



The Rules and By-laws Governing  
the  
Vilas County Board of Adjustment

RULES AND BY-LAWS GOVERNING THE  
VILAS COUNTY BOARD OF ADJUSTMENT

**ARTICLE I. GENERAL PROVISIONS**

SECTION 1. AUTHORITY -

This Board has been established pursuant to Wis. Stats. Section 59.694 and assumes thereby, all responsibilities, duties, and powers as provided therein and by related statutes. A copy of their rules shall be filed with the Vilas County Clerk to be kept as a permanent public record and be available to the public. These rules are supplementary to the provisions of the Vilas County General Zoning Ordinance as it relates to the procedures of the Board of Adjustment.

SECTION 2. OFFICIAL TITLE -

The official title of this Board is: Vilas County Board of Adjustment.

SECTION 3. MEMBERSHIP -

(1) The Board of Adjustment shall consist of five (5) members and two (2) alternates, appointed by the County Board Chairperson and confirmed by the County Board. Initially one member shall serve for one year, two shall serve for two years, and two shall serve for three years. Initial terms shall be for staggered three-year periods beginning July 1. Alternates shall be designated by the County Board as the first alternate and second alternate, pursuant to Wis. Stat. 59.964 (2) (bm). The first alternate shall act, with full power, only when a member of the Board refuses to vote because of a conflict of interest or when a member is absent. The second alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one member of the Board refuses to vote because of a conflict of interest or is absent.

(2) The members of the Board, including alternates, shall all reside within Vilas County and outside of the limits of incorporated cities and villages; provided, however, that no two (2) members shall reside in the same town.

(3) Official oaths shall be administered by the Vilas County Clerk and shall be taken by members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.

(4) Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.

(5) The actual and necessary expenses incurred by the Board in the performance of its duties shall be paid and allowed as in cases of other claims against the County. It shall receive compensation as provided

for members of all County standing Committees, per diem, mileage and expenses.

SECTION 4. CONFLICT OF INTEREST -

Any member of the Board, who has any personal or financial interest in a matter before the Board shall disqualify himself to participate prior to any meeting or hearing at which said matter is under consideration.

SECTION 5. LIMIT OF AUTHORITY -

Nothing herein shall be construed to give or grant to the Board, the power of or authority to alter ~~to~~ or change the zoning ordinances including the zoning or other official maps of the County, which authority is reserved to the Vilas County Board of Supervisors.

SECTION 6. BOARD'S OFFICE -

The office of the Board shall be located in the Vilas County Courthouse. All public records of the Board shall be available for inspection in accordance with Chapter 1 of the Vilas County Code of Ordinances.

SECTION 7. ESTABLISH BUDGET -

The Board shall submit an annual report budget to the Vilas County Board of Supervisors or their designee in accordance with County policy.

**ARTICLE II. DUTIES**

SECTION 1. BOARD -

The Chairperson, or in his absence, the Vice-Chairperson, shall preside over and direct the conduct of all meetings and hearings of the Board and may administer oaths and compel the attendance of witnesses. In the absence of both the Chairperson and the Vice-Chairperson, the members shall appoint a Chairperson. The Chairperson shall report on all official transactions, which have not otherwise come to the attention of the Board. The Chairperson or the presiding officer, subject to these rules, shall decide all points of procedure or order, unless otherwise directed by a majority of members in attendance on motion duly made and approved.

SECTION 2. GENERAL DUTIES -

The Chairperson of the Board of Adjustment or his or her designee shall:

- (1) Be responsible for all official correspondence of the Board.
- (2) Receive all correspondence, applications, information, permits, files, etc., from the zoning department, or any other department pertinent to carry out the Board's responsibilities and duties.

