.1.5 Once the ballots have been tallied and a new Chairperson chosen, the current Chairperson will step down. The newly appointed Chairperson shall then preside over the election of the Vice-Chairperson using a similar process.
  - 3.1.6 The outcome of each vote shall be publicly stated by the Chairperson at the meeting and shall be reflected in the minutes of the meeting.

3.2 Duties of Officers.

3.2.1 **Presiding at Meetings.** If present and able, the Chairperson shall preside at all meetings and hearings. If the Chairperson is absent or unable to preside, the Vice-Chairperson shall preside. If both are absent or unable to preside, the members present shall appoint a temporary Chairperson to preside.

3.2.2 In accordance with these and other applicable rules, the presiding officer shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on a motion duly made and passed. The Chairperson shall maintain order and decorum, and to that end may order the removal of disorderly, discourteous or disruptive persons.

3.2.3 **Contracts, Agreements and Committees.** The Chairperson, on behalf of the Board, shall exercise general supervision over the affairs of the Board, including the execution of contracts and agreements, the appointment of committees and representatives (except as otherwise provided by statute, ordinance, or these rules), and the signing of all official documents.

3.2.4 **Other Responsibilities and Duties of the Chairperson and Vice-Chairperson.** The Chairperson shall have further duties and responsibilities as designated by the Board or as required by law. He/She may delegate specific duties generally to the Vice-Chairperson or may authorize the Vice-Chairperson to perform specific duties, during his absence from the jurisdiction or in case of his other disability to perform necessary Board functions in a timely manner. The Vice-Chairperson shall perform all duties so delegated, and in case of absence or incapacity of the Chairperson, on approval by a majority of the Board, shall perform any or all duties of the Chairperson whether or not delegated.

3.3 **Board Staff.** The staff of the Grant County Area Plan Commission, including the designated Attorney, shall serve as staff to the Board, and the Executive Director shall be the designated executive of the staff. The Director shall be delegated authority to perform administrative acts in cases except where final action of the Board is necessary. The Executive Director shall be responsible for the keeping of an accurate record of all Board proceedings, including the keeping of the records and minutes, the custody and preservation of all papers and documents of the Board, the maintenance of a current roster and qualification of members, and records of attendance, and shall provide the Board with information pursuant to IC 36-7-4-919.

#### 4. Meetings

All meetings shall be in accordance with IC 5-14-1.5, et. Seq. the Indiana Open Meeting Law, and amendments thereto.

4.1 **Regular Meetings.** Regular meetings of the Board shall be held on the first Monday of each month, unless otherwise noted by the Board, as scheduled in a calendar

published by staff and approved by the Board at the final meeting of each year or the first meeting held of the next year if no meeting is held in December.

All meetings shall be held in the Grant County Complex Council Chambers, unless otherwise publicly announced. The Area Board of Zoning Appeal's meetings, shall begin at 6:00 p.m., unless otherwise publicly announced.

- 4.2 **Special Meetings.** Special meetings of the Board may be called at any time by the Chairperson or by two members upon request to the Board's staff. The staff shall notify the Board members of such special meeting at least three (3) days in advance of such meeting. Written notice of a special meeting shall not be required if the time and place of the special meeting has been fixed in a regular meeting of the Board, provided that all members of the Board are present at that regular meeting.
- 4.3 **Executive Session.** Executive sessions by the Board, a meeting from which the public is excluded, may be held where authorized by IC 5-14-1.5-6.
- 4.4 **Cancellation.** If no business is scheduled before the Board, or if it is apparent that a quorum will not be available, the Chairperson may cancel any meeting by giving notice to all members prior to the time set for each meeting. If no quorum is present at the meeting, the Chairperson shall cancel the meeting and all items scheduled to be heard shall be rescheduled by the staff.
- 4.5 **Recess.** Any meeting may be recessed from day to day, or to the time of any previously announced regular or special meeting, and such recess to a specified time and place shall not require additional public notice. No new information shall be submitted at a public hearing that has been recessed from a previous day or time.

