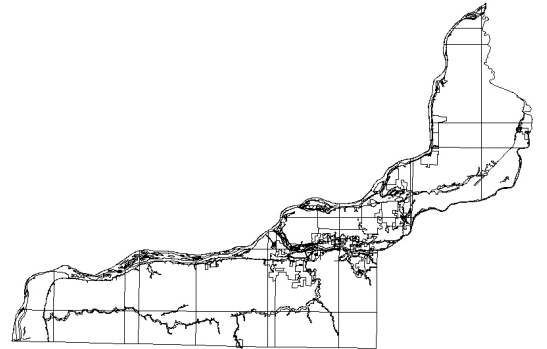


A citizens guide to the Zoning Board of Appeals
Rock Island County, Illinois

Note : This Brochure incorporates new regulations for map amendments and special use permits adopted by the Rock Island County Board.



**Rock Island County
Zoning & Building Department
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Hours: 8:00AM to 4:30 PM Mon - Fri

Preface

This Brochure is to assist a citizen attending a public hearing of the Rock Island County Zoning Board of Appeals (ZBA), as an applicant, an objector or simply to become more informed. It is primarily an instructional device to better prepare individuals who are supporting or objecting to a case set before the ZBA. Since the ZBA is open to the public, this brochure will also attempt to clarify the role of “interested parties”, and the role of the ZBA itself.

The Zoning Board of Appeals (ZBA)

The Zoning Board of Appeals is a quasi-judicial board created by the Rock Island County Board. The board is an independent volunteer board and is not part of the County’s administration. The board’s purpose is to decide on:

- a) applications for variances from specific requirements of the Zoning resolution
- b) requests for certain types of Special Use Permits as applicable.
- c) appeals of the decisions of the Director of Zoning

and to give a recommendation to grant or deny to the Rock Island County Board on

- a) a request for changes in zoning classification of specific property (rezoning);
- b) text amendments to the Rock Island County Zoning Ordinance and Land Use Plan
- c) requests for certain types of Special Use Permits as applicable.

Interested Parties

The Zoning Board of Appeals welcomes all PERTINENT testimony from “interested parties”. An interested party is:

- a) those persons designated by statute or ordinance who receive a notice of the public hearing via the postal service;
- b) persons having a direct property or economic interest
- c) representatives of a duly organized group with a SPECIFIC interest in a subject issue such as a neighborhood association, environmental organization, trade organization or those with a specific public policy issue as it relates to the subject of the public hearing

Before the Hearing

A citizen who may need to hold a hearing in front of the ZBA may apply at the department of Zoning & Building, participate in a pre-filing conference and pay a filing fee.

After a case is set for hearing before the ZBA, the applicant and all adjoining property owners may be notified of the time and place of the hearing and the notice will appear in a local newspaper at least 15 days before the hearing. An applicant/objector may inquire for information at the Department of Zoning & Building. The staff may not give legal advice, but can provide public information. The office maintains records of zoning & subdivision activity in unincorporated Rock Island County, and copies of the Zoning Ordinance and Subdivision Resolution are available for purchase at the Department.

The Applicant/Objector should seek legal counsel if the case demands legal expertise. Either party(s) may wish to consult an attorney prior to the hearing and, if necessary, have him/her serve as the party’s representative. While

many hearings are held without an attorney, it is up to each interested party to decide on the necessity of one.

An objector may organize as many supporters as they desire, however it should be recognized that the request is not a popularity contest. A request with no objectors may be denied and a request with thousands of objectors may be approved. The decision is based on facts, rather than opinions, presented in open meeting. The facts are then judged as to whether they meet the STANDARDS set forth in the Zoning Resolution. (See the Standards section of this pamphlet).

An Applicant/Objector may wish to attend a hearing before the case is scheduled in order to become familiar with the procedure and etiquette. The ZBA normally meets on the 1st Wed. of every month at 7:00 pm on the 3rd floor of the Rock Island County Office Building. Call the Zoning Department to verify the time, date, location and subject of the next hearing. The applicant may also wish to consult books and other material dealing with zoning, planning and land use.

Legal objectors, interested parties and cross examination

A legal objector is an adjoining property owner on a rezoning request. If the owner(s) of more than 20% of the linear distance of all property lines on the area to be rezoned files a written letter of objection to the Zoning Department, then the petition must pass the County Board by a 2/3 majority.

