

BOARD OF ADJUSTMENT & APPEALS AGENDA

Date: July 17, 2023

Time: 7:00 p.m. (doors open at 6:45)

Location: Nicollet County Board Room, 501 S. Minnesota Avenue, St. Peter, MN

Copies of the meeting agenda and packet are available on the Nicollet County website at:
<https://mn-nicolletcounty.civicplus.com/AgendaCenter>

Questions or comments regarding the meeting can be directed to Spencer Crawford, Deputy Zoning Administrator, at 507-934-7071, or spencer.crawford@co.nicollet.mn.us.

1. Call to Order
2. Roll Call
3. Review of Cancellations and Additions
4. Approval of Minutes: *June 26, 2023*
5. Approval of Findings of Fact: 6/26/2023
 - **PLN 23-08, Schmidt**
 - **PLN 23-09, Klossner**
6. Public Appearances
7. Old Business
8. Other Business: By-Law revision approval
9. Communications
10. Adjourn

Mission Statement

Providing efficient
services with innovation
and accountability.

Vision Statement

Setting the standard for providing superior and efficient county
government services through leadership, accountability and
innovation to a growing and diverse society.

Core Values

Leadership. Integrity.
Accountability.
Efficiency. Innovation.



BOARD OF ADJUSTMENT & APPEALS

MINUTES	JUNE 26, 2023	7:02 PM	NICOLLET COUNTY BOARD ROOM
----------------	----------------------	----------------	-----------------------------------

ROLL CALL	BOARD MEMBERS PRESENT	BOARD MEMBERS ABSENT EXCUSED	NICOLLET COUNTY STAFF PRESENT
	☒ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☐ Jon Thoreson ☒ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☒ Jon Thoreson ☐ Dave Ubel	☒ Spencer Crawford, Deputy Zoning Administrator (DZA) ☒ Roxann Klein, Assistant County Attorney (ACA) ☒ Crystal Madden, Recording Secretary ☐ Other Staff: Jaci Kopet, Property & Public Services Director ☐ Other Staff:

APPROVAL OF MAY 15, 2023 MINUTES	MOTION	2 ND
☒ APPROVE ☐ APPROVE WITH REVISIONS	☐ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Dave Ubel ☐ Jon Thoreson ☒ Randy Schwab
VOTE TO APPROVE MINUTES	☒ PASS	☐ FAIL VOTE: 4 - 0

PUBLIC HEARINGS

PLN23-08	APPLICANT/LANDOWNER: Edward & Ethanie Schmidt		
DESCRIPTION	Edward & Ethanie Schmidt are requesting a reduction of the bluffline setback from 30 feet to 4.2 feet in the Conservancy Zoning District for the purpose of constructing a 8' x 22' covered porch on the front (west) side of the home.		
STAFF REPORT PRESENTED BY	DZA Crawford		
APPLICANT TESTIMONY	Ethanie Schmidt was present to provide testimony.		
PUBLIC TESTIMONY	No public testimony was given.		
BOARD DISCUSSION	There was discussion between the Board, DZA Crawford, and Mrs. Schmidt concerning the application.		
BOARD ACTION - APPROVAL	MOTION		2 ND
☒ APPROVAL WITH CONDITIONS AS LISTED BY STAFF ☐ APPROVAL WITH REVISED CONDITIONS	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☒ Dave Ubel		☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel
VOTE TO APPROVE REQUEST	☒ APPROVED	☐ DENIED	VOTE: 4 - 0

PLN23-09	APPLICANT/LANDOWNER: Ruth Klossner		
DESCRIPTION	Ruth Klossner is requesting a reduction of the county road front yard setback from 50 feet to 33 feet in the Rural Townsite Zoning District for the purpose of constructing a 16' x 32' home addition.		
STAFF REPORT PRESENTED BY	DZA Crawford		
APPLICANT TESTIMONY	Ruth Klossner was present provide testimony.		
PUBLIC TESTIMONY	No public testimony was given.		

