

PORTAGE COUNTY BOARD OF ADJUSTMENT RULES AND BYLAWS

ARTICLE I GENERAL PROVISIONS

SECTION 1 PURPOSE

The purpose of the Portage County Board of Adjustment is to promote the health, safety and general welfare of the citizens of Portage County by providing limited flexibility in the application of Zoning Ordinances and by providing an avenue of appeal to administrative decisions regarding those ordinances. The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions and variances to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

SECTION 2 AUTHORITY

This Board of Adjustment has been established pursuant to Section 59.694 of the Wisconsin Statutes, as amended, and assumes thereby, all responsibilities, duties and powers as provided therein and by related statutes. A copy of these rules shall be filed with the County Clerk to be kept as a permanent public record. Copies of the rules shall also be available to the public. These rules are supplementary to the provisions of the Zoning Ordinances of the County because they relate to the procedures of the Board of Adjustment.

Any and all references to Wisconsin Statutes, the Wisconsin Administrative Code, Portage County Code of Ordinances and other laws shall include and incorporate any amendments to those laws that occur following the adoption of these rules and bylaws. To the extent these rules and bylaws are inconsistent with the current version of any applicable law, the current version of the applicable law shall apply and control. If any portion of these rules and bylaws are declared unenforceable or invalid, the remainder shall continue to be enforceable and valid.

SECTION 3 TITLE

The official title of this Board is, **"The Portage County Board of Adjustment."**

SECTION 4 MEMBERSHIP

The Board of Adjustment consists of five members and two alternates to be appointed by the County Executive subject to confirmation by the County Board. The terms of the first five members so appointed shall be for 1, 2, 3, 4, and 5 years respectively. Successors shall be appointed in like manner at the expiration of each term and their terms of office shall be 3-years in all cases, beginning July 1 in the year appointed. The members of the Board of Adjustment shall all reside within the County and outside the limits of incorporated cities and villages provided however, that no two members shall reside in the same town. The Board of Adjustment shall choose its own chairperson. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant in the same manner as the original appointment. The members of the Board of Adjustment shall be compensated at the same per diem and mileage rates paid to the County Board of Supervisors. Portage County's term limit of ten years for citizen members of boards and/or committees is applicable to all members of the Portage County Board of Adjustment.

Reappointments shall be in accordance with section 3.1.46 REAPPOINTMENT OF CITIZEN MEMBERS of the Portage County Code of Ordinances which states, "No citizen member of any standing committee of the Portage County Board of Supervisors shall be reappointed if such member has reached ten years longevity on that committee prior to the start of the proposed term, excluding any "title or position" specific appointment." Alternate Board of Adjustment members are not subject to this term limitation.

Two alternate members are appointed for staggered three-year terms by the County Executive. Annually, the County Executive must designate one as the first alternate and the other as the second alternate. The first alternate acts only when a Board member refuses to vote because of a conflict of interest, or is absent. The second alternate acts only when the first alternate refuses to vote because of a conflict of interest, or is absent, or if more than one board member refuses to vote because of a conflict of interest, or is absent.

SECTION 5 CONFLICTS OF INTEREST

Any member of the Board of Adjustment, who has any direct or indirect interest, personal or financial, in a matter before the Board of Adjustment, shall not vote thereon or participate in the deliberation of such matter at any meeting or hearing at which said matter is under consideration. A disqualifying conflict of interest shall be deemed to exist when: (1) The Board of Adjustment member is the applicant or appellant or spouse of the applicant or appellant, or is related to the applicant or appellant within the third degree of consanguinity, or is the husband or wife of someone so related; (2) The applicant or appellant is the employer, employee or partner of the member or is a corporation in which the member is a major shareholder or has a major financial interest. For the purpose of this section, "major" is defined as 35% or greater; (3) The member owns property within 300 feet of the property which is the subject of the application; and (4) the member feels that his or her objectivity is, or may be perceived to be, clouded by his or her relationship to the applicant or appellant or the property involved. A member may also disqualify himself or herself from voting whenever the applicant or appellant or their agent has sought to influence the vote of the member on his or her case outside the public hearing.

State Statutes and the Portage County Code of Ethics are applicable to all Board of Adjustment members. When a member feels that he or she may have a conflict of interest, the member should do the following:

- a. Declare a conflict exists at the beginning of the meeting of the Board of Adjustment;
- b. Cease to participate at the meeting in any manner, or to represent himself or herself before the Board, its staff, or others; and
- c. At the meeting, during the deliberation of the agenda item in question, leave the meeting or remove himself or herself from the Board of Adjustment members until that agenda item has concluded.

