

ZONING BOARD OF APPEALS  
OF THE  
VILLAGE OF OAK PARK, ILLINOIS



**RULES OF PROCEDURE**

As amended December 6, 2017

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## ARTICLE I

### **GENERAL PROVISIONS**

**Section 1.1** These rules are formulated and adopted in conjunction with and as supplementary to, the provisions of applicable Illinois Statutes and The Oak Park Zoning Ordinance (“Zoning Ordinance”) as those provisions relate to procedures of the Zoning Board of Appeals (“Board”).

**Section 1.2** Any Board member who has a proprietary interest, or other conflict of interest, in any matter before the Board shall not vote thereon and shall remove himself or herself from any meeting or hearing at which said matter is under consideration. If more than three members of the Board remove themselves from a hearing, the Board shall refer the matter to the President and Board of Trustees for their direction and referral.

**Section 1.3** Nothing herein shall be construed to give or grant to the Board the power or authority to amend the Zoning Ordinance, including both the text and the zoning map. Such power and authority is reserved to the President and Board of Trustees of the Village of Oak Park.

**Section 1.4** The Office of the Board shall be in Village Hall of the Village of Oak Park.

**Section 1.5** The Board shall hold its hearings in the Village Hall in Oak Park, Illinois unless, in a particular case, the Oak Park Zoning Ordinance or the applicable statutes of Illinois require a hearing or hearings of the Board to be held in another location, or unless the Board directs that a particular hearing or hearings to be held elsewhere.

## ARTICLE II

### **ADMINISTRATORS AND DUTIES**

**Section 2.1** The Administrators of the Board shall be a Chairperson, an Acting Chairperson and a Secretary.

**Section 2.2** The Chairperson shall be designated by the President of the Village of Oak Park with the consent of the Board of Trustees. The Board shall elect from among its members an Acting Chairperson to act whenever the Chairperson is absent. The Secretary shall be an employee of the Village who has had experience in zoning matters and record keeping. In the event of death, removal for cause or resignation of any of the above-mentioned Administrators, a successor shall be named by the respective appointing authority.

**Section 2.3** The Chairperson shall supervise the affairs of the Zoning Board of Appeals, preside at all hearings or meetings of the Board, appoint such committees and subcommittees as may be necessary to carry out the purposes of the Board, and administer or authorize the administration of oaths. The Chairperson shall be an ex-officio member of all committees and subcommittees appointed.

**Section 2.4** In case of the absence or disability of the Chairperson, the Acting Chairperson shall perform all the duties and exercise all of the powers of the Chairperson.

**Section 2.5** The Secretary shall:

- (a) Record or cause to be recorded, the minutes of the Board's proceedings and actions, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact.
- (b) Keep a record of the Board's official actions.
- (c) Act as custodian of the minutes and records of the Board, which shall be maintained in the office of the Board.
- (d) Record the names and addresses of persons appearing before the Board.
- (e) Keep a brief record of the testimony of those appearing before the Board, or cause a verbatim transcript of all hearings to be kept; whenever possible, make a tape recording of public hearings and preserve the tape recording for sixty days from the date that a written resolution is adopted by the Board. If an appeal is taken, the Secretary may make a brief record from the tape recording or cause a verbatim transcript to be made from the tape recording.
- (f) Subject to the instructions of the Chairperson, conduct the correspondence of the Board and provide and have published notices of public hearings as required by law and these rules of procedure.
- (g) Receive, on behalf of the Board, applications for variations, appeals, zoning amendments and special-use permits, as the case may be, as well as other proposals to be considered by the Board.

It is not the duty of, nor is it proper for, the Secretary or his/her staff to complete any application on behalf of an applicant, but the Secretary shall inform the applicant of the rules and practices of the Board in order that complete presentations be made to the Board.

**Section 2.6** In the case of the absence or temporary disability of the Secretary, the person who is the Secretary's designee is authorized to carry out the functions of the Secretary's office until a successor is appointed.

### ARTICLE III

#### **MEETINGS**

**Section 3.1** Regular meetings, designated as public hearings, shall be held on the first Wednesday of each month at 7:00 p.m. or at such other times as the Chairperson or any members of the Board may direct.

**Section 3.2** Regular meetings may be cancelled by the Chairperson when there are no cases pending or when it is apparent that there will not be a quorum, in which event notification of said cancellation shall be given to members of the Board.

**Section 3.3** The Board may hold special meetings at the call of the Chairperson or at the written request of four (4) members of the Board, provided at least 48 hours' notice of any such meeting is given in person or by mail, including e-mail, to each member.

**Section 3.4** All meetings of the Board shall be open to the public, and no official action shall be taken except during a public meeting.