BOARD DISCUSSION	There was discussion between the Board, DZA Crawford, and Ms. Klossner concerning the application.		
BOARD ACTION - APPROVAL	MOTION		2ND
☒ APPROVAL WITH CONDITIONS AS LISTED BY STAFF ☐ APPROVAL WITH REVISED CONDITIONS	☐ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel		☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel
VOTE TO APPROVE REQUEST	☒ APPROVED	☐ DENIED	VOTE: 4 - 0

ADDITIONAL ITEMS

OLD BUSINESS	None.		
OTHER BUSINESS	None.		
COMMUNICATIONS	None.		
MOTION TO ADJOURN MEETING	MOTION		2ND
07:47 PM	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel		☐ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel
VOTE TO ADJOURN MEETING	☒ PASS	☐ FAIL	VOTE: 4 - 0

JUSTIN LAVEN, CHAIR		DATE	7/17/2023
CRYSTAL MADDEN RECORDING SECRETARY		DATE	7/17/2023



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant Edward & Ethanie Schmidt
Property Owner Edward & Ethanie Schmidt
File PLN23-08

Hearing June 26, 2023
Continuation N/A

Variance Request A reduction of the bluffline setback from 30 feet to 4.2 feet in the Conservancy Zoning District for the purpose of constructing a 8' x 22' covered porch on the front (west) side of the home.

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	General purpose of the official control is to prevent slumping and erosion of the bluffs.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	The variance will not have any detrimental effects on the bluff.
Dave Ubel	☒	☐	☐	☐	

2. The variance is consistent with the intent of the Comprehensive Plan.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The bluffs are a natural resource to be preserved and protected.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	A larger porch not possible due to bluff setback.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The house built prior to the current setback standards and was conforming to past setback regulations.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The variance is not an unusual request for the area.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	The variance will not affect the surrounding residents, or the topography of the land.
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	No apparent economic benefit.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	The practical difficulty is related to the characteristics of the lot.
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☒ APPROVES THE REQUESTED VARIANCE

☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

- | | |
|--|--|
| ☒ Application | ☐ Site visit |
| ☒ Information received at public hearing | ☒ Staff Report |
| ☒ Pictures | |

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Chair: _____



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant Ruth Klossner

Hearing June 26, 2023

Property Owner Ruth Klossner

Continuation N/A

File PLN23-09

Variance Request A reduction of the county road front yard setback from 50 feet to 33 feet in the Rural Townsite Zoning District for the purpose of constructing a 16' x 32' home addition.

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	Nicollet County Public Works has no concern with the front yard setback, which is a buffer between transportation and residential.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

2. The variance is consistent with the intent of the Comprehensive Plan.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	Right-of-ways are essential to the public and must be maintained. However, the rural zoning district may be associated with higher density development.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The practical difficulty is established due to the lot size, location of the driveway, and the location of the current septic system.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	The plight is due to the size of the lot in relation to the layout of the home and the features.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☒	
Dave Ubel	☒	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	Many homes currently are within the front yard setback due to the small lots.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	Setback standards have changed over the years and the residence is currently considered legal non-conforming.
Jon Thoreson	☐	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Justin Laven	☒	☐	☐	☐	No apparent economic benefit to the applicant.
Lloyd Hoffmann	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☐	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☒ APPROVES THE REQUESTED VARIANCE

☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

- | | |
|--|--|
| ☒ Application | ☐ Site visit |
| ☒ Information received at public hearing | ☒ Staff Report |
| ☒ Pictures | |

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Chair: _____



NICOLLET COUNTY
BOARD OF ADJUSTMENT & APPEALS
Nicollet County, Minnesota
BY-LAWS

The following By-Laws are adopted by the Nicollet County Board of Adjustment and Appeals (hereafter referred to the 'Board') to facilitate the performance of its duties and the exercising of its functions as a board created by the County Board under Minnesota Statutes Section 394.27.

SECTION 1: MEETINGS

- 1.1 Time and Day.** All meetings of the Board will be held on the third Monday of each month. The Board will meet at 7:00 p.m. unless otherwise published. When the meeting day falls on a legal holiday, the meeting shall be held on the fourth Monday.
- 1.2 Study Meetings.** Study meetings may be called by majority vote of the Board for discussing, deliberating and planning on matters of general concern for the proper development and future wellbeing of the community. Any other business will be considered at the discretion of the Board.
- 1.3 Special Meetings.** Special meeting may be called by a majority vote of the Board. Special meetings may be called only when such meetings meet the advance notice requirements of the Statutes of the State of Minnesota.
- 1.4 Place.** Meetings will be held in the Nicollet County Government Center Board Room, unless noted elsewhere. Special meetings will be held at such places as shall be convenient to the matters under consideration at the meeting.
- 1.5 Public.** All meetings and hearings, and all records and minutes, will be open to the public.
- 1.6 Quorum.** A majority of the Board members will constitute a quorum for the transaction of business.
 - a. Whenever a quorum is not present, those present may adjourn the meeting or hold the meeting for the purpose of hearing interested parties on such matters as listed on the agenda.
 - b. No final or official action will be taken at a meeting where a quorum is not present. However, the facts and information gathered at such a meeting may be taken as a basis for action at a subsequent meeting at which a quorum is present.
- 1.7 Vote.** Except as otherwise specified in these rules, voting will be by voice. A member will have their vote on a particular issue recorded.