## 5. Filing Procedures

- 5.1 Application.
  - 5.1.1 All petitions not initiated by the Board shall require application with the Board of Zoning Appeals staff. Filing deadlines shall be, generally, 14 days prior to each regular meeting, unless otherwise notified by the Board, as scheduled in a calendar published by staff and approved by the Board at the final meeting of each year. Incomplete applications will not be accepted.
  - 5.1.2 A fee as established by Ordinance shall accompany applications not initiated by the Board. The filing fee shall be non-refundable.
- 5.2 Staff Report.
  - 5.2.1 After a thorough examination of information in public record and findings from additional research, staff shall release a report providing analysis of each item placed on the agenda. Such report shall be released in correspondence with the agenda no later than ten (10) calendar days prior to the meeting. The staff report shall include, when appropriate:
    - 5.2.1.1 A docket number, a detailed description of the request, location of the property, size of the property, and the name of the applicant; and
    - 5.2.1.2 Relevant issues for Board consideration.

- 5.2.2 Upon approval of the Chairperson, staff shall propose recommended action for a particular petition in the staff report.
- 5.2.3 Additional Information Submitted.
- 5.2.3.1 Applications shall be complete by the appropriate filing deadline.
- 5.2.3.2 All parties shall be allowed to submit documents into public record up to no less than two (2) business days prior to the meeting. Documents to be studied and considered by staff for use in the staff report should be submitted no later than ten (10) calendar days prior to the meeting.
- 5.2.3.3 The term “document” as used in this chapter is to be interpreted in the broadest sense of that term and means the product of any means of recording information, whether by writing or otherwise. A “document” includes, but is not limited to, correspondence, letters, ledger sheets, contracts, negotiable instruments, agreements, memoranda, reports, notes, diaries, logs, indices, photographs, microfiche, microfilm, telephone records, tape recordings, movies, video tapes, computer disks, and other data compilations.
- 5.2.4 **Items to be Delivered with Staff Report.** Any party may provide support documentation to be delivered to Board of Zoning Appeals members along with the staff report. To do so, the party must provide sufficient copies to staff for each member of the Plan Commission, one (1) copy for public record, and one (1) copy for legal counsel. Information to be delivered with the staff report should be submitted no less than ten (10) calendar days prior to the meeting.
- 5.2.5 **Disclosure.** The Grant County Area Plan Commission finds disclosure of the legal names of all individuals with financial interest; whether contingent on the petition or not, in any matter to be heard before the Grant County Area Board of Zoning Appeals, is in the public interest. Disclosure shall be required which makes the identity of the individual (s) (natural persons) known having financial interest or ultimate ownership [including contract for purchase]; owned or leased interest in the project under review. The individuals who make up any partnership, corporation, limited liability company (LLC) , or any other association, which is submitting and application for review, shall disclose their identity to Grant County Area Plan Commission. While applications shall be complete by the appropriate filing deadline, full disclosure must be satisfied 14 days prior to the scheduled public hearing. Disclosure information shall be included in the staff report presented to the Board of Zoning Appeals so that each BZA member may comply with conflict or interest and ex parte rules. If any contingency clause or contract terms involve additional parties, all individuals or officers, if a corporation, partnership, or trust shall be disclosed.

- 5.3 Agenda.
  - 5.3.1 Staff shall review all applications to be placed on the agenda for completeness and technical and legal compliance with the terms of the Zoning Ordinance. Upon determination of appropriateness, staff shall assign the application a docket number.
  - 5.3.2 Upon receipt of a docket number, a petition shall be placed on the agenda of the Board and a date and time set for a public hearing. Cases shall come before the Board in the regular order of their consecutive docket numbers unless otherwise ordered by the Board.
  - 5.3.3 Staff shall release an agenda for a regular meeting, including executive session, ten (10) calendar days prior to the meeting. However, upon approval by the Executive Director and the Chairperson, the agenda of the meeting may be amended no less than five (5) calendar days prior to the hearing.
- 5.4 **Public Notice.** In all petitions not initiated by the Board, a legal notice of the public hearing shall be prepared by the Area Plan Office and advertised in the newspaper(s) of the petitioner's choice ten (10) calendar days prior to the hearing. The petitioner shall assume the cost of said notice and one (1) copy of an affidavit from the publisher shall be submitted to the Board of Zoning Appeals prior to the public hearing.
  - 5.4.1 The Area Plan Office shall serve notice to owners of property directly adjacent to the property in question, including property across a public right-of-way or municipal boundary. Such notification will be by mail and shall be postmarked not less than ten (10) calendar days prior to the public hearing.
  - 5.4.2 Notice shall include the following:
    - 5.4.2.1 substance of the petition;
    - 5.4.2.2 general location of the property by common address, acreage, section and township;
    - 5.4.2.3 name of the person or agency initiating the petition;
    - 5.4.2.4 time, date, and place of the hearing;
    - 5.4.2.5 statement that the petition is on file in the Grant County Area Plan Office;
    - 5.4.2.6 statement that the interested parties may offer an oral opinion at the hearing or may file written comments concerning the petition no less than two (2) business days prior to the hearing; and
    - 5.4.2.7 any other information which may be required by law to be contained in such notice.
- 5.5 Limit to Public Record.
  - 5.5.1 **Limits, generally.** While applications shall be complete by the appropriate filing deadline, additional information shall be allowed into public record up