**Section 3.5** No public hearing shall be held or official action taken unless a quorum is present. A quorum shall consist of four (4) members of the Board.

#### ARTICLE IV

### **ORDER OF BUSINESS**

**Section 4.1** The order of business for public hearings, unless otherwise set by the Chairperson, shall be as follows:

- (a) Roll call and declaration of quorum.
- (b) Call of cases on agenda and hearing of requests for continuances.
- (c) Hearings of applications for variations, special-use permits, and appeals from any order requirement, decision or determination of the Zoning Administrator.
- (d) Approval of minutes of previous meeting(s).
- (e) Any other business presented by members of the Board.
- (f) Adjournment.

#### ARTICLE V

### **CONTINUANCES**

**Section 5.1** Continuances of public hearings may be granted at the discretion of the Board and only upon good cause shown. It is recognized that, where notice of a hearing has been published, considerable inconvenience may result to interested persons in the event continuances are freely granted. Except in extreme circumstances, once a hearing is commenced, reasonable efforts shall be made to take all evidence and close testimony on the date the hearing is set.

#### ARTICLE VI

### **FAILURE OF APPELLANT OR APPLICANT TO APPEAR**

**Section 6.1** Whenever an applicant or his/her representative fails to appear, the Board may choose to dismiss the case for want of prosecution.

**Section 6.2** In cases which are dismissed for want of prosecution, the applicant shall be furnished written notice by the Secretary of the Board.

**Section 6.3** Dismissal for want of prosecution is not a determination on the merits and shall not of itself bar the filing of a new application.

## ARTICLE VII

### **PROCEDURE FOR APPEALS**

**Section 7.1** An appeal may be taken to the Board by any person aggrieved or by any Administrator, department or board of the Village, from any order, requirement, decision or determination of the Zoning Administrator.

**Section 7.2** An appeal shall be considered only if filed within 45 days after the date of the allegedly erroneous order, requirement, decision or determination of the Zoning Administrator as set forth in Article 14, Section 14.8(E) of the Zoning Ordinance, as amended.

**Section 7.3** Upon receiving notice of appeal, the Zoning Administrator shall promptly transmit to the Secretary of the Board all papers constituting the record upon which the Zoning Administrator made the decision that is the subject of the appeal.

**Section 7.4** An appeal may be filed with an accompanying alternate application for a variation.

**Section 7.5** Filing of the appeal forms with the Secretary of the Board shall stay all proceedings in furtherance of the action appealed from, provided said application form sets forth grounds which, if proven, would reverse the order from which the appeal is taken. The Zoning Administrator may certify to the Board that, by reason of the facts stated in the certificate, a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In case of such certification, proceedings shall not be stayed except by a restraining order granted by the Board or by a court of record after application, notice to the Zoning Administrator, and a showing of due cause.

## ARTICLE VIII

### **PROCEDURE FOR VARIATIONS**

**Section 8.1** Any person having a proprietary interest in property, the proposed use of which is affected by the Zoning Ordinance, may, in accordance with the provisions of the applicable Illinois statutes and said Zoning Ordinance, file an application for a variation. Said completed application shall set forth grounds, which, if proven, would satisfy the applicable standards set forth in the Zoning Ordinance.

**Section 8.2** Applications for variations may be filed alone or as an alternative to other zoning relief sought by the applicant.

## ARTICLE IX

### **PROCEDURE FOR SPECIAL-USE PERMITS**

**Section 9.1** Applications for special-use permits may be filed alone or as an alternative to other zoning relief sought by the applicant.

**Section 9.2** Any person having a proprietary interest in the property in question may file an application for a special-use permit with the Zoning Administrator, who shall prepare such document for a public hearing. Said completed application shall set forth grounds which, if proven, would satisfy the applicable standards set forth in the Zoning Ordinance.

**Section 9.3** The Board may request at any time a written recommendation from the Village Planner and other Village departments.

**Section 9.4** The Board shall, in formulating its recommendation to the President and Board of Trustees, consider the standards for special uses as set forth in Article 14, Section 14.2(E), of the Zoning Ordinance, as amended.

**Section 9.5** Following the hearing, the Board shall transmit to the President and Board of Trustees a written report giving its findings of fact and recommendation for action to be taken by the President and Board of Trustees on an application.