- 1.8** ***Consideration of Variances Dependent upon Antecedent Approval.*** The Board may consider a variance on a particular property on the same meeting date where the Planning and Zoning Advisory Commission would be hearing an antecedent approval (e.g., conditional use permit, comprehensive plan amendment, ordinance amendment, rezoning) is required prior to approval of the subsequent request.

SECTION 2: ORGANIZATION

- 2.1** ***Election of Officers.*** At the first meeting of each year, the Board will elect from its membership a Chair and Vice-Chair. This will be done by ballot. Each member will cast a ballot for the member they wish to be chosen Chair. If no one receives a majority, balloting will continue until one member receives majority support. Vice-Chair shall be elected from the remaining members by the same procedure.
- a. If the Chair retires from the Board before the next regular organizational meeting, the Vice-Chair will be Chair. If both Chair and Vice-Chair retire, new officers will be elected at the next regular meeting.
 - b. If both Chair and Vice-Chair are absent from a meeting, the most senior member of the Board present will serve as temporary Chair.
 - c. The Property Services Division will provide a secretary to the Board.
- 2.2** ***Tenure.*** The Chair and Vice-Chair will take office immediately following their election and will hold office until their successors are elected and assume office.
- 2.3** ***Duties.*** The Chair, or in their absence, the Vice-Chair will preside at meetings, appoint committees and perform such other duties as may be ordered by the Board, including to:
- a. Preside at all meetings.
 - b. Keep calm at all times.
 - c. Talk no more than necessary while presiding.
 - d. Have an agenda for meeting before them and proceed in a businesslike manner.
 - e. Have a working knowledge of parliamentary law and a thorough understanding of the constitution and by-laws of the organization.
 - f. Conduct the meetings so as to keep it moving as rapidly and efficiently as possible and remind members, witnesses, and petitioners to stick to the subject at hand.

- g. Refrain from entering the debate of questions before the assembly. If it is essential that this be done, the Vice-Chair should be placed in the Chair. A Chair is not permitted to resume until after the vote has been taken on the question under discussion
 - h. Extend every courtesy to the opponents of a motion, even though the motion is one that the presiding officer favors
 - i. Not move for action but may second motions and vote on motions.
- 2.4 **Secretary.** The Secretary will be responsible for recording the minutes, keeping the records of Board actions and providing clerical service to the Board.

SECTION 3: PROCEDURE

- 3.1 **Parliamentary Procedure.** Parliamentary procedure, loosely guided by *Roberts Rules of Order*, will be followed at meetings where hearings are held. At special meetings and when obviously useful the Board will hold group discussion not following any set parliamentary procedure except when motions are before the Board.
- 3.2 **Purpose of Hearings.** The purpose of a hearing is to collect information and facts in order for the Board to make a rational decision.
- 3.3 **Hearing Procedure.** At hearings the following procedure will be followed on each case:
- a. Chair will state the case to be heard.
 - b. Chair will call upon the Deputy Zoning Administrator to present the staff report.
 - c. Chair will ask the applicant to present their case.
 - d. Interested persons may address the Board, giving information regarding the particular proposal.
 - e. Chair will ask the applicant if they would like to respond to information made by interested persons.
 - f. Petitioners and public are to address the Chair only, not staff or other Board Members.
 - g. There will be no dialogue between the Board Members during the hearing. Board Members may ask questions of persons addressing the Board in order to clarify a fact. Any statement made by a Board Member which is not a question for the person addressing the Board may be ruled out of order.

