

**RULES AND BY-LAWS OF THE
SAWYER COUNTY BOARD OF APPEALS**

Amended: May 15, 2003; August 21, 2003; January 20, 2005; June 21, 2005; December 20, 2005; February 21, 2006; April 18, 2006; October 21, 2008; and July 17, 2014.

SECTION 1.0 GENERAL PROVISIONS

1.1 Authority

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

1.2 Title

The official title of the Board is, The Sawyer County Board of Appeals.

1.3 Membership

The Chairperson of the County Board shall appoint, for staggered 3-year terms, two alternate members of the Board of Appeals, who are subject to the approval of the County Board of Supervisors. Annually, the Chairperson of the County Board shall designate one of the alternate members as first alternate and the other as 2nd alternate. The first alternate shall act, with full power, only when a member of the Board of Appeals refuses to vote because of a conflict of interest or when a member is absent. The 2nd alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one member of the Board of Appeals refuses to vote because of a conflict of interest or is absent..

1.4 Conflicts of Interest

Any member of the Board, who has any direct or indirect interest, personal or financial, in a matter before the Board shall not vote thereon or participate in the deliberation of such matter at any meeting or hearing at which said matter is under consideration. A disqualifying conflict of interest shall be deemed to exist when: (1) the Board member is the applicant or spouse of the applicant/appellant, or is related to the applicant/appellant within the third degree of consanguinity, or is the husband or wife of someone so related; or (2) the applicant/appellant is the employer, employee or partner of the member or is a corporation in which the member is a major shareholder or has a financial interest; or (3) the member owns property within 500 feet of the property which is the subject of the application.

1.5 Limitations

Nothing herein shall be construed to give or grant to the Board, the power or authority to alter or change the zoning ordinances or zones of other official maps of the County, which authority is reserved to the Zoning Committee and County Board of Supervisors.

1.6 Board's Office

The office of the Board shall be located at the Office of the Zoning Administrator. All records of the Board shall be available for public inspection during office hours, 8:00 AM to 4:00 PM, Monday through Friday, except legal holidays.

SECTION 2.0 OFFICERS AND DUTIES

2.1 Officers

The Board shall elect a Chairperson, Vice-chairperson, and Secretary from among its members. These officers shall hold office until their successors are elected. The Board may, at any meeting or hearing, elect from among the membership the replacement for an officer, who for whatever reason is unable to perform the duties of his office.

2.2 Duties of Officers

2.21 The Chairperson, if present, otherwise the Vice-chairperson, shall preside over and direct the conduct of all meetings and hearings of the Board and may administer oaths and compel the attendance of witnesses. The Chairperson shall report on all official transactions that have not otherwise come to the attention of the Board. The Chairperson shall, subject to these rules and further instructions from the Board, direct the official business of the Board, supervise the work of the Board and request necessary help when required. The Chairperson or the presiding officer, subject to these rules, shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and approved.

2.22 The Secretary shall record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact; shall keep records of its official actions; shall summarize accurately the testimony of those appearing before the Board and keep a verbatim recording of all hearings; shall record the names and addresses of all persons appearing before the Board in person, or by attorney; and shall, subject to the Board and Chairperson conduct the correspondence of the Board and have published in a local newspaper, public notices of meetings or hearings as required by law; shall file said minutes and records in the office of the Board which minutes and records shall be a public record; and shall be the custodian of the files of the Board and keep all records. The Deputy Zoning Administrator shall assist the Secretary of the Board in performing these and other administrative duties.

2.23 The County Corporation Counsel, or his/her designated representative, shall be the legal counsel for the Board. Advice of counsel shall be received and entered in the minutes before disposition of any question of law or matter requiring legal interpretation or advice.

SECTION 3.0 MEETINGS

3.1 Time: How Called

Meetings and hearings of the Board shall be held, or may be canceled at the call of the Chair and at such other time as the Board may determine, provided that all Board members are notified by the Secretary at least 48 hours prior to such meeting. All meetings shall be open to the public and in accordance with the Open Meeting Law, except the Board may call a closed session at the conclusion of any public hearing for the purpose of reaching a decision on the evidence placed before it in the open session portion of such hearing. Hearings shall be advertised as required by law and these rules.

