### **RULES OF PROCEDURE**

### TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS

#### **Effective Dates:**

Initial Adoption: September 21, 1998

Amendments of -

June 19, 2000: June 20, 2000 July 25, 2000 July 26, 2000 October 15, 2001: October 16, 2001

December 7, 2022: January 1, 2023 (Re-adoption of Rules)

March 1, 2023: March 2, 2023 (Resolution)

Note: Certain terms included in this document appear in Italic print. These terms are

defined terms which have a specific meaning in this document. The defined

terms may be found in Article X of these Rules of Procedure.

#### **RULES OF PROCEDURE:**

#### TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS

#### I. Board of Zoning Appeals Meetings

#### 1. Regular Meetings

The *Board* shall hold its regular monthly meeting on the first Wednesday of the month at 6:30 p.m. in the Zionsville Town Hall, (1100 West Oak Street, Zionsville, Indiana). If the first Wednesday of the month is a holiday as recognized by the Town of Zionsville, or if it is impossible to conduct the meeting at that time or place, the regular monthly meeting shall be scheduled for the first Thursday following the first Wednesday of the month.

#### 2. Special Meetings

Special meetings of the *Board* may be called by the Chairman or by two (2) members of the *Board* upon written request to the *Secretary*. The *Secretary* shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting.

Written notice of a special meeting shall not be required if (i) the date, time and place of a special meeting is fixed at a regular meeting; and (ii) all members of the *Board* are present at the regular meeting.

#### 3. Executive Session

The *Board* may meet in Executive Session pursuant to I.C. 5-14-1.5-6.1.

#### 4. Public Meetings

All meetings of the *Board*, except legally constituted executive sessions, shall be open to the public who shall have the right to give testimony during the public hearing portion of the meeting, in accordance with these Rules of Procedure.

#### 5. Minutes

The *Board* shall maintain minutes of all meetings, including the record of the vote on all actions taken.

# II. Filing of Petitions for Administrative Appeal, Variance of Use, Variance of Development Standards or Special Exception

#### 1. Who May File

*Petitions* for an administrative appeal. variance of use, variance of development standards or special exception may be initiated by a *Petition* signed by all of the owners of the land involved in the *Petition*.

An Owner may be represented by an *Authorized Agent*. An *Authorized Agent* shall file a written statement with the Department, signed by the Owner on a form acceptable to the Department, at the time of filing a *Petition*.

#### 2. Filing Deadline

*Petitions* for public hearing before the *Board* shall be filed with the *Secretary* no later than 3:00p.m. on a date which is at least 30 days prior to the initial hearing before the *Board* at which the *Petition* is to be considered.

#### 3. Form of Filing

All *Petitions including proposed Commitments to the Board* shall be on forms provided by the *Board*. In addition, site plans, surveys, legal descriptions, building elevations, sign details, proposed commitments and any other relevant supporting documentation shall be of a usable scale and quality.

#### 4. Findings of Fact

The *Board* shall, in all cases heard by the *Board*, make written *Findings of Fact* in support of the *Board's* decision. The *Petitioner* shall, at the time of filing of the *Petition*, file proposed detailed written *Findings of Fact*.

#### 5. Specifying of Request

All *Petitions* shall specify the appeals, variances or exceptions requested. Any items, even if indicated on the proposed plans, shall not be considered a part of the request presented to the *Board* for its consideration unless such items are specified in the *Petition*.

#### III. Docketing of Petitions, Order of Hearings, Investigation of Petitions

#### 1. Docketing by Secretary

Each *Petition* filed in proper form pursuant to the guidelines established by the *Board* shall, within ten (10) days of filing, be numbered and docketed by the *Secretary* for an initial hearing by the *Board*. Such *Petitions* shall be numbered consecutively in the order of their filing according to the type of *Petition*.

#### 2. Order of Hearings

On the date of the public hearing, the *Board* shall hear *Petitions* in the order of their numbers as follows:

#### a. Continued Petitions

- (1) Special Exceptions
- (2) Variance of Development Standards
- (3) Variance of Use
- (4) Administrative Appeals

#### b. Initial Hearing Petitions

- (1) Special Exceptions
- (2) Variance of Development Standards
- (3) Variance of Use
- (4) Administrative Appeals

The *Board* may, in its discretion and at a public hearing, change the order in which *Petitions* shall be heard at the public hearing.