- h. After all interested persons in attendance have had the opportunity to be heard, the Chair will close the hearing. Interested persons will not be heard again unless they are directly asked a question by a Board Member, or unless the hearing is reopened and all interested parties are allowed to be heard again.
 - i. Chair will call for answers of the “Criteria for Granting a Variance”; the Secretary will record the responses and explanation for each response; the Chair will then sign and date the form. Staff shall record this form and the facts of findings and order in the County Recorder’s Office.
 - j. Upon completion of the hearing on each case and after a motion has been made, seconded and repeated by the Chair, the Board will discuss the item at hand and render a decision.
 - k. The Chair will have the responsibility to inform all the parties of their rights of appeal on any decision or recommendation of the Board.
- 3.4 *Schedule.*** Hearings will be heard in the order as listed on the agenda, unless stated otherwise by the Chair.
- 3.5 *Action.*** No action on any item will be taken by the Board unless it has, to its own satisfaction, considered all reasonably available relevant information pertaining to the request.
- 3.6 *Correspondence Items.*** Matters for discussion which do not appear on the agenda will be considered and discussed by the Board only when initiated and presented by the staff or a member of the Board and will be placed at the end of the regular agenda.

SECTION 4: MISCELLANEOUS

- 4.1 *Suspension of Rules.*** The Board may suspend any of these rules by a unanimous vote of those members present.
- 4.2 *Amendments.*** These rules may be amended at any regular or special meeting by a majority of the members of the Board.
- 4.3 *Orientation.*** All new appointees to the Board will have an orientation session with planning and zoning staff on the objectives of planning, on rules of procedure, and other pertinent information.
- 4.4 *Training.*** New appointees will attend at least one training session in the first term of office. All Board Members will attend at least one training per three-year term. Failure to attend training as stipulated is cause for dismissal from the Board.

- 4.5 **Attendance.** Any Board Member, who cannot attend a meeting will notify the Zoning Administrator that they will be absent prior to the meeting. The notice of absence will be recorded by Property Services as “excused absent”. Failure to provide notification of absence will result in the Board Member being recorded as “absent”. Notification of absence enables staff to ensure there will be a quorum. More than three unexcused absences is cause for dismissal.
- 4.6 **Removal.** Any Board Member may be removed from the Board for nonperformance, misconduct or more than three unexcused absences. The procedure will be as follows: staff will prepare a written report to the Board of Commissioners, who will take action on the report at their regularly scheduled meeting. A copy of the written report will also be sent to the Board Member.
- 4.7 **Decorum.** Probably the most serious defect in most meetings is the lack of reasonable decorum. Good order must be maintained if business is to be carried out. Courtesy would demand that there should be no whispering or commotion while any speaker has the floor. Do not speak too frequently. Beware of personalities. State facts rather than what you think or believe. Nothing impairs the decorum of a meeting more than a sharp retort or an angry voice. Speak while the motion is pending, not after the vote has been taken or after the meeting is over.
- 4.8 **Conflict of Interest.** Any Board Member who feels they may have a conflict of interest on any matter that is on the Board agenda will voluntarily excuse themselves, vacate their seat, and refrain from discussing and voting on said matter as a Board Member. A conflict of interest is any direct contractual, financial, or other beneficial interest in the outcome of matter before the Board.
- 4.9 **Communications with the Public and Applicant prior to the Hearing.**
- a. Prior to the public hearing or Board deliberation, no Board Member will lobby the merits of a pending case with staff, applicant, Board Member or the general public.
 - b. If a Board Member has discussed the pending case, the Board Member will disclose the facts relating to such discussion during the public hearing.



NICOLLET COUNTY
BOARD OF ADJUSTMENT & APPEALS
Nicollet County, Minnesota
BY-LAWS

The following By-Laws are adopted by the Nicollet County Board of Adjustment and Appeals (hereafter referred to the 'Board') to facilitate the performance of its duties and the exercising of its functions as a board created by the County Board under Minnesota Statutes Section 394.27.