- (3) Publish public notices of hearings in a local newspaper, as required by law.
- (4) Attend on-site inspections and public hearings.
- (5) Record names and addresses of persons appearing before the Board in person.
- (6) Summarize accurately the testimony of those appearing before the Board.
- (7) Record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or if absent of failing to vote, indicating that fact.
- (8) File minutes and records in the office of the Board, which minutes and records are public record.
- (9) Keep records of the Board's official actions.
- (10) Conduct all business and correspondence of the Board.
- (11) Initiate and implement procedural, By-Laws, and Rule changes as necessary.
- (12) Assist Corporation Counsel regarding Board of Adjustment matters.
- (13) Maintain financial records.
- (14) Perform duties that demand sound, independent decisions, judgment, research, and follow-up.
- (15) Submit any amendments to the Board's By-Laws to the Corporation Counsel for review, and to a County Board Supervisor to be submitted to the County Board for approval.
- (16) Transmit filing fees to County Treasurer.
- (17) Assume responsibility of the office and be custodian of the files of the Board.
- (18) Be responsible for all records.

SECTION 3. COUNTY CORPORATION COUNSEL -

Any advice from Vilas County Corporation Counsel regarding law and/or legal interpretation shall be received in writing and may be subject to attorney/client privilege.

The Board shall give notice to the Corporation Counsel and to the County Board of any legal action.

**ARTICLE III. MEETINGS**

SECTION 1. RULES OF ORDER -

Robert's Rules of Order shall govern actions of the Board and conduct of its meetings if not covered by these rules and regulations or the Vilas County Code of Ordinances.

SECTION 2. TIME: HOW CALLED -

- (1) Meetings and hearings of the Board shall be held, or may be canceled at the call of the Chairperson or Acting-Chairperson and at such other time as the Board may determine, provided that Board members

and the public are notified ~~as~~ at least twenty-four hours prior to such meeting.

- (2) All meetings shall be open to the public ~~and~~ in accordance with the open meeting law unless closed session is allowed and properly noticed under Wis. Stats. Section 19.85.
- (3) Hearings shall be advertised as required by State law, the Vilas County Code of Ordinances, and these rules.

The above section is proposed to be re-arranged from one large paragraph into several sub-paragraphs.

SECTION 3. QUORUM -

- (1) A quorum shall consist of a majority of all members of the Board.
- (2) The concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant or appellant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

SECTION 4. ORDER OF BUSINESS -

- (1) The Chairperson of the Board of Adjustment or his or her designee shall prepare an agenda for each Board meeting in compliance with Wisconsin's Open Meetings Law.
- (2) The order of business at any meetings or hearing may be varied at the discretion of the Chairperson or Acting-Chairperson.

**ARTICLE IV. POWERS AND DUTIES OF THE BOARD**

SECTION 1. GENERAL POWERS -

The powers and duties of the Board of Adjustment are identified in Wis. Stat. Section 59.694 (7) and in the Vilas County Code of Ordinances. The Board shall have the following general powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of Section 59.69 of the Wisconsin Statutes or of any Ordinance adopted pursuant thereto.
- (2) To hear and decide appeal of Conditional Use decisions by the Vilas County Zoning & Planning Committee or its successors.
- (3) To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

SECTION 2. SCOPE OF ORDERS -

In exercising the powers under Section 1, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer whom the appeal is taken, and may direct the issuance of a permit.

#### **ARTICLE V. APPLICATIONS AND APPEAL PROCEDURES**

##### SECTION 1. WHO MAY FILE -

- (1) Zoning appeals to the Board of Adjustment may be made by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of an administrative officer.
- (2) Zoning appeals may be filed with the Board of Adjustment after a denial has been received. The Zoning & Planning Department shall transmit to the Board all papers constituting the record upon which the actions appealed from was taken.
- (3) Zoning appeals may be filed by a prospective buyer to be the authorized representatives if a notarized statement is received from the property owner.

##### SECTION 2. TIME TO APPEAL/FORM -

- (1) Zoning appeals from the administrative officer's decision must be filed with the Board of Adjustment within thirty (30) days after the date of written notice of the decision or order of the administrative office. (Weekends and Holidays shall be counted.)
- (2) Zoning appeals shall be made on application forms provided by the Board of Adjustment. Any communication, except on prescribed forms, purporting to be an appeal shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with requirements of timely filing.

##### SECTION 3. REQUIRED INFORMATION -

Failure of the appellant to supply the required information on an appeal within the above thirty (30) days the appeal may be considered by the Board as a failure to comply with application and appeal procedure and the case may be dismissed for failure of timely filing. (Weekends and Holidays shall be counted.)