## ARTICLE X

### **INFORMATION TO BE SUPPLIED BY THE APPELLANT OR APPLICANT THE CALENDAR PAYMENT OF FEES**

**Section 10.1** All appeals and applications shall be made on such forms and in such number of copies as are prescribed by the Board and obtained from the Secretary. The completed forms shall be filed with the Secretary, accompanied by one or more plats showing the location and exterior dimensions of the land in use or to be built upon and of existing and proposed buildings and structures on that land. Additional information that may be requested by the Board to aid it in reaching a decision shall be supplied by the appellant or the applicant. Administrator

**Section 10.2** On receipt of the properly completed application form or appeal, the appeal or application shall be numbered and placed on the calendar of the Board by the Secretary. The date for the hearing shall be set as soon as practicable, consistent with the case load of the Board. Appeals and applications shall be generally heard in the order in which they appear on the calendar, except that a hearing may be advanced for reasonable cause by order of the Chairperson

## ARTICLE XI

### **NOTICES FOR HEARINGS**

**Section 11.1** Notices for hearings shall be as provided in the Zoning Ordinance.

## ARTICLE XII

### **RULES OF PROCEDURES FOR PUBLIC HEARINGS**

#### **Section 12.1 Open Meetings Act**

All hearings shall be subject to the Illinois Open Meetings Act.

#### **Section 12.2 Registration of Public Participants other than the Applicant**

Anyone who wishes to testify in a public hearing must sign-in at the public hearing. There will be three Sign-up Sheets available:

1. Those wishing to testify in favor of the proposal. Each individual shall have five minutes to present his/her testimony.
2. Those wishing to testify in opposition of the proposal. Each individual shall have five minutes to present his/her testimony.
3. Those wishing to testify neither in favor or opposition to the proposal. Each individual shall have five minutes to present his/her testimony.

If a person is unable to complete his/her testimony in five minutes, he/she may submit testimony in written form or, if time allows and at the discretion of the Chairperson, may present it orally (in five-minute increments) after others have had an opportunity to testify.

Those property owners within the 300-foot notice area and those persons with a special interest beyond that of the general public ("Interested Parties") wishing to cross-examine witnesses must complete and file an appearance with original signatures with the Village Clerk not later than 5:00 PM on the business day preceding the public hearing.

#### **Section 12.3 Limitations on Evidence or Testimony**

The Chairperson may impose reasonable limitations on evidence or testimony presented by persons and parties, such as additional time limits and barring repetitious, irrelevant or immaterial testimony. The Board shall not be bound by strict rules of evidence; however, irrelevant, immaterial, or unduly repetitious evidence shall not be admissible. The Chairperson shall rule on all questions related to the admissibility or materiality of evidence which ruling may be overruled by a majority of the Board members present. The Chairperson may impose reasonable conditions on the hearing process based on the following factors:

1. The complexity of the issue;
2. Whether the witness possesses special expertise;
3. Whether the testimony reflects a matter of taste or personal opinion or concerns a disputed issue of fact;



4. The degree to which the witness's testimony relates to the factors to be considered in approving or denying the proposal; and
5. Such other factors appropriate for the hearing.

#### **Section 12.4 Pre-hearing Consultation**

The Chairperson and the Board may conduct a pre-hearing consultation (lasting approximately the first fifteen minutes of the public hearing) with the applicant, interested parties, and all others in attendance, to discuss the conduct of the hearing and to determine the length of the proceedings.

#### **Section 12.5 Hearing Conduct**

The Chairperson may take such actions as are required to maintain an orderly and civil hearing. Discourtesy or disorderly conduct shall be deemed a breach of order, and such misconduct shall be dealt with as appropriate.

#### **Section 12.6 Proof of Notice**

Proof of lawful notice shall be entered into evidence by the Board as applicable.

#### **Section 12.7 Record of Proceedings**

An applicant shall pay for the attendance of a court reporter if an applicant chooses to engage a court reporter. All court reporter fees, including costs for attendance and transcription, shall be paid by the applicant. The Village shall audio and/or video record hearings.

#### **Section 12.8 Applicant Appearance**

At a public hearing, an Applicant may appear on the applicant's own behalf or may be represented by an attorney or authorized agent.

#### **Section 12.9 Village Participation**

The Village shall be a party in every proceeding, and need not appear.

#### **Section 12.10 Testimony under Oath**

All persons offering testimony at a hearing shall testify under oath. An attorney shall be sworn if he or she offers testimony but not if he or she is questioning witnesses, summarizing testimony of witnesses, or addressing the Board.

#### **Section 12.11 Testimony by Others**

In addition to the Applicant, any person may appear and present testimony at the hearing.

### **Section 12.12 Identification of Participants**

People participating shall identify themselves for the record, giving their name and address, either orally or in writing, and indicate if an attorney represents them.

### **Section 12.13 Questioner Limitation**

The examination of a witness shall not be used by the questioner to offer testimony or evidence of the questioner.