#### IV. Notice Requirements for Petitions for Administrative Appeal, Variance

#### of Use, Variance of Development Standards, or Special Exception

Notice of all *Petitions* for administrative appeal, variance of use, variance of development standards, or special exception for public hearing before the *Board*, or before any hearing officer, shall be given to all interested parties or property owners in the following manner:

#### 1. Notice by Publication

Notice, in a form approved by the *Secretary*, shall be published by the *Petitioner* in accordance with LC. 5-3-1 at least ten (10) days prior to the date of the public hearing.

#### 2. Notice by Mailing

Notice, in a form approved by the Secretary, shall be mailed to each interested party.

Notice by mailing shall be given by certified mail, return receipt requested, or by first class mail at least ten (10) days prior to the date of the hearing.

#### 3. Notice by Sign Posting

A Notice sign, in a form approved by the *Secretary*, shall be posted in a conspicuous place on the subject property, outside of any public right-of-way, by the *Petitioner* at least ten (10) days prior to the date of the public hearing.

#### 4. Interested Parties

- a. Interested parties for a *Petition* for administrative appeal, variance of use, variance of development standards, or special exception shall include:
  - (1) All owners of property within the area included in the *Petition* who are not *Petitioners*; and,
  - (2) All owners of adjoining parcels to a depth of one (1) ownership surrounding the perimeter of the area included in the *Petition*.

In the case of property which has been submitted to the Horizontal Property Law (I.C. 36-1-6), designated common areas shall be deemed one ownership and notice to the co-owners of such common area may be given to the association of co-owners.

For the purpose of notice requirements contained in this subsection a., where any immediately adjoining parcel owned by the *Petitioner*, subject property of the *Petition* shall be deemed to include the immediate} adjoining parcel owned by the *Petitioner*.

For the purpose of notice requirements contained in this subsection

- a. where any immediately adjoining parcel is a dedicated right-of-way. railroad right-of-way or private alley or street, the subject property of the *Petitioner* shall be deemed to include the portion of the right-of-way or private street that is contiguous and adjacent to the parcel owned by the *Petitioner*.
- b. In determining the name and address of legal title owners, the records of the Boone County Auditor, or the appropriate office designated in an adjoining county, at a point in time within fourteen (14) days of the date of filing, shall be deemed to be the true names and addresses of all persons entitled to receive notice. The Petitioner shall include a list of the name and address of legal title owners with the Affidavit of Notice.

#### 5. Affidavit of Notice

Petitioner shall file an Affidavit of Notice with the Secretary, in a form as specified by the Board. indicating compliance with all notice requirements of these Rules, prior to the public hearing. Copies of all "Receipt for Certified Mail" (white slips) shall be filed with the Affidavit of Notice. The originals of the "Domestic Return Receipts" (green cards) shall be filed with the Secretary upon the later of (i) the public hearing or (ii) receipt by the Petitioner.

#### 6. Defective Notice

If proper notice has not been given, a *Petition* may be continued until a later date to allow time for un-notified persons to prepare for the public hearing. Personal appearance shall waive any defect in notice unless the defect in notice is timely raised at the beginning of the public hearing on the *Petitioner's Petition*.

#### V. Conduct of Public Hearings

#### 1. Time Allowed and Procedure for Hearing of Petitions

In order to provide all interested parties with a fair hearing, *Petitioners* and remonstrators shall be afforded a reasonable amount of time for the presentation of evidence, statements and argument at the public hearing of every *Petition* before the *Board*. The order of the presentation of evidence, statements and arguments shall be as follows:

- a. *Petitioners* and persons appearing in support of a *Petition* shall be allotted a total of fifteen (15) minutes to present evidence, statements and arguments in support of the matter being considered.
- b. Remonstrators and persons appearing in opposition to a *Petition* shall then be allotted a total of fifteen (15) minutes to present evidence statements and arguments in opposition to the matter being considered.
- c. The *Petitioner* shall then have a total of five (5) minutes for rebuttal, which shall include only evidence, statements and argument in rebuttal of remonstrators' evidence, and a brief closing statement.
- d. Remonstrators shall then have a total of five (5) minutes for rebuttal, which shall include only evidence, statements and argument in reponse to *Petitioner's* rebuttal of remonstrators' evidence, and a brief closing statement.

At the conclusion of remarks by any party, the *Board* shall have the right to ask questions pertaining to the evidence, statements and

argument presented. Time involved in responding to questions by the *Board* by either the *Petitioners* or remonstrators shall not be considered for purposes of calculating equal time for presentation.