Neither the Chairperson nor the Board may force a member to recuse himself or herself unless otherwise required by these bylaws.

SECTION 6 LIMITATIONS

Nothing herein shall be construed to give or grant to the Board of Adjustment the power or authority to alter or change the Zoning Ordinances, zoning districts or other official maps of the County. Such authority is reserved to the County Board of Supervisors.

SECTION 7 THE OFFICE OF THE PORTAGE COUNTY BOARD OF ADJUSTMENT

The office of the Board of Adjustment shall be located in the Portage County Planning and Zoning Department. All records of the Board of Adjustment shall be available for public inspection between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, except for legal holidays.

ARTICLE II OFFICERS AND DUTIES

SECTION 1 OFFICERS

The Chairperson, in conjunction with the Director of the Portage County Planning and Zoning Department, shall set the agenda for each meeting of the Board of Adjustment. The Chairperson, or in

the absence or unavailability of the Chairperson, the Vice-Chairperson shall make the final decision of the agenda content and order before notice is officially given.

The Board of Adjustment shall elect a Chairperson, Vice-Chairperson and Secretary from among its members at the annual organizational meeting in July. These officers shall hold offices for one year or until their successors are elected. The Board of Adjustment may at any meeting or hearing elect from among the membership the replacement for an officer who is unwilling or for whatever reason is unable to perform the duties of his or her office. The officer so elected as a replacement shall serve until the next organizational meeting of the Board of Adjustment.

SECTION 2 DUTIES OF OFFICERS

An agenda shall be prepared by the Board of Adjustment Chairperson with the assistance of the Planning and Zoning Director for each Board of Adjustment meeting and/or public hearing listing the matters to come before the Board of Adjustment and posted in compliance with the Wisconsin Open Meeting's Law.

The Chairperson, if present, otherwise the Vice-Chairperson, shall preside over and direct the conduct of all meetings and hearings of the Board of Adjustment, 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 Chair. The Chairperson shall report on all official transactions that have not otherwise come to the attention of the Board. The Chairperson shall, subject to these rules and further instructions from the Board of Adjustment, direct the official business of the Board of Adjustment, supervise the work of the Board of Adjustment and request necessary help when required. 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 the members in attendance on motion duly made and approved.

The secretary, in conjunction with the recording secretary, shall record and maintain permanent minutes of the Board of Adjustment's proceedings, showing the vote of each member upon every question, or if absent, or failing to vote, indicate that fact; shall keep records of its official actions; shall summarize accurately the testimony of those appearing before the Board of Adjustment and keep a verbatim recording of all hearings for seven years; shall record the names and addresses of all persons appearing before the Board of Adjustment in person, or by agent; shall, subject to the discretion of the Board of Adjustment and Chairperson, conduct the correspondence of the Board of Adjustment and have published in the local newspaper, public notice of meetings or hearings as required by law and these rules of procedure; shall file said minutes and records in the office of the Board of Adjustment, which minutes and records shall be a public record; and shall be the custodian of the files of the Board of Adjustment and keep all records.

The County Corporation Counsel, or other legal representative designated for the Board of Adjustment, shall be the legal counsel for the Board of Adjustment. Advice of counsel shall be received and entered in the minutes before disposition of any questions of law or matter requiring legal interpretation or advice. The Corporation Counsel cannot serve opposing interests of the County, *i.e.* the Board of Adjustment and members of the County Board or Planning and Zoning Department, or the Board of Adjustment and the County Executive, in the event of a conflict of interest.

ARTICLE III MEETINGS

SECTION 1 TIME: HOW CALLED

Meetings and hearings of the Board of Adjustment shall be held, or may be cancelled at the call of the Chairperson and at such other times as the Board of Adjustment members may determine.

Any Board of Adjustment Member desiring to have an item placed on the agenda of the Board of Adjustment may contact the Board chairperson with the request. Upon such request, the item shall be placed on a subsequent Board agenda. The Board member who makes such request shall be notified that the item has been placed on the agenda.

All meetings shall be open to the public, and in accordance with the Wisconsin Open Meetings Law, except the Board of Adjustment may convene in closed session pursuant to section 19.85 of the Wisconsin State Statutes at the conclusion of any public hearing for the purpose of reaching a decision on the evidence placed before it in the open portion of such hearing, or as otherwise provided by law. All meetings and hearings shall be noticed as required by law and these rules.

