

# McLEAN COUNTY



## ZONING BOARD OF APPEALS

Welcome to a hearing before the McLean County Zoning Board of Appeals. It is the intent of the Board to conduct a fair and orderly hearing with civility and decorum. While the Counties Code does not demand this hearing employ strict rules of evidence and examination as used by our judicial system, it does mandate that “principles of substantive and procedural due process apply” to this hearing. 55 ILCS 5/5-12012.1. Accordingly, the attached rules have been developed to ensure everyone a fair opportunity to be heard.

In this document, you will find an outline specifically detailing the hearing process. You will also find general provisions that are applicable throughout that process.

Thank you for your participation, civility and decorum during this process.

**McLean County Zoning Board of Appeals**  
**Hearing Procedures**

**THE HEARING PROCESS**

1. Introduction of the application and any board evidence by the secretary.
2. Applicant's Case in Chief.
  - a. The applicant and/or its representative(s) presents testimony and evidence.
  - b. Questions from the Board of each witness.
  - c. Questions from Staff of each witness.
  - d. Questions of interested parties or objectors of each witness. The interested party or objector must identify themselves for the record.
  - e. After the Board, Staff and Interested Parties/Objectors have had a chance to ask questions of the applicant's witnesses, the applicant is allowed to recall those witnesses, in a process known as 're-direct testimony', to clarify matters discussed during others' questioning of the witness.
  - f. Repeat Steps 2b through 2d.
3. Objectors' / Interested Parties Must Sign-In Declaring Their Intent to Present Evidence and Testimony and to be Eligible to Give a Closing Statement
4. Objectors' / Interested Parties' Case in Chief
  - a. Interested parties or objectors who have properly signed-in, and/or their representatives, may present evidence and testimony.
  - b. Questions from the Board of each witness.
  - c. Questions from Staff of each witness.
  - d. Questions from the applicant or interested parties of each witness. The interested party must identify themselves for the record.
  - e. After the Board, Staff and the applicant have had a chance to ask questions of each of the objectors'/interested parties' witnesses, the objectors/interested parties are allowed to recall those witnesses to clarify matters discussed during others' questioning of the witness.
  - f. Repeat Steps 4b through 4d.
5. Rebuttal Testimony and Evidence by Applicant and/or his or her Representative.
  - a. The Applicant and/or its representatives may present rebuttal evidence and testimony to address matters discussed during section 4 above.
  - b. Questions from the Board of each witness.
  - c. Questions from Staff of each witness.
  - d. Questions of interested parties or objectors of each witness. The interested party or objector must identify themselves for the record.
  - e. After the Board, Staff and Interested Parties/Objectors have had a chance to ask questions of each of the applicant's rebuttal witnesses, the applicant is allowed to recall those witnesses to clarify matters discussed during others' questioning of the witness.
  - f. Repeat steps 5b through 5d.
6. Rebuttal Testimony and Evidence by Objectors' / Interested Parties.
  - a. The Objectors/ Interested Parties may present rebuttal evidence and testimony to address matters discussed during section 5 above.
  - b. Questions from the Board of each witness.
  - c. Questions from Staff of each witness.
  - d. Questions of the applicant of each witness.
  - e. After the Board, Staff and the applicant have had a chance to ask questions of each of the objectors'/interested parties' witnesses, the objectors/interested parties are allowed to recall those witnesses to clarify matters discussed during others' questioning of the witness.
  - f. Repeat steps 6b through 6d.
7. Closing statement by applicant.
8. Closing statement by interested parties or objectors who have signed-in during Step 3 and presented testimony or evidence during Step 4.