### **Section 12.14 Order of Presentation**

The order of presentation of evidence at a public hearing shall generally be as follows, but may be modified as determined appropriate by the Chairperson:

1. Identification of Applicant.
2. Statement of the Secretary regarding the nature of the case, relief sought, and submittal of proof of notice.
3. Presentation, testimony and other evidence by the Applicant.
4. Board Member's examination of Applicant's witnesses and other evidence.
5. Cross-examination of Applicant's witnesses and other evidence by Interested Persons who have filed a timely appearance with the Village Clerk.
6. Testimony and other evidence by others in favor of the application.
7. Testimony and other evidence by objectors, if any.
8. Board Member's examination of objectors' witnesses and other evidence.
9. Cross-examination of objectors' witnesses and other evidence by the Applicant.
10. In some cases re-examination may be allowed.
11. Testimony and other evidence by persons who are neither in favor nor opposed to the application.
12. Report by staff, if any.
13. Summary/Closing by Applicant.
14. Summary/Closing by Objectors.
15. Rebuttal/Closing by Applicant.

At any point in the proceedings, the Board Members may call upon witnesses who have not previously testified, such as Village staff and Village consultants. The Board Members may ask questions at any time during the hearing.

### **Section 12.15 Board Deliberation**

At the conclusion of an evidentiary portion of the public hearing, the Board may, among other actions, move to deliberate on the evidence presented, continue or reopen the hearing to a date, time and location certain.

### **Section 12.16 Recommendations/Decision**

A written report or resolution shall be prepared which shall include findings of fact and the Board's recommendation or decision based upon the record.

## ARTICLE XIII

### **RECOMMENDATIONS AND DECISIONS**

**Section 13.1** A final decision on any appeal shall be in the form of a resolution affirming, modifying or revising an order, requirement, decision or determination of the Zoning Administrator.

**Section 13.2** A final decision of any application for variation shall be in the form of a resolution granting or denying the variation, and shall include the Board's findings of fact. The Board may require such conditions, restrictions or limitations as it deems necessary to be imposed upon any variation granted, but any such conditions, restrictions or limitation shall be made part of the resolution. The resolution may also order the Zoning Administrator to take any action necessary for the effectuation of any variation granted.

**Section 13.3** Final decisions or recommendations shall be made within a reasonable time after the date of the closing of a public hearing. Any applicant may withdraw an application or appeal at any time prior to the decision thereon by the Board.

**Section 13.4** The Board shall conduct its deliberations and vote in a public session. The Board may vote on any matter before it at the same meeting at which evidence as to such matter is concluded or, if the Board considers additional time for deliberation necessary, then the Board may defer its vote to a subsequent public session.

**Section 13.5** Members of the Board who are absent for one or more hearing sessions, but who affirm that they have either listened to the audio tape or read the transcript of the absented session(s), shall be eligible to vote.

**Section 13.6(a)** The concurring vote of four (4) members shall be necessary for granting a variation(s), affirming an appeal, or recommending in favor of a special-use permit or zoning amendment. If the motion fails to receive four (4) votes in favor of the application, a motion denying the application shall be formally entered on the record. However, if the votes of the absent but eligible members, when added to the number voting in favor of the applicant or appellant, would total four (4) or more, the matter shall be postponed to the next meeting of the Board. If the motion to approve an application fails to receive four (4) affirmative votes at the next regular meeting, a motion denying the application shall be formally entered on to the record.

**Section 13.6(b)** For all other matters, the concurring vote of a majority of members present shall be sufficient to pass the matter.

**Section 13.7** As soon as practicable after a written findings of act and a recommendation or written resolution is adopted, notice thereof shall be given to the applicant, and to such other parties of record who have requested a copy.

**Section 13.8** No order of the Board permitting the erection or alteration of a building shall be valid for a period longer than 12 months from the date of such order unless an application for building permit for such erection or alteration is filed within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of the permit when issued.

**Section 13.9** No order of the Board permitting a use of land or a use of a building or premises shall be valid for a period longer than 12 months from the date of such order unless such use is established within such period; provided however, that where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is commenced within such period, and proceeds to completion in accordance with the terms of the permit when issued.

**Section 13.10** In the case of variations granted by the Board, one extension of time not exceeding 12 months may be granted by the Board, upon written application made within the initial 12-month period, without further notice or hearing; said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

#### ARTICLE XIV

##### **RECORDS**

**Section 14.1** A file of applications and recommendations/resolutions relating to each case shall be kept by the Secretary in the office of the Board as a part of the public records of the Board.

**Section 14.2** All records of the Board pertaining to variations, appeals, special-use permits, and zoning amendments shall be public record.

#### ARTICLE XV

##### **AMENDMENTS**

**Section 15.1** These Rules of Procedure may be amended by the affirmative majority vote of all members of the Board.

**Section 15.2** The suspension of any rule of procedure in any specific case may be authorized at any meeting of the Board by a majority vote of those members present, provided such suspension is not in conflict with applicable Illinois statutes or the Zoning Ordinance.