SECTION 2 QUORUM

A quorum shall consist of three members and no action may be taken except by a majority vote of such quorum.

SECTION 3 ORDER OF BUSINESS

The order of business shall be as stated in the published agenda for that meeting unless changed by the Board of Adjustment Chairperson.

SECTION 4 ROBERT'S RULES OF ORDER

Robert's Rules of Order shall govern actions of the Board of Adjustment regarding the making of, the discussion of, and the disposition of, motions and amendments to motions. All other procedures, including the testimony and deliberation portion of all hearings, shall be at the sole discretion of the Chairperson of the Board of Adjustment, subject to the requirements of Wisconsin Statutes and Portage County Ordinances.

ARTICLE IV POWERS AND DUTIES OF THE BOARD

SECTION 1 GENERAL POWERS

The powers and duties of the Board of Adjustment are identified in section 59.694(7) of the Wisconsin Statutes and in the various Ordinances that have been adopted by Portage County. If there is a conflict between these bylaws and State law, State law shall control. The Board of Adjustment shall have the following general powers:

- A. 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 Sections 59.69, 87.30 or 281.31, Wisconsin Statutes, as amended, or of any County Zoning Ordinance enacted pursuant thereto.
- B. To hear and decide requests for special exceptions that are authorized and listed within the Zoning Ordinance and upon which said Board of Adjustment is required to consider and, if appropriate, approve. Special exception approval shall be consistent with the Portage County Comprehensive Plan and the Comprehensive Plan of the township involved in a particular petition.
- C. To authorize, upon appeal in specific cases, such variance from the terms of the Zoning Ordinance that will not be contrary to the public interest and will be in accordance with all applicable laws. A Variance:
 - 1. Shall be consistent with the spirit and intent of the Zoning Ordinance.
 - 2. Shall not permit any change in the uses in the established zoning districts.
 - 3. Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.
 - 4. Shall not be granted for actions which require an amendment to the Ordinance.
 - 5. Shall not be granted on the basis of economic gain or loss.

6. Shall not be granted for a self-created hardship.
7. Shall be to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect spawning grounds, fish and aquatic life, to control building sites, placement of structures and land uses and preserve shore cover and natural beauty.
8. Shall not be granted unless an applicant proves the following three criteria to the Board of Adjustment:

(1) **UNNECESSARY HARDSHIP**

The first criteria requires an applicant to indicate what type of variance is being requested, which will be either an **area variance** or a **use variance**.

UNNECESSARY HARDSHIP FOR AREA VARIANCE:

The applicant must prove that compliance with all applicable regulations governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the applicant from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

UNNECESSARY HARDSHIP FOR USE VARIANCE:

The applicant must prove that compliance with all applicable regulations governing use would prevent the applicant from any reasonable use of the property and that it would make the property useless.

(2) **UNIQUE PROPERTY CHARACTERISTICS**

The second criteria requires the applicant to prove a hardship that is the result of physical features **of the property** and which prevents compliance with the Zoning Ordinance. For example, wetlands, high bedrock or steep slopes may limit building sites. Physical limitations of the property, **not the circumstance of the applicant**, are the basis for this criterion. An applicant's growing family or desire for more vehicle storage, etc., cannot be considered as a factor in deciding variances. Nearby Zoning Ordinance violations and prior variances **DO NOT** justify granting a variance nor does a poor building location on the site chosen by the current or previous owner justify granting a variance.

(3) **PUBLIC INTEREST**

The third criteria requires an applicant to prove that the variance will not adversely affect public interest as expressed in the purpose statement of the Portage County Zoning Ordinance. For example, shoreline setback requirements are designed to protect water quality, wildlife habitat, natural beauty, etc... from the perspective of the general public. The fact that neighbors do not object to a project or that their property values might rise as a result of reconstruction has little if anything to do with qualifying for a variance.

D. To grant special exceptions and variances for renewable energy resource systems as defined in Section 59.694(7)(d), Wisconsin Statutes.

E. To interpret the Zoning District Maps.

SECTION 2 SCOPE OF ORDERS

In exercising the powers under Section 1, the Board of Adjustment 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 of the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

ARTICLE V APPLICATIONS AND APPEAL PROCEDURES

SECTION 1 WHO MAY FILE

Applications to the Board of Adjustment and appeals of a Zoning Administrator's decision shall be filed with the Zoning Administrator by:

1. The applicant or appellant;
2. Any aggrieved person;
3. A person's authorized agent;
4. An officer, department, board or bureau of the state; or,
5. An officer, department, board, or bureau of a local unit of government.