3.2 Quorum

A quorum shall consist of a majority of all members of the Board and no action may be taken except by a majority vote of such quorum except a lesser number may meet and adjourn any meeting duly called and noticed to a time certain.

3.3 Order of Business

The Secretary shall prepare an agenda for each Board meeting, listing the matters of business at all meetings that do not have public hearings in the following order:

1. Call to order and roll call.
2. Statement by the presiding officer concerning notice in accordance with the Wisconsin Open Meeting Law.
3. Unfinished business.
4. New business.
5. Communications and miscellaneous.
6. Other business that may come before the Board as permitted by law.
7. Adjournment.

The Secretary shall prepare an agenda for each Board meeting that has a public hearing, listing the matters of business in the following order:

1. Call to order and roll call.
2. Statement by the presiding officer concerning notice in accordance with the Open Meeting Law.
3. Hearings.
4. Deliberations and decisions on applications and appeals to the Board.
5. Unfinished business.
6. New business.
7. Communications and miscellaneous.
8. Other business that may come before the Board as permitted by law.
9. Adjournment.

The order of business at any meeting or hearing may be varied from the proceedings by consent of the members present.

3.4 Robert's Rules of Order

Robert's Rule of Order may govern actions of the Board and conduct of the meetings if not covered by these rules and regulations of the county zoning ordinance.

SECTION 4.0 POWERS AND DUTIES OF THE BOARD

4.1 General Powers

The powers and duties of the Board of Appeals are identified in Section 59.99 (7) of the Wisconsin Statutes and in the various zoning ordinances that have been adopted by the County. The Board shall have the following general powers:

4.11 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or the Sawyer County Zoning Committee in the enforcement of Sections 59.69, 59.692, 87.30, or 281.31, Wisconsin Statutes, as amended or of any county zoning ordinance adopted pursuant thereto.

4.12 To authorize, upon appeal in specific cases, such variance of the zoning ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinances will result in unnecessary hardship and so that the spirit of the ordinance shall be observed, public welfare and safety secured and substantial justice done. A variance:

- (a) Shall be consistent with the spirit and intent of the zoning ordinances.
- (b) Shall not permit any change in the uses in the established zone districts.
- (c) Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons of property values in the area.
- (d) Shall not be granted for actions which require an amendment to the ordinance.
- (e) Shall not have the effect of allowing a use or structure which is prohibited in that zone district by the ordinance unless it determines that no feasible, legal use can be made of the property without such variance, provided no use variance may be granted in a flood-plain or wetland/shoreland district.
- (f) Shall not be granted on the basis of economic gain or loss.
- (g) Shall not be granted for a self created hardship.

4.13 Hear and decide appeals on the extensions of structures, buildings or premises devoted to nonconforming uses.

4.2 Scope of Orders

In exercising the powers under Section 4.1, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

SECTION 5.0 APPLICATION AND APPEAL PROCEDURES

5.1 Who May File

Applications to the Board and appeals from the Zoning Administrator's decision or appeals of decisions made by the Sawyer County Zoning Committee shall be filed with the Zoning Office, by the applicant or appellant, his/her agent or attorney. Appeals may be filed by any person aggrieved or by any officer, department, board, or bureau of the County or Town affected by the Zoning Administrator's decision or a decision of the Sawyer County Zoning Committee.

5.2 Copies to be Sent

The Zoning Administrator shall transmit copies of the application or appeal as follows: Original to the Board of Appeals; a copy to the applicant; a copy to the Zoning Administrator's files. Where applicable as to variances, a copy of the application shall be transmitted to the Clerk of the Town Board, City Council or Village Council. In the case of applications or appeals affecting property within the wetland/shorelands, one copy shall also be sent to the Department of Natural Resources.

