

BAINBRIDGE TOWNSHIP BOARD OF ZONING APPEALS

BY-LAWS AND PROCEDURES

Effective January 18, 2007

Amended January 15, 2009

Application Requirements

All applicants, other than individual single family dwelling units, be required to provide at least seven days prior to the Bainbridge Township Board of Zoning Appeals meeting, six copies of any exhibits they plan to introduce at the meeting and six copies of any expert report from any expert they plan to have testify at the meeting, and if not provided, such exhibits and expert reports may be refused admission to evidence at the meeting, all subject to the discretion of the chairman.

Alternate Board Member

"Alternate Member" The Trustees may appoint one (or more) people to be designated alternate member(s) of the Board. The alternate member(s) will serve in place of the regular member(s) whenever a member is absent from the meeting, or with respect to an individual matter before the board, when a member declares that the member will recuse themselves from participation in the matter. The Chairman (or acting Chairman, if the Chairman is absent) will (if applicable) select the alternate member to serve and will state in the record that such alternate is serving either for the entire meeting or the particular matter. Alternate members may attend meetings where they are not serving but will have no rights to participate as a board member or engage in the board's deliberations. An alternate member will not automatically succeed to the term of any member who resigns or whose term ends.

The alternate member would not be required to attend every meeting but would be welcome to do so. If there were a substantial matter that we expected to continue over more than one meeting, the board might request that the alternate attend so they would be ready to step in if someone was absent at a subsequent meeting on the same matter. As noted, they would not participate as a board member unless there was a vacancy. They would receive the information packet that all the members receive each month and would be asked to attend joint meetings, educational situations, etc. If their attendance is required we would notify them as soon as we knew that a member would not be available. Subsequent appointment to the board should be understood as neither automatic or assured.

Meeting Proceedings

As part of its proceedings, the board of zoning appeals may upon motion of one of its members and acceptance by the board adjourn into executive session for the purpose of conducting its business meeting and/or deliberations.

Procedural Rules

A. Court Reporters

1. The applicant must request at least one week in advance to have a court reporter present.
2. The proceedings of the court reporter will become a part of the record to supplement the official record as taken by the secretary to the board but will not supersede that record.
3. Prior to that transcript becoming an official part of the record, the applicant must at the applicant's sole cost, furnish a copy of the transcript to the secretary of the board for the board's review to determine the accuracy of that transcript.

B. Expert Witnesses

If any applicant or other party plans to introduce or use testimony of any expert, said person will file with the secretary at least three copies of the written report of such expert or a written summary of the planned testimony and a statement of credentials, not later than ten days prior to the meeting. The Board may refuse to hear any expert without such written report but may waive this requirement for good cause shown. When an applicant or opposition presents expert testimony, the opposing party will be provided an opportunity to present opposing expert testimony on such terms as the Board will determine. The Board may also establish specific procedures in individual matters regarding timing of expert testimony and exchange of expert reports.

C. Documentary Evidence

All documents requested to be admitted to the record will be the subject of a formal request by the interested party. At least three copies must be provided (unless the Board grants an exception), one of which will be marked as part of the record by the Secretary. The Chairman will rule on whether any document will be admitted in whole or part, including any restrictions and limitations.

D. Applications

The application (and all associated drawings) will be part of the official record. The relief requested and any relief allowed will be limited to that stated in the application (unless the Board specifically grants greater relief). No factual information contained in the application will be deemed as true or in evidence unless testified to at hearing by the applicant; provided that adverse admissions of the applicant in the application may be relied upon by the Board.

E. Zoning Inspector's Report

The Zoning Inspector will provide a written summary of the variances the application seeks or would be otherwise needed, any questions, pertinent facts concerning the premises and the application, and/or photographs. Such reports, information and photos will be part of the official record and considered to be given under oath. The contents of such report may be questioned by the applicant or other interested parties.

F. Consensual Changes by Applicant

If the Applicant makes changes to the application either sua sponte or upon request of the board during the meeting, all such changes will be deemed consensual changes and will become part of the record. Such changes will be marked on the official copies of documents in the record (such as drawings), but failure to make such notation will not make the changes invalid.

G. Letters and Other Communications

All letters and other communications regarding an application whether directed to the Board or individual members will be placed in the file. Such letters and other communications will not be part of the record as they are not sworn or subject to cross examination. They will not be used by the Board in making its decisions. Information which would be admissible under exceptions to the hearsay rule (such as public document) in such communications may be admitted by ruling of the Chairman.

H. Attendance of Property Owner

On each application there will be present either the property owner or a person who has received written authority from the property owner to act upon their behalf and bind them with respect to the application and any of the matters therein.

I. Complex Applications

If the Chairman determines that there is an application which is due in complexity or issues posed that are likely to require multiple meetings to complete the hearing, the Chairman can require that any of the interested parties have a case management conference with the Chairman to set out the procedural rules and structure on how the case will be presented so the Board can most effectively have the case presented and hear it in a way that will not unduly burden the time of the Board.