##### SECTION 4. REASONS TO BE STATED -

The reason for the application or appeal must be stated and the reasons why the request should be granted or denied must also be stated by the applicant or appellant:

- (1) If a variance is requested, case-specific facts must be stated upon which findings may be made by the Board to justify the granting of the variance.
- (2) If an appeal of Conditional Use decisions by the Vilas County Zoning & Planning Committee or its successors is requested, case-specific facts must be stated upon which findings may be made by the Board to justify granting or denying the conditional use.
- (3) If an appeal is based upon an alleged error or abuse of discretion of the administrative official, case-specific facts must be stated as to the nature thereof.

SECTION 5. COPIES TO BE SENT -

The Board of Adjustment shall retain the completed original application or appeal form for their file and send a copy to the applicant or appellant.

SECTION 6. INCOMPLETE APPLICATION -

The Board may refuse to hear or postpone a case upon the failure of the applicant or appellant to supply the information required by the Board of Adjustment.

SECTION 7. TIME FOR SCHEDULING HEARING -

Following the filing (date received) of such application or appeal, a hearing thereon shall be scheduled by the Board of Adjustment within ~~60~~ sixty (60) days after the filing unless a later date is agreed upon by the Board and the applicant or appellant. (Weekends and Holidays shall be counted.)

SECTION 8. NOTICE OF HEARING -

The Board of Adjustment shall give, or cause to be given, notice of each hearing as required by law and these rules.

This shall include at least the following:

- (1) Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 hearing notice, as provided for in Wis. Stats. Section 985, in the Vilas County official newspaper of general circulation on each of two successive weeks, the last publication to be at least ten (10) days before the date of the hearing as advertising therein.
- (2) Notice of time, place, and purpose of such hearing shall be given to the applicant or appellant, Vilas County Zoning & Planning Committee Chairperson, Vilas County Zoning Administrator, Deputy Zoning Administrator, and the Town Clerk, and County Board Supervisor in which town the property is affected by the appeal.

- (3) Three (3) meeting agenda notices for public posting will be sent to the Town Clerk for the Town in which the property is located. In addition, when ordered by the Chairperson of the Board of Adjustment, the secretary shall mail notice to adjacent property owners.
- (4) Notice of the public hearing shall be provided to the Wisconsin Department of Natural Resources at least 10 days before the hearing.

SECTION 9. EFFECT OF APPEAL -

An appeal shall stay all proceedings and furtherance of the action appealed from, unless the officer, from whom the appeal is taken, shall certify to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed, other than by a restraining order, which may be granted by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown.

SECTION 10. REPRESENTATIVE FILING -

An applicant or appellant may file an appeal or application personally or by an agent or attorney.

SECTION 11. FEE -

- (1) An applicant shall pay such a fee as may be established by the County Board, which amount shall be deposited for each application filed before a public hearing will be scheduled.
- (2) When the appellant requests the rescheduling of a hearing, the appellant shall pay all of the additional costs associated with the rescheduling.
- (3) After-the-fact filings shall be subject to a double fee.

**ARTICLE VI. PROCEEDINGS ON HEARINGS**

SECTION 1. APPEARANCES, ADJOURNMENT -

- (1) At the time of the hearing, the applicant or appellant may appear on his own behalf or be represented by his counsel or agent.
- (2) A recess or adjournment of a hearing, made at a noticed hearing date, to a time and place certain is adequate notice to the members and the public of a new hearing date. While not further publication shall be required, a new meeting agenda shall be prepared and posted in accordance with Wisconsin's Open Meetings Law.

SECTION 2. WITNESSES -



The Chairperson, or Acting Chairperson, may compel the attendance of witnesses and shall require those wishing to testify, to state their name, address and their interest in the matter, before the Board. Testimony shall be taken under oath, administered by the Chairperson, Acting Chairperson, or their designee.