5.3 Time to Appeal

Appeals from the Zoning Administrator's decision or appeals of a decision made by the Sawyer County Zoning Committee must be filed within thirty (30) days after the decision in writing is made and filed.

5.4 Required Information

Failure of the applicant to supply the required information within 30 days of filing an application or appeal may be considered by the Board as a failure to comply with the application and appeal procedure and the case may be dismissed for failure of timely filing. Applications or appeals shall be made on forms provided by the Zoning Administrator. Any communication except on prescribed forms, purporting to be an appeal shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with requirements of timely filing.

5.5 Reasons to Be Stated

The reason for the application or appeal must be stated and the reasons why the request should be granted must also be stated by the applicant: (a) If a variance is requested, facts should be stated upon which findings may be made by the Board to justify the granting of the variance. (b) If an appeal is based upon an alleged error or abuse of discretion of the Zoning Administrator or the Sawyer County Zoning

Committee, facts should be stated as to the nature thereof.

5.6 Dismissal of Case

The Board may refuse to hear a case upon the failure of the applicant to supply the required information called for on the forms and as further reasonably required by the Zoning Administrator.

5.7 Owner's Consent

The forms shall bear the signature of the owner of the property affected or shall be accompanied by a letter from the owner acknowledging the filing of the form. In the case of a property having multiple owners, the signature of a single owner shall suffice.

5.8 Time for Hearing

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

5.9 Notice of Hearing

5.91 The Secretary of the Board shall give, or cause to be given, notice of each hearing as required by law and these rules. This shall include at least the following: (1) publication of a Class 2 hearing notice in a newspaper of general circulation; (2) mailing a notice of the hearing to the applicant, and where required to the area office of the Department of Natural Resources at least ten (10) days before the hearing; (3) mailing a notice of the hearing to the Town Clerk and Town Chairman of the Town Board of the Town in which the property is located, no less than one week before the date of the hearing; (4) mailing a notice of the hearing to the City Clerk or Village Clerk and City Mayor or Village President when the property affected lies within 1 1/2 air miles of the closest city or village limits, no less than one week before the date of the hearing.

5.92 The application for a variance shall be sent to the Town Clerk, and when applicable to the City Clerk or Village Clerk, of the Town in which the property is located. Such application shall indicate whether the municipality approved, denied, or tabled the application and such application shall provide a form for findings of fact by the municipality. The decision shall be signed by the Board members and attested by the Clerk. The decision of the municipality may be considered by the Board of Appeals in granting or denying the variance requested.

5.93 When a hearing involves an application or petition for a variance, an opinion letter shall be sent to owners of all lands, within the County, within 500 feet of the perimeter of the property affected. Such opinion letter shall include the information required for a hearing notice and provide the recipient the opportunity to indicate whether he/they are in favor or opposed to the application and provide an area for additional comments. Comments from surrounding property owners may be considered by the Board in granting or denying the variance requested. A signature(s) is required on the form in order that the comments receive consideration by the Board. The failure of such

opinion letter to reach any property owner shall not invalidate any decision made on a variance. Such opinion letter shall be mailed at least 10 days before the hearing.

5.10 Effect of Appeal

An appeal shall stay all proceedings and furtherance of the action appealed from, unless the officer from whom the appeal is taken, shall certify to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the Board of Appeals, or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown.

5.11 Representative Filing

An applicant/appellant may file an application or appeal personally or by an agent or attorney.

5.12 Fees

The applicant/appellant shall pay such fees as may be from time to time established by the County Board, which amount shall be deposited with the Zoning Administration for each application/appeal filed. Any fees required for the copying of, reproduction of or the publishing of documents, photographs, or the copying of or the transcribing of recorded tapes or the copying or reproduction of any item related to "the record" shall be the responsibility of the applicant/appellant and shall be paid to the Zoning Administration. The Zoning Administration shall provide an itemized bill to the applicant/appellant for payment. Any services required of an outside agency shall be at the discretion of the Zoning Administrator and shall be billed to the applicant/appellant accordingly.