SECTION 1: MEETINGS

- 1.1 Time and Day.** All meetings of the Board will be held on the third Monday of each month. The Board will meet at 7:00 p.m. unless otherwise published. When the meeting day falls on a legal holiday, the meeting shall be held on the fourth Monday.
- 1.2 Workshop Meetings.** Workshop meetings may be called by majority vote of the Board for discussing, deliberating and planning on matters of general concern for the proper development and future wellbeing of the community. Any other business will be considered at the discretion of the Board.
- 1.3 Special Meetings.** Special meeting may be called by a majority vote of the Board. Special meetings may be called only when such meetings meet the advance notice requirements of the Statutes of the State of Minnesota.
- 1.4 Place.** Meetings will be held in the Nicollet County Government Center Board Room, unless noted elsewhere. Special meetings will be held at such places as shall be convenient to the matters under consideration at the meeting.
- 1.5 Public.** All meetings and hearings, and all records and minutes, will be open to the public.
- 1.6 Quorum.** A majority of the Board members will constitute a quorum for the transaction of business.
 - a. Whenever a quorum is not present, those present may adjourn the meeting or hold the meeting for the purpose of hearing interested parties on such matters as listed on the agenda.
 - b. No final or official action will be taken at a meeting where a quorum is not present. However, the facts and information gathered at such a meeting may be taken as a basis for action at a subsequent meeting at which a quorum is present.
- 1.7 Vote.** Except as otherwise specified in these rules, voting will be by voice. A member will have their vote on a particular issue recorded.

- 1.8** ***Consideration of Variances Dependent upon Antecedent Approval.*** The Board may consider a variance on a particular property on the same meeting date where the Planning and Zoning Advisory Commission would be hearing an antecedent approval (e.g., conditional use permit, comprehensive plan amendment, ordinance amendment, rezoning) is required prior to approval of the subsequent request.

SECTION 2: ORGANIZATION

- 2.1** ***Election of Officers.*** At the first meeting of each year, the Board will elect from its membership a Chair and Vice-Chair. Candidates for Chair are chosen through nomination by Board members. Each member will verbally cast a vote for their candidate of choice. The candidate with the majority of votes will be elected Chair. If no candidate receives a majority, voting will continue until one member receives majority support. Vice-Chair shall be elected from the remaining members by the same procedure.
- a. If the Chair retires from the Board before the next regular organizational meeting, the Vice-Chair will be Chair. If both Chair and Vice-Chair retire, new officers will be elected at the next regular meeting.
 - b. If both Chair and Vice-Chair are absent from a meeting, the most senior member of the Board present will serve as temporary Chair.
 - c. The Property Services Division will provide a secretary to the Board.
- 2.2** ***Tenure.*** The Chair and Vice-Chair will take office immediately following their election and will hold office until their successors are elected and assume office.
- 2.3** ***Duties.*** The Chair, or in their absence, the Vice-Chair will preside at meetings, appoint committees and perform such other duties as may be ordered by the Board, including to:
- a. Preside at all meetings.
 - b. Keep calm at all times.
 - c. Talk no more than necessary while presiding.
 - d. Have an agenda for meeting before them and proceed in a businesslike manner.
 - e. Have a working knowledge of parliamentary law and a thorough understanding of the constitution and by-laws of the organization.
 - f. Conduct the meetings so as to keep it moving as rapidly and efficiently as possible and remind members, witnesses, and petitioners to stick to the subject at hand.

- g. Extend every courtesy to the opponents of a motion, even though the motion is one that the presiding officer favors.
 - h. Not move for action but may second motions and vote on motions.
- 2.4 Secretary.** The Secretary will be responsible for recording the minutes, keeping the records of Board actions and providing clerical service to the Board.

SECTION 3: PROCEDURE

- 3.1 Parliamentary Procedure.** Parliamentary procedure, loosely guided by *Roberts Rules of Order*, will be followed at meetings where hearings are held. At special meetings the Board will hold group discussion not following any set parliamentary procedure except when motions are before the Board.
- 3.2 Purpose of Hearings.** The purpose of a hearing is to collect information and facts in order for the Board to make a rational decision.
- 3.3 Hearing Procedure.** At hearings the following procedure will be followed on each case:
- a. Chair will open the public hearing and state the case to be heard.
 - b. Chair will request Board Members recuse themselves for any conflict of interest concerning the request.
 - c. Chair will call for members to disclose any contact with members of the public concerning the request, and whether they conducted a site visit.
 - d. Chair will call upon the Zoning Administrator to present the staff report.
 - e. Chair will ask Board Members if they have questions for staff.
 - f. Chair will ask the applicant(s) or representative to present their case.
 - g. Chair will ask the Board if they have questions for the applicant.
 - h. Chair will open public testimony portion of the public hearing. Interested persons may address the Board, giving information regarding the particular proposal. Petitioners and public are to address the Chair only, not staff or other Board Members. There will be no dialogue between the Board Members during public testimony. Board Members may ask questions of persons addressing the Board in order to clarify a fact. Any statement made by a Board Member which is not a question for the person addressing the Board may be ruled out of order.