## GENERAL PRINCIPLES FOR THE HEARING

- Please turn off pagers, cell phones or other electronic devices which may be disruptive.
- Impromptu statements, jeers, boos, or inappropriate laughter from the audience during the hearing will be considered contemptuous and addressed as such.
- Civility and decorum is demanded.
- This zoning hearing is not a trial. The members of the Zoning Board of Appeals are not members of the judiciary.
- While strict compliance with Illinois' rules of evidence and examination will not be used, the hearing will proceed in an orderly and quasi-judicial fashion to allow parties an opportunity to present relevant testimony, evidence and argument.
- The Board may exclude irrelevant, immaterial, incompetent or unduly repetitions testimony or other evidence.
- Documents obtained or printed from the internet or elsewhere are generally not admissible unless the witness seeking their admittance can lay a foundation for the document based upon personal knowledge.
- Parties giving testimony shall do so under oath.
- This hearing will be recorded, as required by law. As such, each person asking questions or giving testimony must state their name and complete address.
- The Chair may impose time limits on testimony, statements and/or questions of any party. Traditionally, time limits for testimony of interested parties or objectors has been limited to 10 minutes for lay persons and 30 minutes for experts.
- The Zoning Board of Appeals may ask for information at any time of any witness.
- The Zoning Board of Appeals may ask a party or a witness to address a specific issue.
- Upon a properly approved motion by the Zoning Board of Appeals, it may reopen the hearing and take new evidence and argument from the applicant, interested parties or objectors even if the hearing has proceeded past the evidentiary stage.
- Statements will not be allowed during the time for questions.
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- Concurring votes of at least four (4) members of the Board is necessary to approve any decision or determination.
- Attorneys providing assistance to anyone during the hearing must disclose: 1.) who they represent; 2.) whether the party they represent is an individual or organization; 3.) if it is an organization, who are the members, managers, directors, owners or intended beneficiaries of the organization as well as the nature of the organization.
- Persons represented by an attorney are allowed to testify provided they offer new information not previously offered by any prior witness. Multiple persons represented by the same attorney are allowed to testify provided each subsequent person offers new information not previously offered by a prior witness.
- At the conclusion of the applicant's case-in-chief, the Board may direct a verdict of denial for failure to provide adequate information in support of the application.
- Friendly cross-examination is not permitted. Friendly cross-examination is cross-examination intended to develop testimony of the witness consistent with the witness's direct testimony or consistent with the position of the party calling the witness. An applicant who cross-examines a supporter to draw out further beneficial information is engaged in friendly cross-examination. An objector who cross-examines another objector to draw out further information to support the objection is engaged in friendly cross-examination. The applicant shall not cross-examine those who support the project and objectors shall not cross-examine other objectors. All parties shall be allowed to question witnesses who indicate no position for or against the proposed zoning change. Cross examination of all witnesses shall take place immediately following their testimony.
- Witnesses must indicate the proximity of their residence or business to the project.
- If required by the Chair, those presenting photographs must disclose a zoom factor.

- All computer simulations shall be certified as being to scale and including all relevant topographical characteristics and structures.
- Vague and unsupported testimony will not be allowed.
- The discretion to admit documents into evidence lies solely with the Chair.
- The Board will determine if a person qualifies as an expert witness and will state its finding on the record. Expert witnesses shall identify their area of expertise and limit their testimony thereto. Experts shall clearly identify and provide any study they completed on the subject matter of the hearing. An expert may rely on studies not in the record used to form their opinions but shall not testify about the results of those studies except on cross-examination or upon leave from the Chair. All studies relied upon in an expert's written submissions must be disclosed. Written credentials shall be provided for expert witnesses.
- In hearings on Special Use Permits, all evidence, testimony and comment from the Parties must pertain to the seven (7) standards for issuance of special use permits as defined in section 350-17.F.(1)(c) of the McLean County Zoning Ordinance. Those seven (7) standards are:
  - The proposed special use will not be detrimental to or endanger the health, safety, morals comfort, or welfare of the public.
  - The proposed special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted or substantially diminish property values in the immediate area.
  - The proposed special use will not impede the orderly development of the surrounding property for uses permitted in the district.
  - Adequate utilities, access roads, drainage and/or other necessary facilities have been or will be provided.
  - Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
  - The establishment, maintenance and operation of the special use will be in conformance with the intent of the district in which the special use is proposed to be located.
  - The proposed special use, in all other respects, conforms to the applicable regulations of the district in which it is located.