SECTION 6.0 PROCEEDINGS OF VARIANCE REQUEST HEARINGS

6.1 Appearances, Adjournments

At the time of the hearing, the applicant may appear in his own behalf or be represented by his counsel or agent. A motion passed to table a request or a recess or adjournment of a hearing, made at a noticed hearing date, to a time and place certain is adequate notice to the members and the public of a new hearing date.

6.2 Witnesses

The Chairperson, or Vice-chairperson, may compel the attendance of witnesses and may require those wishing to testify to state their names and interests in the matter before the Board. Testimony may be taken under oath administered by the Chairperson or Vice-chairperson.

6.3 Order of Hearings

Hearings on cases shall normally follow this order:

1. Reading of the application.
2. Determination of Jurisdiction, if requested.

3. Submission of the file, which may include: The Town Board decision, City Council decision, or Village Council decision; maps or surveys; inspection reports; opinion letters; letters of correspondence; soil tests results; plot plans or sketches; photographs and any other documentation that may aid the Board in making its decision.

4. Applicant's statements and presentation of evidence.

5. Others in support of applicant make statements and present evidence.

6. Objector's statements and presentation of evidence.

7. Staff recommendations.

8. Questions by Board members.

9. Rebuttals as permitted by the Board.

10. Deliberations and decision by the Board.

6.4 Preliminary Matters

Following the reading of the application, the Board may hear arguments on the question of jurisdiction and request that briefs be filed on the point. The Board may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after hearing all testimony and render a decision on the merits as if it had jurisdiction. The Board may make an immediate determination and close the hearing finding that it lacks jurisdiction. If the Board determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the request for variance.

6.5 Parties Not to Interrupt

Orderly procedure requires that each side shall proceed without interruption by the other; that all arguments and pleadings shall be addressed to the Board and that there be no questioning or arguments between individuals.

6.6 Questions and Debate

During the hearing, the Chairperson, Board members, and members of the staff may ask questions and make appropriate comments pertinent to the case, however, no member should debate or argue an issue with the applicant. The Chairperson and Board members may direct any question to the applicant or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case and may call for questions from members of the staff.

6.7 Presentation of Evidence

All supporting evidence for and against each case shall be presented to the assembled Board. The applicant shall be responsible for the presentation of all information supporting his/her case. The Board may take administrative notice of the ordinances of the County and laws of the State of Wisconsin and other relevant facts not reasonably subject to dispute on its own motion or motion of a party.

6.8 Additional Evidence

The Board may take a case under advisement for later consideration and determination, or may table or defer action whenever it concludes that additional evidence is needed or further study is required.

6.9 Rules of Evidence

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

6.10 Chairperson to Rule on Admissibility

The Chairperson shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board members.

6.11 Interested Persons May Testify

Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves.

6.12 Record of Hearing

All proceedings at a hearing shall be tape recorded. The Secretary shall prepare a summary of motions, witnesses, appearances, roll call, votes, and all other matters constituting the substance of the proceedings. Verbatim transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari. The proceedings shall become part of the written record filed in the office of the Board and open to the public.

6.13 Adjournments

When all applications or appeals cannot be disposed of on the day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board.

6.14 Withdrawal of Application

An applicant may withdraw an application at any time prior to the decision, but a pending motion to grant or deny the application shall have precedence over withdrawal. Withdrawal of the application shall not entitle the applicant to remission of the filing fee.

SECTION 7.0 PROCEEDINGS OF ADMINISTRATIVE APPEAL HEARINGS – APPEAL OF A DECISION MADE BY AN ADMINISTRATIVE OFFICIAL

7.1 Appearances, Adjournments

At the time of the hearing, the appellant may appear in his own behalf and/or be represented by his counsel or agent. A motion passed to table a request or a recess or adjournment of a hearing, made at a noticed hearing date, to a time and place certain is adequate notice to the members and the public of a new hearing date. The official whose decision is being appealed may appear in his own behalf and/or be represented by his counsel or agent.