The presiding officer shall have authority to cut off repetitious and irrelevant testimony and to extend the time allotted to *Petitioners* and remonstrators, but shall make reasonable efforts to allow equal time for *Petitioners* and remonstrators.

#### 2. Testimony

All persons giving testimony to the *Board* regarding any pending *Petition* shall be deemed to have been given under oath. A person giving testimony shall state their name and address for the record prior to beginning testimony.

#### 3. Orderly Conduct

All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the *Board* and shall be dealt with by the presiding officer as is deemed fair and proper.

#### 4. Continuances

Requests for continuances by *Petitioners* or remonstrators shall be considered at the beginning of each public hearing agenda prior to calling the first *Petition* for public hearing listed on the agenda.

A continuance request may be made in person or in writing and shall:

- a. specify the date to which the continuance is requested; and
- b. indicate whether it is the first request made by the party for a continuance of the hearing on the subject *Petition*.

If a first request for a continuance is requested in writing and filed with the *Secretary*, at least one week prior to the date of the public hearing, with a copy of the request being sent to the *Petitioner* (in the case of a Remonstrator's request) or to all those entitled to receive notice (in the case of a Petitioner's request), the *Petition* shall be considered continued to the next regularly scheduled meeting of the *Board*. Such written request shall include the date of the next regularly scheduled meeting of the *Board*.

Continuances may be granted by motion of the *Board* at the hearing upon a showing of good cause (e.g., the need for additional time for negotiation between *Petitioners* and remonstrators which will reasonably increase the likelihood of agreement between the parties; the unforeseeable need for additional information; or, the unforeseeable absence of a key witness) and provided that the non-requesting party does not suffer a significant hardship because of the grant of a continuance (e.g., presence of remonstrators at the hearing who would be inconvenienced by having to reappear; or, additional expense incurred by *Petitioner* as a result of time delay).

The Board may, at any time, in its discretion, continue the hearing of any Petition.

On its own motion, *Board* may determine re-notification of interested property) owners shall be required for any continued hearing.

Neither *Petitioners* nor remonstrators shall be granted more than two (2) requests for continuance of a *Petition* unless, in the determination of the *Board of Zoning Appeals*, a significant hardship can be demonstrated by the requesting party. If a significant hardship cannot be demonstrated, the *Petition* shall be heard as scheduled.

#### 5. No Hearing After 10:00 p.m.

The *Board* may elect to not begin the hearing on any matter after 10:00p.m., local time. If a hearing on a *Petition* has not been called for by the presiding officer prior to 10:00p.m., local time, such *Petition* may be continued until the next regularly scheduled meeting of the *Board*.

Any hearing which has been called for by the presiding officer prior to 10:00 p.m., local time, may be completed.

#### 6. Contacting Board Members Regarding Pending Petition Prohibited

No person shall contact any member of the *Board* in advance of a public hearing on any pending *Petition* with intent to influence the *Board* member's action on such *Petition*.

A written request for continuance as provided for by these rules shall not be construed to be a prohibited contact of a *Board* member.

A contact with a *Board* member who is also a member of the Town Council shall not be construed to be a prohibited contact provided that: (i) all contact is limited to that member's official duties as a Town Council member; and (ii) the *Board* member who is also a member of the Town Council reports on the substance of such contacts to the other members of the *Board* during the public hearing.

#### 7. Points of Order

The presiding officer of the *Board* shall, subject to these Rules of Procedure, decide all points of order or procedure, unless otherwise directed by a majority of the members of the *Board* present.

#### 8. Secretary's Written Report

Nothing in these Rules of Procedure shall be deemed to prohibit the *Secretary* from submitting a written report, stating any facts concerning the physical characteristics of the area involved in the *Petition*, together with a recital of surrounding land use and public facilities available to service the area, or other pertinent facts. A copy of such statement shall be made available to the *Petitioner* and all remonstrators of record, if any.

### 9. Disqualification of Board Member in Case of Personal or Financial Interest

A member of the *Board* who has some personal, direct or indirect financial interest in any *Petition* presented shall: disqualify himself or herself insofar as the particular *Petition* is concerned; not sit as a member of the *Board* during the hearing of the particular *Petition*; and, not participate as a member in the *Board's* hearing or decision in such *Petition*.

In the case of a conflict of interest, the *Board* shall enter into its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the decision or hearing in place of the regular member.