to no less than two (2) business days prior to the meeting. No information will be accepted into public record beyond two (2) business days prior to the meeting.

## 6. Conduct of Meetings

- 6.1 **Robert's Rules of Order.** Unless otherwise provided for in these Rules of Procedure, all meetings shall be conducted according to Robert's Rules of Order, as revised.
- 6.2 **Quorum.** The majority of the members of the Board shall constitute a quorum. No action of the Board, however, will be official unless authorized by the affirmative vote of the majority of the entire membership of the Board.
- 6.3 Minutes and Records.
  - 6.3.1 The Board shall keep minutes of all regular and special meetings. Recorded minutes shall state the date, time, and place of each meeting; reflect the business conducted; and show names of all Board of Zoning Appeals members and staff present, indicating the late arrival or early departure of these personnel. Minutes shall include the vote of each member present and voting on every question, whether or not a final decision is rendered. Should any member(s) be disqualified from participating and voting on any application, an alternative may be placed by the appointing body to fulfill the duties of the disqualified member. The minutes of each meeting shall be amended, if necessary, and approved at the next regular meeting, or if such is not practicable, as soon thereafter as is possible. The approved minutes shall become official when signed by the Chairperson or acting Chairperson and the Executive Director. Copies of the minutes of the previous meeting shall be submitted to Board of Zoning Appeals members along with the agenda and staff report no less than ten (10) calendar days prior to the meeting.
  - 6.3.2 The Board may tape record the proceedings of each meeting to substantiate and clarify the official minutes.
  - 6.3.3 All information entered into the record is considered an agreement by the petitioner or his/her representative with the Plan Commission. The petitioner is responsible for any agreements or conditions made as part of the record. The agreements or conditions are not required to be part of the motion if they are part of the record. The petitioner will be held liable if the agreement or condition is not fulfilled to the satisfaction of the Plan Commission.
    - 6.3.2.1 The petitioner may submit an appeal to the legislative body, for the jurisdiction in which the affected property is located, for any agreements or conditions entered into record, but not part of a motion.
      - 6.3.2.1a The appeal must be filed with the Board on an application form supplied to the Board with the required fee.



6.3.2.1b The appeal must be at an advertised public hearing before the appropriate legislative body at one of their regularly scheduled meetings.

6.3.2.1b1 The meeting must be advertised in a suitable newspaper ten days before the meeting and all adjacent property owners must be notified ten days before the meeting (all information will then be forwarded to the legislative body).

6.3.4 The Board shall keep all material relevant to each agenda item in public record including, but not limited to, required documents from the petitioner and his and his or her supporters or by remonstrators at the public hearing; if applicable, completed Findings of Fact forms; and any correspondence received by the Board pertinent to the item. All records shall be kept in the office of the Grant County Area Plan Commission and shall be a matter of public record, open for inspection during business hours.

6.4 **Representation of Applicant.** The petitioner, petitioner's attorney or their representative must be present in order for a public hearing to be held as scheduled. However, written appearances by those augmenting the presentation, as well as by those either supporting or remonstrating against it will only be accepted prior to the public hearing. Failure of the petitioner or their representative to appear will result in the petition being tabled and rescheduled for the next meeting. Public announcement of this change at the originally scheduled meeting will be deemed sufficient notice to all parties.