7.2 Witnesses

The Chairperson, or Vice-chairperson, may compel the attendance of witnesses and may require those wishing to testify to state their names and interests in the matter before the Board. Testimony may be taken under oath administered by the Chairperson or Vice-chairperson.

7.3 Order of Hearings

Hearings on cases shall normally follow this order:

1. Reading of the appeal.
2. Determination of Jurisdiction, if requested.
3. Official whose decision is the subject of the appeal statements and presentation of evidence.
4. Others in support of the official whose decision is being appealed make statements and present evidence.
5. Appellant's statements and presentation of evidence.
6. Others in support of appellant make statements and present evidence.
7. Rebuttal by the official whose decision is being appealed.
8. Questions by Board members.
9. Rebuttals as permitted by the Board.
10. Deliberations and decision by the Board.

7.4 Preliminary Matters

Following the reading of the appeal, the Board may hear arguments on the question of jurisdiction and request that briefs be filed on the point. The Board may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after hearing all testimony and render a decision on the merits as if it had jurisdiction. The Board may make an immediate determination and close the hearing finding that it lacks jurisdiction. If the Board determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the appellant's request for administrative appeal.

7.5 Parties Not to Interrupt

Orderly procedure requires that each side shall proceed without interruption by the other; that all arguments and pleadings shall be addressed to the Board and that there be no questioning or arguments between individuals.

7.6 Questions and Debate

During the hearing, the Chairperson and Board members may ask questions and make appropriate comments pertinent to the case; however, no member should debate or argue an issue with the appellant. The Chairperson and Board members may direct any question to the appellant or the official whose decision is being appealed or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case and may call for questions from members of the staff.

7.7 Presentation of Evidence

All supporting evidence for and against each case shall be presented to the assembled Board. The appellant shall be responsible for the presentation of all information supporting his/her case. The Board may take administrative notice of the ordinances of the County and laws of the State of Wisconsin and other relevant facts not reasonably subject to dispute on its own motion or motion of a party.

7.8 Additional Evidence

The Board may take a case under advisement for later consideration and determination, or may table or defer action whenever it concludes that additional evidence is needed or further study is required.

7.9 Rules of Evidence

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

7.10 Chairperson to Rule on Admissibility

The Chairperson shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board members.

7.11 Interested Persons May Testify

Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves.

7.12 Record of Hearing

All proceedings at a hearing shall be tape recorded. The Secretary shall prepare a summary of motions, witnesses, appearances, roll call, votes, and all other matters constituting the substance of the proceedings. Verbatim transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari. The proceedings shall become part of the written record filed in the office of the Board and open to the public.

7.13 Adjournments

When all applications or appeals cannot be disposed of on the day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board.

7.14 Withdrawal of Appeal

An appellant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or deny the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant to remission of the filing fee.

SECTION 8.0 PROCEEDINGS OF ADMINISTRATIVE APPEAL HEARINGS –

APPEAL OF A DECISION MADE BY THE SAWYER COUNTY ZONING COMMITTEE

8.1 Scope of the Hearing. The Board shall conduct a review of the “record” of the hearing conducted by the Sawyer County Zoning Committee. The Board shall not conduct a de novo hearing.

1. Review of a decision made by the Sawyer County Zoning Committee.
 - a. General. The Board’s decision shall be based on the applicable statutes and ordinances and the evidence in the record, not on the Board’s attitude toward the applicant, the proposal or the zoning ordinance.
 - b. The Board shall review the “record” of the hearing conducted by the Committee.
 - c. The Board may request that briefs be filed with the Sawyer County Zoning Administrator for presentation to the Board.
 - d. The Board may question any or all parties to the appeal.
 - e. The Board shall make its decision based on:
 - i. Whether the Committee kept within its jurisdiction;
 - ii. Whether the Committee proceeded on the correct theory of law;
 - iii. Whether the Committee’s action was arbitrary, oppressive, or unreasonable and represented its will not its judgment; and
 - iv. Whether the evidence was such that the Committee might reasonably make the decision in question.
 - f. In making its decision, the Board may wholly or partly affirm, reverse or modify the decision appealed. The Board, in overturning a decision of the Committee, shall send the case back to the Committee for further proceedings consistent with the Board’s findings.