#### 10. Amendments

Requests to amend any *Petition* may be filed in writing prior to or at the beginning of any hearing, or may be made orally) at the hearing. Any remonstrators present shall have the right to be heard on any objections they may have to such proposed amendment and may request a continuance of the hearing to allow time to study the proposed amendments. It shall be within the discretion of the *Board* to grant or deny requests for such continuances and to require re-notification. In making this determination, consideration shall be given to whether or not the remonstrators have had sufficient time to adequately review these new amendments or supporting documents. Provided, however, any proposed amendment to change the use or to include more development standards variances shall be redocketed and readvertised.

#### VI. Final Disposition of Petitions

#### 1. Quorum and Official Vote

A majority of the entire membership of the *Board* constitutes a quorum. Action of the *Board* is not official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the *Board*.

#### 2. Indecisive Vote

When a vote of the *Board* does not result in an official action of the *Board* as set forth in section 1. above, the petition shall be automatically redocketed and heard at the next regularly scheduled meeting of the *Board*.

#### 3. Compliance with Indiana Code

In the event that Rule VI., I. and VI., 2., noted above are in contravention with IC 36-7-4-910 and IC 36-7-4-911, the Indiana Code provisions, as amended from time to time, shall prevail.

#### 4. Dismissal of Petitions

- a. The *Board* may dismiss a *Petition* for lack of prosecution when the *Petitioner* has failed to appear at two (2) meetings. The *Board* may dismiss a *Petition* for lack of jurisdiction.
- b. Any *Petition* which has been dismissed by the *Board* for lack of prosecution shall not again be filed for consideration within a period of three (3) months from the date of the dismissal, except upon motion to permit re-filing adopted by a majority vote of all members of the *Board* at a regular or special meeting, for good cause shown.

#### 5. Withdrawal of Petitions

Prior to the issuance or publication of notice for any public hearing to be conducted by the *Board*, a *Petition* may be withdrawn by the *Petitioner* upon request made in writing. If the request for the withdrawal is received prior to the issuance or publication of notice, the staff shall not place the item on the agenda for the public hearing at which it was to be considered.

a. If a *Petitioner* wishes to withdraw a *Petition* after notice of the public hearing has been published, the *Petitioner* shall submit a written request to the *Board* or its staff prior to the public hearing, or at the public hearing prior to the receipt of evidence or testimony on the *Petition*. The decision to accept the withdrawal shall be made at the public hearing when the *Petition* was to be considered, and shall be at the discretion of the Board. If the withdrawal of the *Petition* is

approved by the *Board*, the *Petitioner* shall not re-file a substantially similar request within a period of six (6) months from the date of said withdrawal.

b. No *Petition* may be withdrawn by the *Petitioner* after the *Board* has received any evidence or testimony regarding the *Petition* at the public hearing scheduled on the *Petition*.

#### 6. Re-Filing Following Adverse Decision

No parcel of ground, or part of a parcel, which has been the subject of an adverse decision of a *Petition* for variance of use, variance of development standards, special exception by the *Board*, zone map change by the Town Council, or development plan approval by the *Plan Commission*, shall again be included in a *Petition* for either a variance of use, variance of development standards or special exception for a substantially similar request, absent a substantial change in circumstances involving the development, within one (1) year from the date of the adverse decision, unless the body making the adverse decision, by an official vote at a public hearing, decides for good cause shown, to allow the re-filing.

Written notice of a special request to include a parcel subject to an adverse decision in another *Petition*, as noted above, shall be provided to:

- 1. adjoining property owners; and,
- 2. the applicable of either the Secretary of the *Board* or the *Plan Commission*

at least ten (10) days prior to the date of consideration of the special request by the Town Council, *Plan Commission* or the *Board*.

#### 7. Findings of Fact

The *Board* is required to enter written *Findings of Fact* in support of its determinations. Such *Findings of Fact* may be entered at the initial public hearing or, at the *Board's* discretion, the hearing on the *Petition* may be continued until the next regularly scheduled meeting of the *Board* for the adoption of the *Findings of Fact*. If a *Petition* is continued for the adoption of *Findings of Fact*, no further testimony need be taken by the *Board* prior to adoption of the *Findings of Fact*.

#### 8. Notification of Grant or Denial

Following final action on a *Petition* by the *Board*, the *Secretary*, within thirty (30) days after such action, shall notify the *Petitioner* of the final decision by sending the *Petitioner*:

1. a letter of grant or denial: and,

#### 2. a copy of the approved findings of fact

If the *Petition* was granted. the letter shall include all commitments or conditions imposed, and shall incorporate the approved *Findings of Fact* into the grant.