6.5 **Order of Business.** The order of business on the agenda for each regular meeting shall be as follows:

6.5.1 Call to Order

6.5.2 Roll Call

6.5.3 Approval of Minutes and Finding of Fact

6.5.4 Public Hearing, Old Business

6.5.5 Public Hearing, New Business

6.5.6 Reports, Resolutions, Communications, and General Discussion

6.5.7 Adjournment

6.6 Public Hearing.

6.6.1 **Opening the Hearing.** The Chairperson shall call the docket number of the item scheduled for public hearing and declare the hearing open. The Chair shall explain the order of testimony for the public hearing and remind those wishing to speak to state their name, address, and comments for the record. The Chair may ask for the number of persons planning to speak on behalf of the applicant or in opposition, as well as the amount of time expected to be

necessary for purposes of considering suspension, or amendment of the time limitations specified in Rules 6.6.3, 6.6.4, and 6.6.5.

- 6.6.2 **Background and Comments by Staff.** Staff shall present initial findings publicly to the Board, including information provided in the staff report, as necessary.
  
- 6.6.3 Presentation by Petitioner.
  - 6.6.3.1 Petitioner(s) and persons appearing in support of the applicant shall have **fifteen (15) minutes** for the presentation of evidence, statements, and argument in support of the matter being considered.
  - 6.6.3.2 The Board may seek clarification on any issue raised by the petitioner. The Board shall not penalize the petitioner for time required clarifying requests.
  
- 6.6.4 Presentation by Opposition.
  - 6.6.4.1 Opposition shall have **twenty-five (25) minutes** for the presentation of evidence, statements, and argument in opposition to the matter being considered.
  - 6.6.4.2 The Board may seek clarification on any issue raised by opposition. The Board shall not penalize opposition for time required clarifying requests.
  
- 6.6.5 **Rebuttal by Petitioner.** Petitioner(s) shall have **ten (10) minutes** for rebuttal, which shall only include evidence, statements and arguments in rebuttal of remonstrator's evidence and the Board comments.
  
- 6.6.6 **Closing the Hearing.** Upon completion of rebuttal, the Chairperson shall declare the public hearing officially closed and invite the Board to initiate discussion of the petition. Public comment without solicitation by the Board is not permitted after the public hearing is closed. However, Board members may question both petitioner and opposition to clarify their understanding.
  
- 6.6.7 **Motion.** Upon conclusion of initial discussion, the Chairperson shall call for a motion. Any motion that is made and seconded is open for further Board discussion. Each motion that has received a second shall be voted upon, with the vote of each member recorded in the meeting minutes.
  
- 6.6.8 **Waiver of Amendment of the Time Limits.** Time limits may be suspended or amended and new time limits established only upon consent of the Board.
  
- 6.6.9 **Posting of Procedures.** A copy of Sections 6.6 and 6.7 of these Rules shall be available to the public at each meeting.
  
- 6.6.10 Reasonably considering the APC regular meeting agenda that follows all BZA regular meetings, continuation of scheduled BZA meeting past 7:15 p.m. will require approval of a motion by a majority of the BZA members present. The remainder of the scheduled meeting or unheard agenda items

shall automatically be continued to the next scheduled meeting, or to a future specific date, provided the date for each public hearing or agenda item is agreed to by a majority and publicly announced at the meeting.

6.7 Conduct.

- 6.7.1 **Identification.** All persons wishing to be heard on any matter in a public hearing must stand before the Board and provide their names and addresses for the record. When necessary, the Board may allow or require sign-up sheets.
- 6.7.2 **Commentary Addressed to the Board.** All commentary at a public hearing shall be addressed to the Board through its Chairperson. Such commentary will not be permitted between opposing parties without the consent of the Chairperson, nor will commentary addressed to any specific member of the Board, staff, or their counsel be permitted without the explicit consent of the Chairperson.
- 6.7.3 **Authority of the Chairperson.** The Chairperson shall have the authority to prohibit repetitious and irrelevant testimony and shall have the authority to limit the length of testimony by each speaker as deemed appropriate to a fair and efficient public hearing.
- 6.7.4 **Orderly Conduct.** Every person appearing before the Board shall abide by the order and direction of the Chairperson. Discourteous, disorderly or contemptuous conduct shall not be tolerated, and the Chairperson may take such action as is deemed necessary to prevent such conduct.