8.2 Appearances, Adjournments

At the time of the hearing, the appellant may appear in his own behalf and/or be represented by his counsel or agent. A motion passed to table a request or a recess or adjournment of a hearing, made at a noticed hearing date, to a time and place certain is adequate notice to the members and the public of a new hearing date.

8.3 Witnesses

The Chairperson, or Vice-chairperson, may compel the attendance of witnesses and may require those wishing to testify to state their names and interests in the matter before the Board. Testimony may be taken under oath administered by the Chairperson or Vice-chairperson.

8.4 Order of Hearings

Hearings on cases shall normally follow this order:

1. Reading of the appeal.
2. Determination of Jurisdiction, if requested.
3. Board review of the “record” of the hearing conducted by the Committee.
4. Sawyer County Zoning Committee members statements.
5. Appellant’s statements.

6. Rebuttals as permitted by the Board.
7. Questions by Board members.
8. Deliberations and decision by the Board.

8.5 Preliminary Matters

Following the reading of the appeal, the Board may hear arguments on the question of jurisdiction and request that briefs be filed on the point. The Board may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after hearing all testimony and render a decision on the merits as if it had jurisdiction. The Board may make an immediate determination and close the hearing finding that it lacks jurisdiction. If the Board determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the request for administrative appeal.

8.6 Parties Not to Interrupt

Orderly procedure requires that each side shall proceed without interruption by the other; that all arguments and pleadings shall be addressed to the Board and that there be no questioning or arguments between individuals.

8.7 Questions and Debate

During the hearing, the Chairperson and Board members may ask questions and make appropriate comments pertinent to the case; however, no member should debate or argue an issue with the appellant. The Chairperson and Board members may direct any question to the appellant or any Committee member or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case and may call for questions from members of the staff.

8.8 Presentation of Evidence

The presentation of evidence shall be limited to that evidence already in the "record." All supporting evidence for and against each case shall be presented to the assembled Board. The appellant shall be responsible for the presentation of all information supporting his/her case. The Board may take administrative notice of the ordinances of the County and laws of the State of Wisconsin and other relevant facts not reasonably subject to dispute on its own motion or motion of a party.

8.9 Additional Evidence

The Board may take a case under advisement for later consideration and determination, or may table or defer action whenever it concludes that additional evidence is needed or further study is required.

8.10 Rules of Evidence

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

8.11 Chairperson to Rule on Admissibility

The Chairperson shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board members.

8.12 Interested Persons May Testify

Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves.

8.13 Record of Hearing

All proceedings at a hearing shall be tape recorded. The Secretary shall prepare a summary of motions, witnesses, appearances, roll call, votes, and all other matters constituting the substance of the proceedings. Verbatim transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari. The proceedings shall become part of the written record filed in the office of the Board and open to the public.

8.14 Adjournments

When all applications or appeals cannot be disposed of on the day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board.

8.15 Withdrawal of Appeal

An appellant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or deny the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the applicant to remission of the filing fee.

SECTION 9.0 DECISIONS OF THE BOARD

9.1 Majority Vote Required

The concurring vote of a majority of the quorum of the members present shall be necessary to approve, deny, or table any matter upon which it is required to under any zoning ordinance.

9.2 Decisions to be written

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

9.3 Decisions to be mailed

Within 30 days of the close of the hearing to which the decision relates, written copies of such decision shall be mailed to the applicant, the local municipality, and when applicable, to the Department of Natural Resources. The approval or granting by the Board is deemed to constitute an order to the zoning official to issue a permit. A denial of the application or appeal by the Board is deemed to be an order to deny the permit.