An objector may register five business days in advance of hearing for a Variance, Special Use Permit, or Zoning Map Amendment (rezoning) as an "interested party". An interested party may cross examine the petitioner and be cross examined by the petitioner during the hearing. An interested party exercising their cross examination rights may also be named along with the County in the event of further litigation. At the hearing, **ALL OBJECTORS are welcome to speak to the ZBA, however only those registered as an Interested Party may cross examine!** When registering, a statement of what your special interest in the case must be filled out and you may be held to those topics. In controversial cases which tend to be lengthy, once a subject has been discussed, the ZBA Chairman may disallow repetitive questioning and testimony. The Chairman's decision in these matters may be overridden by a majority vote of the other board members. It is recognized that while striving for fairness, it is not necessary to be redundant. Cross examination is an opportunity to question persons testifying in order to establish facts. It is not to be used as an opportunity to express displeasure with the individual. Attempts to do so will be seen as an emotional attempt to sway the board, rather than a true attempt to discover facts.

The Hearing Procedure

The applicant and/or his/her representative are required to appear at the scheduled hearing. The legal objector (adjoining property owner) may submit letters of opposition, however they only count to require a 2/3 majority vote of the County Board on rezonings as discussed earlier. All persons testifying before the board will do so under oath, and will state their name and address for the record.

The order of proceedings for each application will be as follows:

- a. Introduction of the case and evidence, if any by the secretary.
- b. The petitioners presentation and request including all pertinent information and witnesses, questions from the board and staff and Pre-Registered Interested Parties cross examination of each in that order.
- c. Objectors statements, questions from the board and staff.
- d. Interested Parties statements, questions from the board, staff and petitioner's cross examination, in that order.
- e. Applicants rebuttal, decision by the ZBA.

In the interest of an orderly hearing, it is requested that the procedures be observed. It is important to understand that as a quasi-judicial board, the hearing is not an open forum discussion. Persons attempting to thwart the discovery of facts thru interruption, name calling, irrelevant testimony or unnecessary emotional displays will be escorted from the hearing room and will not return. This applies to the petitioner(s) as well as the objector(s).

Meeting the Standards

The evidence presented must address the standards for the case in question, whether it be a Variance, Special Use or Map Amendment (Rezoning). The applicant must prove that the petition meets all the standards. The objectors must prove that the petition does not meet one or more of the standards.

Standards for Variances

The Zoning Board of Appeals shall not vary the regulations of this Resolution, as authorized in this section, unless there is evidence presented to it in each specific case that:

- a. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
- b. The conditions, upon which a petition for a variation is based are unique to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification;
- c. The purpose of the variance is not based exclusively upon a desire to make money out of the property;
- d. The alleged difficulty or hardship is caused by this Resolution and has not been created by any persons presently having an interest in the property;
- e. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
- f. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood; and
- g. The purpose of the variance shall not be to establish a use otherwise excluded from the particular district in which it is requested.
- h. The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the standards established in this Section.

Standards for Special Use

No Special Use shall be granted by the County Board unless such Board shall find:

- a. That the establishment, maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
- b. That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood, and will be located and operated to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. The applicant need not demonstrate complete compatibility, but the applicant shall demonstrate reasonable efforts to minimize incompatibility;
- c. That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts;
- d. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize

traffic congestion in the public streets;

f. That the plan of operations for the Special Use is designed to minimize the danger to the surrounding area from fire or other operational accidents; and

g. That the Special Use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the County Board.

Standards for a Map Amendments (rezoning) Standards for map amendments are done in the form of a Findings of Facts, justifying a recommendation to grant or deny the request as follows:

a. Existing use of property within the general area of the property in question;

b. The zoning classification of property within the general area of the property in question;

c. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification; and

d. The suitability of the property in question to the uses permitted under the existing and the proposed zoning classification

e. The ZBA shall recommend the adoption of a proposed amendment when it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant. The ZBA may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purposes of this paragraph, the AG-1 Ag Preservation District shall be considered the highest classification and the I-2 Heavy Industrial District shall be considered the lowest.

Presenting Testimony

Testimony should be supported by facts and not on opinion. The decision of the ZBA must be based on information that can be supported and is accurately presented. The Board is NOT interested in exaggeration or extraneous statements such as "I should be able to..." or "they shouldn't be able to...". Nor is the ZBA designed to battle neighborhood disputes. Only issues that deal with the case at hand will be allowed. All testimony is presented at the ZBA Hearing. For cases where a recommendation to another Board is made, (Public Works, County Board) these boards may discuss the testimony presented at the ZBA, however, by law, no further testimony or new evidence is allowed.

This brochure is intended as a brief guide to the ZBA and should not be relied upon for a thorough understanding of the hearing procedure or zoning law as applicable. Official documents may be obtained in the Zoning Department.