6.8 Final Disposition of Cases.

- 6.8.1 All decisions of the Board on the matters heard in public hearings shall be by record vote. The vote of each member shall be a matter of public record.
  - 6.8.1.1 When written adopted Findings of Fact are required by the Zoning Ordinance, Subdivision Control Ordinance, Animal Feeding Operation Ordinance, Wireless Facilities Ordinance, and IC 36-7-4-100 et.seq or these Rules of Procedure, the Petitioner shall, at the time of filing of the Petition, file proposed detailed written Findings of Fact.
  - 6.8.1.2 When the Grant County Area BZA is required by the Zoning Ordinance, Subdivision control Ordinance, Animal Feeding Operation Ordinance, Wireless Facilities Ordinance, and IC 36-7-4-100 et.seq or these Rules of Procedure to enter written Findings of Fact in support of its determination, such Findings of Fact shall be continued until the next regularly scheduled meeting of the BZA for the adoption of their written Findings of Fact, no further testimony shall be taken by the BZA prior to adoption of their Findings of Fact.
  - 6.8.1.3 Each question of a statutory test for adopted Findings of Fact shall be voted on separately. A majority reason to approve or deny shall be

determined from each vote, tallied, and each corresponding element vote, entered into the official record as the adopted Findings of Fact. The final determination shall be announced by the secretary and the Findings of Fact are adopted.

- 6.8.2 A majority of the entire membership of the Board is required to take official action on a petition.
- 6.8.3 The final disposition of an appeal before the Board shall be in the form of an order either reversing or modifying the requirement, order, decision or determination appealed from or affirming the order and denying the appeal. The Board may dismiss an appeal for lack of jurisdiction.
- 6.8.4 When written adopted Findings of Fact are required by the Zoning Ordinance, Subdivision Control Ordinance, Animal Feeding Operation Ordinance, Wireless Facilities Ordinance, and IC 36-7-4-100 et.seq or these Rules of Procedure, the Petitioner shall, at the time of filing of the Petition, file proposed detailed written Findings of Fact.
- 6.8.4 An application withdrawn by the applicant shall not be placed in the agenda for consideration within a period of six (6) months following the date of withdrawal from the agenda of the Board.
- 6.8.5 A specific application, which has been adversely decided to the petitioner, shall not be placed on the agenda for consideration for a period of one (1) year following the date of the adverse decision issued by the Board.

## **7. Conduct of the Board Members**

- 7.1 No member of the Board shall represent applicants or appellants on matters that the Board is to make determinations.
- 7.2 **Conflict of Interest.** No member of the Board shall participate in any case in which he/she has financial or personal interest in the property or action concerned, or will be directly affected by the decision, or believes he/she has any other conflict of interest as defined by applicable law. No member of the staff of the Board or of any agency serving the Board shall prepare or present arguments or reports, or attempt to influence decisions of the Board, in any case in which he/she has similar interest.
  - 7.2.1 **Relationships Constituting a Conflict of Interest.** Relationships to persons either actual or legal as follows:
    - 7.2.1.1 Any relationship or kinship, whether by blood or affinity.
    - 7.2.1.2 Any appointment as a legal guardian.
    - 7.2.1.3 Any appointment as a trustee.
    - 7.2.1.4 Any appointment as administrator of an estate.
    - 7.2.1.5 Any appointment as agent.

- 7.2.1.6 Any appointment as broker.
- 7.2.1.7 Any appointment on retainer, whether or not service was provided.
- 7.2.1.8 Any consultantship.
- 7.2.1.9 Any employer-employee relationship.
- 7.2.1.10 Any option to purchase, preliminary sales agreement, or sales agreement for real property.
- 7.2.1.11 Any contract for goods and services.
- 7.2.2 Relationship to real property as follows:
  - 7.2.2.1 Any interest in real property enjoyed by a member of the Board or any of the adverse third parties, lying near or otherwise affected by the decision of the Plan Commission.
- 7.2.3 **Notification of Conflict of Interest.** Upon suspicion of any potential conflict of interest in any case to come before the Board, the Board member shall notify the Chairperson, acting Chairperson or counsel of the situation. Upon suspicion of a potential conflict by the Chairperson, he/she shall notify the Vice-Chairperson or counsel.