SECTION 2 APPLICATION

The filing for an appeal of a decision, for a variance, or for a special exception shall be in writing on a form provided by the Zoning Administrator, and include payment of any required fees. The forms shall bear the signature(s) of the owner(s) of the property affected, or shall be accompanied by a letter from the owner(s) acknowledging the filing of the form and granting permission to access the property for a site inspection if requested by the Board of Adjustment or Planning & Zoning Department.

The forms shall bear the signature of the owner of the property affected or shall be accompanied by a letter from the owner acknowledging the filing of the form. An applicant or appellant may file an appeal or application personally or by agent or attorney.

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 FEE

The applicant or appellant shall pay such fees as may be from time to time established by the Planning and Zoning Committee. A double filing fee shall be required for applicants who have engaged in any activity without Board of Adjustment approval for which a variance or special exception or other Board of Adjustment approval is required.

SECTION 4 REQUIRED INFORMATION

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

1. If a variance is requested, facts should be stated upon which findings may be made by the Board of Adjustment to justify the granting of the variance.
2. If an appeal is based upon an alleged error or abuse of discretion of the Planning and Zoning Director or Zoning Administrator, facts should be stated as to the nature thereof.
3. The burden of proof is entirely upon the applicant or appellant. The Planning and Zoning staff is not to advocate for the applicant or appellant, but only to assist and to gather and organize materials for the Board of Adjustment.
4. A site plan must be completed in its entirety on the required Board of Adjustment form.
5. If requested, a copy of the deed to the property shall be provided by the owner(s) to determine ownership and any restrictions of land use or tenancy on the property.

Failure of the appellant to supply the required information within 30 days of filing an appeal or application may be considered by the Board of Adjustment as a failure to comply with the application and appeal procedure and the case may be dismissed for failure to timely file.

SECTION 5 COPIES TO BE SENT

The Planning & Zoning Director or Zoning Administrator shall promptly transmit copies of the application or appeal as follows: Original to the Board of Adjustment; a copy to the Director and/or Administrator's files; a copy to applicant and/or appellant if necessary; a copy to the town clerk, town board chairman and plan commission chair of the township affected.

In case of an appeal or application affecting property in the shoreland or floodplain districts, one copy shall be sent to the Wisconsin Department of Natural Resources.

SECTION 6 TIME FOR HEARING

Each appeal or application shall be considered by the Board of Adjustment at its next meeting, provided there is sufficient time between the date of the appeal and the date of the meeting for the required notices to be published.

SECTION 7 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) publication of a Class 2 hearing notice in a newspaper of general circulation; (2) mailing a notice of hearing to the applicant, where required, and to the district office of the Department of Natural Resources at least 10 days before the hearing; 3) mailing a notice of the hearing to the Town Board of the Town in which the property is located not less than one week before the date of the hearing.

Hearing appeals. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch. 985, as well as give due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, a party may appear in person or by agent or attorney. In an action involving a historic property, as defined in s. 44.31(3), the Board of Adjustment shall consider any suggested alternatives or recommended decision submitted by the Landmarks Commission or the Planning and Zoning Committee or Commission.

SECTION 8 TIME TO APPEAL

Appeals to the Board of Adjustment from the Director or Administrator's decision must be filed within 30 days after the decision in writing is made and filed.

SECTION 9 EFFECT OF APPEAL

An appeal shall stay all proceedings in 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 the appeal has been filed with him or her, that by reason of facts stated in the appeal, 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 the Board of Adjustment, or by a court of competent jurisdiction on application and notice to the officer from whom the appeal is taken and on due cause shown.

ARTICLE VI PROCEEDINGS ON HEARINGS

SECTION 1 APPEARANCES AND ADJOURNMENTS

At the time of the hearing, the applicant or appellant may appear on his own behalf or be represented by his/her counsel or agent. 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.

SECTION 2 ORDER OF HEARINGS

Hearings on cases shall normally proceed as follows:

1. Read public hearing appeal.
2. Chair recites purpose of the BOA and the hearing procedures, etc...
3. Reading of the reasons for **denial** by the Director or Administrator if the appeal is an appeal of the Director's or Administrator's decision.
4. Staff, County, State or Federal Agencies correspondence/recommendations.
5. Administration of an oath or affirmation to the applicant or appellant by the Board of Adjustment Chairman.
6. Applicant or appellant presents evidence.
7. Questioning by Board of Adjustment.
8. Evidence presented by those in support of or opposed to the appeal.
9. Rebuttals as permitted by Board of Adjustment.
10. Close hearing and move into deliberative stage.

