RULES OF PROCEDURE:
TOWN OF PLAINFIELD ADVISORY BOARD OF
ZONING APPEALS

I. Membership, Organization and Meetings

1. Membership of the Board

   a. The Board shall be made up of five (5) members as follows:

   (1) Three (3) citizen members appointed by the President of the Town Council, one (1) of whom must be a member of the Plan Commission and two (2) of whom must not be members of the Plan Commission.

   (2) One (1) citizen member who must not be a member of the Plan Commission appointed by the Town Council.

   (3) One (1) member appointed by the Plan Commission from the Plan Commission's membership (other than the member appointed pursuant to subsection a. (1), above.

   b. Initial membership on the Board shall be as follows:

   (1) One (1) for a term of one (1) year.
   (2) One (1) for a term of two (2) years.
   (3) One (1) for a term of three (3) years.
   (4) Two (2) for a term of four (4) years.

   c. Board membership shall be for a term of four (4) years. Each term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

   d. No member of the Board shall hold other elective or appointive office except as permitted by Section 1., a., above.

   e. An appointing authority may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member of that appointing authority has a conflict of interest.
2. **Officers of the Board**

   At their first regularly scheduled meeting of each calendar year, the Board shall select from its membership a Chairman and Vice Chairman.

   The Chairman shall preside at all meetings and, in his or her absence or disability, the Vice Chairman shall preside.

   The Board shall elect a Chairman Pro Tempore from among its members if both the Chairman and Vice Chairman are absent or disabled.

   If any office becomes vacant, the Board shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.

3. **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.

4. **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 by a majority of the entire membership of the Board.

   All voting shall be by roll call, except in the case of a unanimous vote.

5. **Vacancies**

   If a vacancy occurs among the membership of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.

6. **Secretary**

   The Board may appoint a Secretary and such employees as are necessary for the discharge of the Board’s duties.

   The Secretary shall:

   a. Keep a complete and accurate record of all proceedings and votes of the Board;

   b. Prepare the agenda of all meetings following consultation with the Chairman;
c. Provide notices of meetings to the Board members;

d. Arrange for all required legal notices for hearings of the Board;

e. Attend to the correspondence of the Board;

f. Record, file, and assume all responsibility for custody and preservation of all papers and documents of the Board;

g. Prepare, publish, and distribute reports, ordinances and other material relating to Board activities; and,

h. Perform other duties normally carried out by a Secretary.

If the Secretary is absent at any meeting, the Chairman shall appoint a temporary Secretary.

7. Regular Meetings

The Board shall hold its regular meeting on the third Monday of each month at 7:00 p.m. in the Plainfield Municipal Building, Plainfield, Indiana. If the third Monday of the month is a holiday as recognized by the Town of Plainfield, or if it is impossible to conduct the meeting at that time or place, the regular monthly meeting shall be scheduled for the third Thursday of the month.

8. 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.

9. Executive Session

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

10. 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.
11. Minutes

The Board shall maintain minutes of all meetings, including the record of the vote on all actions taken. The minutes of any Board meeting shall be filed with the Department of Planning and Zoning and maintained as public records.
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 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 Department of Planning and Zoning no later than 3:00 p.m. on the day of the Filing Deadline set forth below:

<table>
<thead>
<tr>
<th>Type of Petition</th>
<th>Filing Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Appeal</td>
<td>30 days</td>
</tr>
<tr>
<td>Variance of Use</td>
<td>30 days</td>
</tr>
<tr>
<td>Variance of Development Standards</td>
<td>30 days</td>
</tr>
<tr>
<td>Special Exception</td>
<td>30 days</td>
</tr>
</tbody>
</table>

* NOTE: The Filing Deadline shall mean the number of days prior to the initial hearing before the *Board* at which the *Petition* is to be considered.

3. Form of Filing

All *Petitions* to the *Board* shall be on forms provided by the Department of Planning and Zoning. 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 Director

Each Petition filed in proper form pursuant to the guidelines established by the Department of Planning and Zoning shall, within fifteen (15) days of filing, be numbered and docketed by the Director 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 Hearing

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.

3. Investigation of Petitions

Upon assignment of a number and hearing date, the Director shall distribute a copy of the Petition and relevant supporting documentation to the members of the Technical Advisory Committee for review and comment pursuant to the Rules of Procedure for the Technical Advisory Committee for the Town of Plainfield.
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 shall be published by the Board in accordance with I.C. 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 Director in accordance with the requirements of I.C. 36-7-4-604, shall be mailed to each interested party.

Notice by mailing shall be given by certified mail at least fifteen (15) days prior to the date of the hearing.

3. Posted Notice on Subject Property

Notice of all Petitions for public hearing before the Board, on a form prescribed by the Board, shall be posted at least fifteen (15) days prior to the date of the hearing in a conspicuous place on the subject property. In the case of a subject property having frontage in excess of five hundred (500) feet, one (1) notice shall be posted for each five hundred (500) feet of frontage and such notices shall be located with approximately equal in spacing along such street frontage. In the case of a subject property having more than one (1) street frontage, posted notice as described herein shall be provided along each street frontage.

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 two (2) ownerships or six-hundred (600) feet, whichever is less, 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. The second ownership shall be deemed to be only the first tier of condominium units located within the common area.

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

b. In determining the name and address of legal title owners, the records of the Hendricks 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.