SECTION 3. ORDER OF HEARINGS -

Hearings on cases shall normally follow this order, at the discretion of the Chairperson:

- (1) Call to order.
- (2) Roll call.
- (3) Reading of the public notice.
- (4) Testimony of applicant or agent.
- (5) Testimony from those in favor.
- (6) Testimony from Vilas County Zoning & Planning Department officials.
- (7) Testimony from the Wisconsin Department of Natural Resources.
- (8) Testimony from those in opposition.
- (9) Reading of all letters, electronic mail, and other correspondence.
- (10) Testimony from other interested parties.
- (11) Discussion and action shall not occur during the public hearing, but shall occur during a separate meeting agenda item.

SECTION 4. PRELIMINARY MATTERS -

Following the reading of the appeal, the Board may hear arguments on the questions of jurisdiction and request that briefs be filed on the point. The Board may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after the hearing is closed and render a decision on the merits as if it had jurisdiction. The Board may make an immediate determination and close the hearing upon finding that it lacks jurisdiction. If the Board determines by motion that it lacks jurisdiction, the Chairperson of the Board of Adjustment or his or her designee shall record the decision.

SECTION 5. PARTIES NOT TO INTERRUPT -

Orderly procedure requires that each side shall proceed without interruption by the other; that all arguments and pleadings shall be addressed to the Board and that there be no questioning or arguments between individuals.

SECTION 6. QUESTIONS AND DEBATE -

During the hearing, the Chairperson and Board members may ask questions and make appropriate comments pertinent to the case however no member should debate or argue an issue with the applicant. The Chairperson and Board members may direct any question to the applicant or to any person speaking in order to bring out all relevant facts, circumstances, and conditions affecting the case.

SECTION 7. PRESENTATION OF EVIDENCE -

- (1) All supporting evidence for and against each case shall be presented to the assembled Board. The applicant or appellant shall be responsible for the presentation of all information supporting his or her case.
- (2) The Board may take administrative notice of the ordinances of the County and laws of the State of Wisconsin and of other relevant facts not reasonably subject to dispute on its own motion or motion of a party.

SECTION 8. POSTPONEMENT OF HEARING -

Appellants may postpone only by prior arrangement with the Chairperson of the Board of Adjustment or his or her designee. In addition, when the appellant requests the rescheduling of a hearing, the appellant shall pay all of the additional costs associated with the rescheduling.

SECTION 9. CONTINUANCES -

When all appeals cannot be disposed of on the day set, the Board may adjourn, from day to day or to a certain future day as it may order, to complete consideration of undecided appeals. Such adjourned day shall be construed as a continuance of the hearing. The Board may also continue consideration of an appeal on the request of the appellant or Zoning Administrator for good cause. The date, time, and place of the next adjourned day shall be announced prior to adjournment. Notice of such adjournment shall be given to absent members. Notice shall also be given to the Administrator and appellants of continued appeals if not represented at the hearing when the continued hearing date, time, and place is announced. Such notice may be by telephone or electronic mail if the next adjourned day is less than ten (10) days hence. If ten (10) or more days hence, such notice shall be given in writing by electronic mail, hand delivery or via the U.S. mail.

SECTION 10. RULES OF EVIDENCE -

The Board shall not be bound by the court rules of evidence, but it may exclude irrelevant, immaterial, incompetent, or unduly argumentative, or repetitious testimony or evidence. Cross-examination may be allowed at the discretion of the Chairperson of the Board.

SECTION 11. CHAIRPERSON TO RULE ON ADMISSIBILITY -

The Chairperson shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board present at a public hearing.

SECTION 12. INTERESTED PERSONS MAY TESTIFY -

Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves and

sign the list of persons attending the hearing. All testimony shall be under oath.

SECTION 13. RECORD OF HEARING -

- (1) All proceedings at a hearing shall be made part of a written record, which shall be filed in the Vilas County Clerk's office and shall be open to the public.
- (2) Transcripts of recorded proceedings shall not be prepared unless ordered by the Circuit Court.

SECTION 14. ADJOURNMENT -

When all appeals or applications cannot be disposed of on the day set, the Board 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.

SECTION 15. WITHDRAWAL OF APPEAL -

- (1) Any appellant or applicant may withdraw his or her appeal any time prior to the submission of the legal notice to the newspaper without forfeiting their fee.
- (2) An appellant or applicant may withdraw an appeal at any time prior to the Board's decision, but a pending motion for decision shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to reimbursement of the filing fee.