SECTION 3 PRELIMINARY MATTERS

Following the reading of the petition or appeal, the Board of Adjustment may hear arguments on the question of jurisdiction and request that briefs be filed addressing the issue. The Board of Adjustment may proceed with the hearing and the taking of testimony 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 of Adjustment may make an immediate determination and close the hearing upon a finding that it lacks jurisdiction. If the Board of Adjustment determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the request.

SECTION 4 PRESENTATION OF EVIDENCE

All supporting evidence for and against each case shall be presented to the assembled Board of Adjustment. The applicant or appellant shall be responsible for the presentation of all information supporting their case. The Board of Adjustment 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 5 RULES OF EVIDENCE

The Board of Adjustment shall not be bound by court rules of evidence, but it may exclude irrelevant, immaterial, incompetent, unduly argumentative or repetitious testimony or evidence.

SECTION 6 QUESTIONS AND DEBATE

During the hearing the Chairperson and Board of Adjustment members may ask questions and make appropriate comments pertinent to the case, however, no member should debate or argue an issue with the applicant or appellant. Members of the staff may give opinions or make clarifications when asked or when a request to speak is granted by the Chair. The Chairperson and Board of Adjustment members may direct any question to the applicant or appellant or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case.

SECTION 7 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 or Affirmation.

SECTION 8 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 of Adjustment present.

SECTION 9 RECORD OF HEARING

All proceedings, except those that are closed in accordance with Wisconsin law, shall be tape recorded or recorded by a court reporter. The Secretary, in conjunction with the recording secretary, shall prepare a summary of motions, witnesses, appearances, roll call votes and all other matters constituting the substance of the proceedings which shall be submitted to the Board of Adjustment for review at its next meeting and when approved shall become part of the written record filed in the office of the Board of Adjustment and open to the public. Transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari or ordered by the Board of Adjustment. Any party or member of the public may make a record of the proceedings by any means which does not disturb the hearing or others present.

SECTION 10 WITHDRAWAL OF APPEAL OR APPLICATION

An applicant or appellant 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 or application shall not entitle the appellant or applicant to remission of the filing fee.

ARTICLE VII DECISIONS OF THE BOARD

SECTION 1 MAJORITY VOTE REQUIRED

The concurring vote of a majority of all members of the Board of Adjustment who are present shall be necessary for any action of the Board of Adjustment provided there is a quorum of the Board of Adjustment.

SECTION 2 DECISION TO RELATE TO SPECIFIC PROPERTY

The decision of the Board of Adjustment shall be deemed as applying 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 3 CASES TO BE DETERMINED INDIVIDUALLY

No action of the Board of Adjustment shall set a binding precedent. Each case shall be decided upon its merits and upon the attendant facts and circumstances, provided the Board of Adjustment shall not act arbitrarily, capriciously or unreasonably.

SECTION 4 INFORMAL ADVICE NOT BINDING

No informal request for advice or opinions on moot questions shall be given by the Board of Adjustment. Any advice, opinion or information given by any Board of Adjustment member, the Board of Adjustment Secretary, or any other official or employee of the County shall not be binding on the Board of Adjustment.

SECTION 5 FINDINGS

In acting on any matters before it, the Board of Adjustment shall make findings supporting its actions. In every case where a variance from the zoning regulations is granted by the Board of Adjustment, the minutes of the Board of Adjustment shall accurately reflect that all of the necessary variance criteria have

been proven. In every case where a special exception is granted, the facts supporting the action and the conditions placed on said special exception approval shall be clearly stated.

All decisions made by the Board of Adjustment shall be made at a public meeting, by motion made and seconded and passed by majority vote. Additionally, all decisions shall be in the form of Findings of Fact and shall state the reasons for the findings by the Board of Adjustment. If conditions are imposed in the granting of a variance or special exception use, such conditions shall be included in the motion.

SECTION 6 DECISIONS TO BE WRITTEN

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

SECTION 7 DECISIONS TO BE MAILED

Decisions of the Board of Adjustment shall be mailed out to all interested parties as soon as possible, but in no case later than 30 days from the date of the Board of Adjustment's decision. The approval or granting of appeals by the Board of Adjustment 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 of Adjustment is deemed to be an order to deny a zoning permit. Copies of written decisions authorizing special exceptions or variances in Floodplain or Exclusive Agricultural Districts shall also be mailed to the Wisconsin Department of Natural Resources and the Wisconsin Department of Agriculture, Trade and Consumer Protection.