5. Affidavit of Notice

Petitioner shall file an Affidavit of Notice, in a form as specified by the Department of Planning and Zoning, indicating compliance with all notice requirements of these Rules, prior to the public hearing. Copies of all "Receipt for Certified Mail" (white slips) and the originals of the "Domestic Return Receipts" (green cards) shall be filed with the Affidavit of Notice.

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 hearing in which the Petition is to be heard while the Board is considering requests of continuances and prior to the calling of the first Petition for public hearing.
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. Staff of the Board shall be given a reasonable time by the Board to introduce the matter being considered and for the presentation of evidence, statements regarding the matter being considered.

   b. Petitioners shall be allotted a total of fifteen (15) minutes to present evidence, statements and arguments in support of the matter being considered.

   c. 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.

   d. 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.

   e. 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' or the Staff's 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 shall make reasonable efforts to allow equal time for Petitioners and remonstrators.

2. Testimony

   Any person giving testimony to the Board regarding any pending Petition shall be placed under oath and shall first 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.

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 if re-notification of interested property owners shall be required for any continued hearing.

Continuances granted for periods of time in excess of two months shall require re-notification of interested property owners.

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

The Board may elect to not begin the hearing on any matter after 10:00 p.m., local time. If a hearing on a Petition has not been called for by the presiding officer prior to 10:00 p.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. **Secretary’s or Director’s Written Report**

Nothing in these Rules of Procedures shall be deemed to prohibit the Secretary or the Director 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. The written report may also contain an opinion of the proposed pending Petition and a report from the Technical Advisory Committee or Design Review Committee. A copy of such statement shall be made available to the Petitioner and all remonstrators of record, if any.

8. **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.
9. 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 Staff and any 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

Dismissal of Petitions

a. The Board may dismiss a Petition for lack of prosecution when the Petitioner has failed to appear. 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.

2. Withdrawal of Petitions

No Petition may be withdrawn by the Petitioner after a vote has been ordered by the presiding officer. A Petition which has been properly withdrawn by the Petitioner may be heard at the next regular meeting of the Board upon republication of the legal notice and re-notification of interested property owners.

Any Petition which has been withdrawn by the Petitioner, and which has not been set for hearing at the next regular meeting as described above, shall not be re-filed for consideration within a period of three (3) months from the date of said withdrawal, 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.

3. 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, or special exception by the Board; zone map change by the Town Council; or, development plan approval for either development incentives or architectural review by the Plan Commission, shall again be included in a Petition for either a variance of use, variance of development standards or special exception within six (6) months 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 shall be provided to adjoining property owners at least ten (10) days prior to the date of consideration of the special request by the Town Council, Plan Commission or the Board.
No variance of use, variance of development standards or special exception
Petition which has been the subject of a prior denial by the Board shall be granted
except upon adoption of an additional finding that a substantial change in the
particular circumstances which induced the prior denial has occurred. It shall be
the responsibility of the Petitioner to prepare and submit, at the time of filing, a
detailed written finding of fact reflecting the substantial change in circumstances.
Any such Petition filed without the additional finding shall be deemed incomplete
and shall not be docketed for public hearing.

4. 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.

5. Letter of Grant or Denial

Following final action on a Petition by the Board, the Director, within five (5)
Business Days after such action, shall notify the Petitioner of the final decision by
sending the Petitioner a letter of grant or denial. If the letter is a letter of grant,
the letter shall include all conditions imposed.

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 Plainfield Advisory 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 Department of Planning and Zoning are open to the public for the transaction of business for the entire period of its normal operating hours.

DIRECTOR - The Director of the Department of Planning and Zoning of the Town of Plainfield.

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 Plainfield Zoning Ordinance, or these Rules of Procedure, in support of a decision made by the Board.

PLAN COMMISSION - The Town of Plainfield 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 Department of Planning and Zoning for public hearing by 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 filed with the Department of Planning and Zoning for public hearing by the Board.

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

STAFF: The Secretary of the Board, the Director of the Department of Planning and Zoning, any employee of the Board, or any attorney or agent of the Secretary of the Board or the Director of the Planning and Zoning Department.

TECHNICAL ADVISORY COMMITTEE - A committee of technical consultants established to provide the Director with technical assistance in the review of plans for compliance with the provisions of the Town of Plainfield Zoning Ordinance, the Town of Plainfield Subdivision Control Ordinance and other applicable rules and regulations of federal, state or local agencies.
X. Adoption

The foregoing Rules of Procedure of the Town of Plainfield Advisory Board of Zoning Appeals, were adopted by the affirmative vote of the undersigned members of the Board of Zoning Appeals on the 5th day of January, 1998, with an effective date of the 1st day of February, 1998, and amended by Resolution No. 99-001 on the 16th day of December, 1999 and by Resolution No. 1-2006 on the 17th day of April 2006. The effective date of these Rules of Procedure, as amended, shall be the 1st day of May, 2006.

**Town of Plainfield**
**Advisory Board of Zoning Appeals**

_______________________________
Rick Matrana, Chairman

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Kevin Cavanaugh

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Steve Blevins

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Gregory Monnett

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Dennis Gibbs

ATTEST:_______________________________
Richard A. Carlucci, Secretary
Town of Plainfield
Advisory Board of Zoning Appeals