- i. After all interested persons in attendance have had the opportunity to be heard, the Chair will close the public testimony portion of the public hearing. Interested persons will not be heard again unless they are directly asked a question by a Board Member, or unless the hearing is reopened and all interested parties are allowed to be heard again.
- j. Upon closing the public testimony portion of the public hearing, the Chair will allow time for the Board to discuss the item at hand. During the discussion, the Board Members may ask questions of the applicant(s) or their representative. The public may not speak at this point because public testimony has been concluded, unless a question is directed to them by a Board Member.
- k. Chair will call for Criteria for Granting Variances answers for creation of the Findings of Fact; the Secretary will record the answer(s) and individual member's vote for the answer in the Findings of Fact.
- l. Chair will call for a motion to be made, seconded and repeated by the Chair, to approve or deny the variance request.
- m. If there is a motion for approval of the request, the Chair will state the conditions for the variance, and ask the applicant to respond for the record whether they agree to abide by the conditions as listed.
- n. Chair will call for a vote on the motion to approve or deny the request.
- o. Chair will announce the Board decision, and inform all the parties of their rights of appeal on any decision of the Board.
- p. Chair will sign and date the Findings of Fact at the following Board of Adjustment meeting, allowing for 30 day right to appeal. Staff shall record the signed Findings of Fact, legal description and the variance order in the County Recorder's Office.

3.4 Schedule. Hearings will be heard in the order as listed on the agenda, unless stated otherwise by the Chair.

3.5 Action. No action on any item will be taken by the Board unless it has, to its own satisfaction, considered all reasonably available relevant information pertaining to the request.

3.6 Correspondence Items. Matters for discussion which do not appear on the agenda will be considered and discussed by the Board only when initiated and presented by the staff or a member of the Board and will be placed at the end of the regular agenda.

SECTION 4: MISCELLANEOUS

- 4.1 *Suspension of Rules.*** The Board may suspend any of these rules by a unanimous vote of those members present.
- 4.2 *Amendments.*** These rules may be amended at any regular or special meeting by a majority of the members of the Board.
- 4.3 *Orientation.*** All new appointees to the Board will have an orientation session with planning and zoning staff on the objectives of planning, on rules of procedure, and other pertinent information.
- 4.4 *Training.*** New appointees will attend at least one training session in the first term of office. All Board Members will attend at least one training per three-year term. Failure to attend training as stipulated is cause for dismissal from the Board.
- 4.5 *Attendance.*** Any Board Member, who cannot attend a meeting will notify the Zoning Administrator that they will be absent prior to the meeting as soon as possible, or a minimum of 72 hours prior to the meeting time. The notice of absence will be recorded by Property Services as "excused absent". Failure to provide notification of absence will result in the Board Member being recorded as "absent". Notification of absence enables staff to ensure there will be a quorum. More than three unexcused absences is cause for dismissal.
- 4.6 *Removal.*** Any Board Member may be removed from the Board for nonperformance, misconduct or more than three unexcused absences. The procedure will be as follows: staff will prepare a written report to the Board of Commissioners, who will take action on the report at their regularly scheduled meeting. A copy of the written report will also be sent to the Board Member.
- 4.7 *Decorum.*** Probably the most serious defect in most meetings is the lack of reasonable decorum. Good order must be maintained if business is to be carried out. Courtesy would demand that there should be no whispering or commotion while any speaker has the floor. Do not speak too frequently. Beware of personalities. State facts rather than what you think or believe. Nothing impairs the decorum of a meeting more than a sharp retort or an angry voice. Speak while the motion is pending, not after the vote has been taken or after the meeting is over.
- 4.8 *Conflict of Interest.*** Any Board Member who feels they may have a conflict of interest on any matter that is on the Board agenda will voluntarily excuse themselves, vacate their seat, and refrain from discussing and voting on said matter as a Board Member. A conflict of interest is any direct contractual, financial, or other beneficial interest in the outcome of matter before the Board.

4.9 *Communications with the Public and Applicant prior to the Hearing.*

- a. Prior to the public hearing or Board deliberation, no Board Member will lobby the merits of a pending case with staff, applicant, Board Member or the general public.
- b. If a Board Member has discussed the pending case, the Board Member will disclose the facts relating to such discussion during the public hearing.

Original April 19, 2004
Revised July 18, 2016
Revised July 17, 2023

DRAFT