SECTION 8 ORDER FOR PERMIT VALID FOR ONE YEAR

Unless otherwise ordered by the Board of Adjustment, all decisions by the Board of Adjustment that require the issuance of a zoning permit must include a provision that such zoning permit be issued within one year of the decision date and that the zoning permit be issued before any activity or construction starts unless the appellant requests an extension from the Board of Adjustment through the Portage County Planning and Zoning Department before one year has elapsed.

SECTION 9 DECISIONS TO BE FILED WITH STATE

Decisions on Floodplain, Shoreland, and Wetland Zoning appeals, variance and conditional uses shall be sent to the district office of the Wisconsin Department of Natural Resources. Decisions granting a variance or special exception in Exclusive Agricultural and Agricultural Zoning Districts shall be sent to the Wisconsin Department of Agriculture, Trade and Consumer Protection.

SECTION 10 ACTION IN CIRCUIT COURT

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

ARTICLE VIII REFILINGS AND REHEARINGS

SECTION 1 ONE YEAR REILING RULE

No case which has been acted upon by the Board of Adjustment shall be considered again within one year from the date of action except as hereinafter provided: (a) The case does not involve a request for an identical permit or does not allege the same misinterpretation or error, point of non-coverage or hardship as the previous case; (b) the case does not contain the original request for a specific variance, and (c) there has been a substantial change in the use of adjacent property since the previous case was heard. This does not prohibit the Board from reconsidering a case as provided by these rules.

SECTION 2 REOPENING AND REHEARING LIMITED

The Board of Adjustment may not: (a) reopen any case upon which a previous hearing has been held, except to correct a manifest error; (b) hear or rehear any case to determine the location of any district boundary line where the Board of Adjustment has previously determined the location of such boundary line, unless new evidence is submitted. This does not prohibit the Board from reconsidering a case as provided by these rules.

SECTION 3 CLOSURE OF CASE

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

SECTION 4 RECONSIDERATION OF BOARD OF ADJUSTMENT MOTION

A decision of the Board of Adjustment may be reconsidered by motion of a Board member to reconsider previous Board action, seconded and passed by majority vote, made not later than the following regular meeting, in which event, the matter shall be placed on a calendar for a subsequent hearing and a new notice given without additional fee.

SECTION 5 RECONSIDERATION BY REQUEST

The Board of Adjustment may entertain a request for reconsideration by a party in interest provided the request is in writing and new written evidence is submitted with the request. On receipt of a properly filed request to reconsider, the matter shall be placed on the next agenda under "Reconsideration." The request for reconsideration must be filed with the Planning and Zoning Department at least 10 days before the next meeting date.

SECTION 6 PROCEDURES FOR RECONSIDERATION

A simple majority vote shall be sufficient to reconsider a previous decision. If a request for reconsideration is denied to an interested party who has requested reconsideration, the Board of Adjustment shall enter in the minutes the basis of the request, the reason why it was refused and the vote of the Board of Adjustment members thereon. If a request for reconsideration is approved, the case will be placed on the agenda for the next regular meeting and notice given of the reconsideration hearing as required for an original hearing upon payment of the rehearing fee.

SECTION 7 STAYS OF APPEAL PERIOD

The 30-day period for circuit court action filing shall be stayed if a request or adoption of a motion for reconsideration has been filed. The continuation of the 30 day period begins on the date a motion to reconsider is denied by the Board of Adjustment or if the motion to reconsider is granted on the date a decision on reconsideration is made and filed in the Board of Adjustment's office.

ARTICLE IX AMENDMENT OF RULES

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.

ARTICLE X ANNUAL REPORT

The activities of the Board of Adjustment shall be included in the Portage County Planning and Zoning Director's annual report to the Portage County Board of Supervisors.

ARTICLE XI STAFF

The Board of Adjustment may utilize the advice and assistance of County employees and may delegate administrative tasks to such employees as authorized by the Portage County Board of Supervisors and approved by the Portage County Planning and Zoning Director.

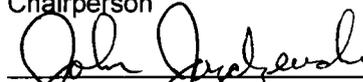
ARTICLE XII ADOPTION

The foregoing rules and regulations are hereby adopted by the Board of Adjustment for the County of Portage.

Amended November 20, 2017



Marjorie A. Bachhuber
Chairperson



John Jazdzewski
Vice Chairperson



James Garbe
Secretary



Edward Szachnit
Member



Dennis Meis
Member