#### VII. Waiver of Rules

The *Board* shall have the right to waive any portion of these Rules of Procedure upon their own motion, or upon request of any interested party, for good cause shown. provided, however, the *Board* may not waive any portion of these Rules beyond the minimum requirements established by Statute.

#### VIII. Amendments

Amendments to these Rules of Procedure may be made by the *Board* upon the affirmative vote of a majority of the members of the *Board*.

#### IX. Definitions

As used in these Rules of Procedure, the following terms shall have the following meanings:

AUTHORIZED AGENT- Any party duly authorized in writing by the Owner of a subject parcel to act on the Owner's behalf with respect to a *Petition* for administrative appeal, variance of use, variance of development standards or special exception.

BOARD- The Town of Zionsville Board of Zoning Appeals established pursuant to the Advisory Planning Law of the State of Indiana.

BUSINESS DAY- A day when the offices of the Town of Zionsville are open to the public for the transaction of business for the entire period of its normal operating hours.

FINDINGS OF FACT- A written statement, based upon the evidence presented at a public hearing and the requirements of I.C. 36-7\_4-900 et seq., the Town of Zionsville Zoning Ordinance, or these Rules of Procedure, in support of a decision made by the *Board*.

PLAN COMMISSION-The Town of Zionsville Plan Commission established pursuant to the Advisory Planning Law of the State of Indiana.

PETITION- An application for administrative appeal, variance of use, variance of development standards or special exception filed with the for

public hearing before the *Board* in compliance with all applicable state laws, local ordinances and rules of procedure.

PETITIONER -The Owner of a parcel or the Owner's duly *Authorized Agent*, attorney or representative who makes an application for an administrative appeal, variance of use, variance of development standards or special exception filed for public hearing before the *Board*.

SECRETARY-The *Secretary* of the *Board* as duly appointed by the *Board* is accordance with I.C. 36-7-4-913.

#### X. Electronic Meeting Policy

BZA members may attend meetings by electronic communications as provided in Resolution No. 2021-01 and subject to the requirements and limitations provided therein. Resolution No. 2021-01 is attached to these Rules as Addendum A and is incorporated as a part of these Rules as if fully restated.

#### Adoption

The foregoing amendments to the Rules of Procedure of the Town of Zionsville Board of Zoning Appeals, as amended, are hereby adopted by the affirmative vote of the undersigned members of the *Board of Zoning Appeals* on this 15th day of September, 1998 (as amended June 19, 2000, July 25, 2000, October 15, 2001, and December 7, 2022 - amendments included herein), and by Resolution March 1, 2023

Town of Zionsville Plan Commission

steve Mundy - President

Larry Jones - Vice President

Chris Lake

Kathi Postlethwait

Andy Pickell

ATTEST:

Mike Dale, AICP

Secretary

Addendum A

#### TOWN OF ZIONSVILLE, INDIANA

#### PLAN COMMISSION 2021-RESOLUTION NO.<u>61</u>

## A RESOLUTION ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE PLAN COMMISSION MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

WHEREAS, Ind. Code § 5-14-1.5-3.5 (the "Act") prescribes the requirements by which members of the governing body of a public agency of a political subdivision may participate in a meeting by any electronic means of communication;

WHEREAS, a member of the governing body may participate by any means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other and (ii) except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting;

**WHEREAS**, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by Ind. Code §5-14-1.5-3.5(d); and

**WHEREAS**, the Plan Commission believes that to foster member participation and to ensure public transparency that the participation of members of the Plan Commission by electronic meeting shall only be used in limited circumstances – including, but not limited to, a public emergency; and

**WHEREAS**, the Plan Commission (the "Commission") is a governing body of the Town of Zionsville, Indiana:

**NOW, THEREFORE, BE IT RESOLVED** by the Plan Commission of the Town of Zionsville, Boone County, Indiana:

- Section 1. (a) The provisions of the Act, including definitions, apply to this resolution.
  - (b) This Resolution shall be known as the "Electronic Meetings Policy" of the Commission.
- **Section 2.** (a) Subject to Section 3 and 5, any member of the Commission may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the Commission to simultaneously communicate with each other; and (ii) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.
- (b) A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and (ii) may participate in final action only if the member can be seen and heard.