Should any member(s) be disqualified from participating and voting on any application pursuant to IC 36-7-4-909, an alternative may be placed by the appointing body to fulfill the duties of the disqualified member(s).

When a member has reasonable doubt to whether a conflict exists, the member shall seek legal advice from legal counsel for the Board. The Board shall make determination as to whether a conflict of interest exists as a whole. A majority of the members present, excluding the member being discussed, shall be required to make a decision.

The outcome of such decision shall be publicly stated by the Chairperson at the meeting and shall be reflected in the minutes of the meeting.

- 7.3 **Disqualification.** A member may disqualify himself/herself from voting in the instance that the applicant, his agent, or any other party has influenced the vote of the member on his appeal or application, other than in the public hearing.
- 7.4 **Ex Parte Contacts.** Each member is encouraged to exercise due care in responding to and reporting any external contacts related to matters pending or yet to be presented to the Board.
  - 7.4.1 Whenever a person who is not a member of the Board, staff, or counsel initiates contact with a Board member, it is suggested the member refer that person to staff and suggest presentation of the information for inclusion in Board deliberations.
  - 7.4.2 Whenever an external contact persists in offering information, the member may report the information and identify the source and date of the contact to the full Board for inclusion in its formal record. Where the informant is

unwilling to have the information reported, the member is encouraged to refuse further contact and report the incident to the Board, along with a full disclosure of the content of the contact and any comments or stated positions.

- 7.4.3 Written information transmitted to a Board member should be forwarded directly to staff for review and incorporation into its report.
- 7.5 **Expressions of Bias, Prejudice, or Individual Opinion.** Board members may seek information from other members, counsel to the Board or staff prior to the public meeting, but no member shall express any bias, prejudice, or individual opinion on proper judgment of the case prior to its hearing and determination.
- 7.6 **Presence to Vote.** No Board member shall vote on any matter deciding an application or appeal requiring a public hearing, except after attending the public hearing on the application or appeal.
- 7.7 **Absence.** Failure to attend three consecutive regular meetings, or three of any seven consecutive meetings, without the recorded consent of the President; or Vice President; or Executive Director: shall be construed as the member's official resignation from the Grant County Area Board of Zoning Appeals by absence. The appointing authority shall be notified of the vacancy for just cause.
- 7.7.1 The APC office shall poll members the day of a scheduled meeting to determine a quorum count. If unavailable to attend a specific meeting, notify the APC office no later than 2 PM the day of the meeting. When polled, if unable to attend, the member shall provide the secretary with a verbal or written reason for the absence. If a member commits to their attendance and later cannot attend; notify the APC office as soon as possible. After 4 pm, telephone and leave a message on the office answering machine (to be checked prior to the meeting). During member roll call, the reason for a member's absence will be announced by the secretary and the Plan Commission will vote to excuse.

## 8. Suspension and Amendment

- 8.1 **Suspension.** The Board shall have the right to suspend these rules or any portion thereof, except where otherwise controlled by State Statute, Grant County, Indiana Areawide Zoning Ordinance or Grant County, Indiana Subdivision Ordinance, at any meeting, upon the majority approval of all members present.
- 8.2 **Amendment.** The Board shall have the right to amend these rules or any portion thereof at any regular or special meeting, provided that the amendment(s) are approved by a majority of the Board.
- 8.3 Should any court of any jurisdiction declare these rules to be in part null or void, such ruling shall not affect the remainder of these rules, and they shall stay in full force and effect as if the omitted portion did not exist.

**WHEREFORE**, the Rules of Procedure of the Grant County Area Board of Zoning Appeals, Grant County, Indiana, are approved by the affirmative vote of all members of the Board in attendance at the regularly scheduled meeting. These Rules of Procedure are to become effective immediately and their formal adoption and implementation shall be considered revocation of any prior Rules of Procedure and amendments thereto.

APPROVED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_ BY:

\_\_\_\_\_  
John Bonham, Plan Commission President

ACCEPTED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_ BY:

\_\_\_\_\_  
Board of Zoning Appeals Chairman

ATTEST:

\_\_\_\_\_  
Deborah J. Wallace, Recording Secretary

\_\_\_\_\_  
Date

\*Note – this is a draft copy. For the official signed copy (March 7, 2011) please contact the Area Plan office.