**ARTICLE VII. DECISIONS OF THE BOARD**

SECTION 1. MAJORITY VOTE REQUIRED -

The concurring vote by the majority of the entire Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variance.

SECTION 2. DECISION TO BE WRITTEN -

All decisions shall be in writing and contain the facts upon which the decision is based.

SECTION 3. DECISION TO BE MAILED -

Within ~~30~~ thirty (30) days of the close of the hearing to which the decision relates, written copies of such decision shall be delivered to the applicant or appellant, zoning committee chairperson, zoning administrator, Department of Natural Resources, deputy zoning administrator, and to the town clerk in which town the property is

affected by the appeal. The approval of granting of appeals by the Board is deemed to constitute an order to the zoning official to issue a zoning permit. A denial of the application or appeal by the Board is deemed to be an order that the permit remain denied.

SECTION 4. DECISION TO RELATE TO SPECIFIC PROPERTY -

The decision of the Board applies to the property rather than to the individual and is valid only for the specific premises in the case and is not transferable to other properties.

SECTION 5. CASES TO BE DETERMINED INDIVIDUALLY -

Each case shall be decided upon its merits and upon the circumstances attendant thereto. Issuance of a variance does not constitute the setting of a precedent.

SECTION 6. ORDER FOR PERMIT VALID FOR ONE YEAR -

An order issued by the Board shall be valid for one year from the date of the written decision to the appellant.

SECTION 7. ACTION IN CIRCUIT COURT -

Any person or persons jointly, or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the County may commence an action in circuit court for writ of certiorari to review the legality of such a decision in whole or in part, within thirty (30) days after the filing of the decision in the office of the Board.

SECTION 8. ON-SITE INSPECTION -

- (1) Members of the Board of Adjustment may make a visual and physical examination and inspection of the site where an appeal has been filed.
- (2) The on-site inspection is not part of the public hearing but shall be included in the public notice.
- (3) All proposed buildings, proposed additions and lot lines shall be clearly marked by the applicant or appellant prior to the on-site inspection.
- (4) If climatic conditions are such that an on-site inspection cannot be made, the Board has the right to postpone the decision until such time when climatic conditions allow for proper on-site inspection.
- (5) Other interested persons and members of the general public shall be allowed to enter on the property with the Board and to hear and observe the proceedings.

**ARTICLE VIII. REFILINGS AND REHEARINGS**

SECTION 1. REFILEING RULE -

Any matter that has been acted upon by the Board shall not be considered again unless new information can be presented to the Board. However, if a refile is requested, a new hearing, a new notice given, and a new fee as required for an original hearing is necessary.

SECTION 2. ADJOURNMENT OF CASE -

A case will be considered as heard and adjourned at such time as the Board approves or rejects an application or appeal by motion or when it is considered adjourned by operation of these rules.

SECTION 3. RECONSIDERATION ON A BOARD MOTION -

A decision of the Board may be reconsidered by the Board by a simple majority vote, in accordance with Robert's Rules of Order. The Board shall enter on the minutes the basis of the reasons and the vote of the members thereon.

SECTION 4. RECONSIDERATION APPEAL PERIOD -

The filing of a request for reconsideration by the Board shall stop the running of the thirty (30) day period in which a petition to the circuit court must be made. The thirty (30) day periods will run, in such event, from the date of a decision not to reconsider. The matter is reconsidered from the date the decision of the reconsidered matter is filed in the Board's office. Filing constitutes a written record.

**ARTICLE IX.**

These rules may be changed or amended from time to time by a majority vote of the Board of Adjustment at any regular or special meeting and thereafter approved by the Vilas County Board of Supervisors

**ARTICLE X.**

Annually, the Board of Adjustment shall submit a report of its activities during the preceding year to the Vilas County Zoning & Planning Department for inclusion in the official Vilas County Zoning & Planning Department Annual Report.

**ARTICLE XI.**

The forgoing rules and regulations are hereby revised and adopted by the Board of Adjustment of the County of Vilas on August 19, 2015.

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Joy Hanser,  
Chairperson

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Stephen Favorite  
Vice-Chairperson

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Marvin Anderson

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Fred Indermuehle

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Dennis Wittig