- (c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.
- **Section 3.** (a) At least the majority of the Commission members must be physically present at a meeting at which any member participates by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.
- (b) A member who plans to participate by an electronic means of communication at a meeting must provide written notice of such intent to the President of the Commission (the "President") at least seven (7) days prior to the date of the meeting. Exceptions to this notice requirement may be granted at the discretion of the President.
- (c) If more than three (3) members intend to participate by an electronic means of communication at the same meeting, the first three (3) members to provide notice of such intent may attend the meeting by an electronic means of communication (unless such members otherwise agree).
- (d) A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to one of the following reasons:
  - (1) military service;
  - (2) illness or other medical condition;
  - (3) death of a relative; or
  - (4) an emergency involving actual or threatened injury to persons or property.
- (e) A member may attend two (2) consecutive meetings (a "Set of Meetings") by electronic communication. A member must attend in person at least one (1) meeting between Sets of Meetings that the member attends by electronic communication, unless the member's absence is due to one of the following reasons:
  - (1) military service;
  - (2) illness or other medical condition;
  - (3) death of a relative; or
  - (4) an emergency involving actual or threatened injury to persons or property.
- **Section 4.** The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:
  - (1) identify each member who:
    - (A) was physically present at the meeting;
    - (B) participates in the meeting by electronic means of communication; and
    - (C) was absent; and
  - (2) identify the electronic means of communication by which:
    - (A) members participated in the meeting; and
  - (B) members of the public attended and observed the meeting if the meeting was not an executive session.

- **Section 5.** No member of the Commission may participate by means of electronic communication in a meeting at which the Commission is attempting to take final action to:
  - (1) adopt a budget;
  - (2) make a reduction in personnel;
  - (3) initiate a referendum;
  - (4) establish or increase a fee;
  - (5) establish or increase a penalty;
  - (6) exercise the Commission's power of eminent domain; or
  - (7) establish, impose, raise or renew a tax.
- **Section 6.** A technological failure in an electronic means of communication that disrupts or prevents members not physically present or members of the public not physically present from attending and observing the meeting, does not affect the validity of an action taken by the Commission at such meeting if the members physically present and the members participating by electronic communication without technological failure satisfy voting requirements of the Commission (*i.e.*, majority vote).
- **Section 7.** (a) If an emergency is declared by:
  - (1) the governor under Ind. Code § 10-14-3-12; or
  - (2) the Mayor of the Town of Zionsville under Ind. Code § 10-14-3-29; members are not required to be physically present for a meeting until the emergency is terminated.
- (b) Members may participate in and vote at a meeting by any means of communication provided that:
  - (1) At least a quorum of the members participate in the meeting by means of electronic communication or in person.
  - (2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.
  - (3) The minutes or memoranda of the meeting must comply with Section 4 of this resolution.
- (c) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.
- **Section 8.** This resolution shall be effective from and after adoption by this Commission and compliance with Ind. Code § 36-5-2-10.



# A RESOLUTION OF THE BOARD OF ZONING APPEALS FOR THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA APPROVING REVISIONS TO THE RULES OF PROCEDURE OF TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS

WHEREAS, on October 17, 2022, the Plan Commission provided a favorable recommendation to the Town Council to remove of the Board of Zoning Appeals Rules of Procedure from the Zoning Ordinance.

**WHEREAS**, on November 21, 2022, the Town Council ("Council") for the Town of Zionsville, Boone County, Indiana ("Zionsville") approved Board of Zoning Appeals Docket # 2022-45-OA, authorizing the removal of the Board of Zoning Appeals Rules of Procedure from the Zoning Ordinance.

WHEREAS, on December 7, 2022, the Board of Zoning Appeals did readopt and approve amendments to the Rules of Procedure.

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of Zoning Appeals for the Town of Zionsville, Boone County, meeting in regular session, approved the following revisions to the Rule of Procedure:

- Section 1. The Board of Zoning Appeals hereby resolves to accept and approve revisions to the Zionsville Board of Zoning Appeals Rules of Procedure, as more particularly described in Exhibit A, attached hereto and incorporated herein.
- Section 2. This Resolution shall be of full force and effect from and upon its adoption on March 2, 2023, in accordance with Indiana law.

SO RESOLVED, by the Board of Zionsville Appeals for the Town of Zionsville, Boone County, Indiana this \_\_\_\_\_ day of \_\_\_\_\_ day of \_\_\_\_\_\_, 2023.

## BOARD OF ZONING APPEALS OF THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA

	YEA	NAY
	Signature	Signature
Steve Mundy Chairman	Steve of Mund	2
Larry Jones Vice Chair		
Chris Lake Member	(1)	
Andy Pickell Member	S. C.	)
Kathi Postlethwait	dd Qu +Titt.va	1.4