

## SEC. 13-1-192 HEARINGS.

- (a) **Notice of Hearing.** Notice of the time, date and place of the hearing of an appeal or application shall be given in the following manner:
- (1) By mail or personal service to the appellant or applicant and to the Zoning Administrator or other administrative official or body from whose decision an appeal is taken and Secretary of the Plan Commission not less than ten (10) days prior to the date of the hearing.
  - (2) In every case involving a variance, conditional use, exception, planned unit development or public utility exception, the City Clerk-Treasurer shall mail notice to the owners of record of all land within the area included in the application and within one hundred (100) feet of any part of the building or premises affected not less than ten (10) days prior to the hearing. Names and last-known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application.
  - (3) By publication of a Class 2 notice under Chapter 985, Wis. Stats.
  - (4) Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in the official newspaper not less than fifteen (15) days prior to the hearing.
  - (5) Notice of an application for a proposed special exception in a shoreland-wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources at least ten (10) days prior to the hearing.
- (b) **Time of Hearing, Docketing.** Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefore and placed upon the calendar by the Secretary of the Board of Appeals. Cases docketed more than fifteen (15) days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed seven (7) days or less prior to a regular meeting shall be scheduled by the Secretary, or his designee, for a hearing on the second regular meeting day thereafter unless otherwise directed by the Chairman.
- (c) **Appearances.** The appellant or applicant may appear in person or by his agent or attorney. In the absence of an appearance for or against an appeal or application, the Board of Appeals may dismiss the appeal or application or may dispose of the matter on the record before it.
- (d) **Oath.** Unless waived by the appellant or applicant and the Chairman, all witnesses shall be sworn before testifying by the Chairman or presiding officer.
- (e) **Compelling Attendance of Witnesses.** The Chairman, or, in his absence, the presiding officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Secretary of the Board of Appeals not less than two (2) days prior to the hearing except by special permission of the Chairman.
- (f) **Order of Hearing.** Appeals and applications shall be heard in numerical order except for good cause shown.
- (g) **Order of Business.**
- (1) **General Hearing.** At the hearing, the order of business shall be as follows:
    - a. Statement of the nature of the case by the Chairman.
    - b. Appellant's side of the case.
    - c. Questions by Board members.
    - d. Zoning Administrator's side of the case.

- e. Questions by Board members.
  - f. Statements by interested persons such as neighbors or abutting landowners.
  - g. Questions by Board members.
  - h. Appellant's or applicant's rebuttal.
- (2) **Contested Cases.** If the applicant or appellant elects to have his or her appeal or application treated as a contested case, the order of business shall be as follows:
- a. Call to order by the Chairman.
  - b. Appellant or applicant's opening statement.
  - c. Zoning Administrator's opening statement.
  - d. Opening statement of persons aggrieved and other interested parties. The right to make an opening statement is limited to persons who will present evidence.
  - e. Applicant's or appellant's case-in-chief.
  - f. Questions by Board members.
  - g. Cross-examination. No more than one (1) person for each party shall cross-examine witnesses. The Chairman may limit the number of parties who may cross-examine.
  - h. Zoning Administrator's case-in-chief.
  - i. Questions by Board members.
  - j. Cross-examination as under (2)g.
  - k. Case-in-chief of other parties.
  - l. Questions by Board members.
  - m. Cross-examination under (2)g.
  - n. Rebuttal by appellant or applicant. Rebuttal is limited to matters raised by the adverse parties by way of evidence or argument.
  - o. Statements of opinion of neighbors or abutting land owners – not subject to cross-examination.
  - p. Closing statements of those who made or waived opening statements.
- (h) **Evidence and Official Notice.** Except in contested case hearings, written and oral testimony will be received. In contested case hearings, no hearsay evidence will be allowed or relied upon as the sole evidence of any factual determination. The Board of Appeals may take official notice of the ordinances of the municipality, the zoning and location of the subject property and geographical features or other facts which are common knowledge in the municipality or can be verified by reference to public record. In contested case hearings, all witnesses shall be sworn and no person shall be permitted to testify unless he or she submits to cross-examination. See Sec. 227.08, Wis. Stats.
- (i) **Adjournments.** When all appeals or applications cannot be disposed of on the day set, the Board of Appeals may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board of Appeals.
- (j) **Withdrawal.** An appellant or applicant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to remission of the filing fee.