9.4 Findings of Fact

In acting on any matters before it the Board shall make findings supporting its actions. In every case where a variance from the zoning regulations is granted by the Board, the minutes of the Board shall affirmatively show that an unnecessary hardship or practical difficulty exists and the records of the Board shall clearly show in what particular and specific respects an unnecessary hardship or practical difficulty is created.

9.5 Disqualification: Motions

A member may disqualify himself from voting whenever the member has a personal or monetary interest in the property concerning the case, will be directly affected by the decision of the Board, has or believes he has any conflict of interest under state statutes. A member may also disqualify himself whenever the applicant or the applicant's agent has sought to influence the vote of the member on his case outside the public hearing. All decisions of the Board shall be made at a public hearing by motion made, seconded, and passed. A motion which decides the issue shall be in the form of a findings of fact and shall state the reasons for the findings by the Board. If conditions are imposed in the granting of a variance, such conditions shall be included in the motion.

9.6 Decision to Relate to Specific Property

The decision of the Board shall be deemed as applying to the property rather than to the individual and is valid only for the specific premises in the case and is not transferable to other properties.

9.7 Informal Advice Not Binding

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

9.8 Cases to be Determined Individually

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

9.9 Order for Permit Valid For One Year

An order or approval by the Board requiring a zoning official to issue a permit shall become void after one year unless the applicant shall have obtained such permit from the zoning official within such time, provided, that the time may be extended when so specified by the Board.

9.10 Decisions to be filed with State

Copies of decisions on variances and appeals within the shorelands or affecting the Wetland/Shoreland One District shall be sent to the appropriate district office of the Department of Natural Resources.

9.11 Action in Circuit Court

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board, or bureau of the County may commence an action in the circuit court for writ of certiorari to review the legality of such decision in whole or in part, within thirty (30) days of the date following the date of the signing of the Board's decision letter. The date following the date of the signing of the Board's decision letter is the first day of the thirty (30) day appeal filing period.

SECTION 10.0 REFILING AND REHEARINGS

10.1 One Year Refiling Rule

No matter which has been acted upon by the Board concerning the same or part of the same property shall be considered again within one (1) year from the date of the action, except as hereinafter provided.

10.2 Re-openings and Re-hearings Limited

The Board may not reopen any case upon which a previous hearing has been held, except to correct a manifest error.

10.3 Closure of Case

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

10.4 Reconsideration on Board Motion

A decision of the Board may be reconsidered by motion to reconsider made at the same meeting which may be immediately disposed of with out further notice.

10.5 Reconsideration Tolls Appeal Period

The filing of a motion for reconsideration shall stop the running of the 30 day period in which a petition to the Circuit Court must be made. The 30 day period will run in such event from the date of a decision not to reconsider is made by the Board, or if the matter is reconsidered, from the date the decision on the reconsidered matter is filed in the Board's office.

10.6 Procedures for Reconsideration

A simple majority vote shall be sufficient to reconsider a previous decision. If reconsideration is refused to an interested party who has requested reconsideration, the Board shall enter on the minutes the basis of the request, the reason why it was refused and the vote of the Board members thereon.

SECTION 11.0 AMENDMENT OF RULES

These rules may be changed or amended from time to time by a majority vote of the Board of Appeals at any regular or special meeting.

SECTION 12.0 ANNUAL REPORT

Annually on a date specified by the County Board, the Board of Appeals shall submit a report of its activities during the preceding year, to the Zoning Committee for transmittal to the County Board.

SECTION 13.0 STAFF

The Board of Appeals may utilize the advice and assistance of the County employees and may delegate administrative tasks to such employees as authorized by the County Board of Supervisors.

SECTION 14.0 DEFINITIONS

Certain terms or words used herein are defined as follows:

- 1) Aggrieved person: Any person whose substantial interests are adversely affected by a determination. Aggrieved persons may file appeals or appear in opposition to an application.
- 2) Appeal: A complaint of an injustice done or error committed in which both the facts and the law are reviewed. Board of Appeals hear and decide appeals regarding interpretations of county zoning ordinances.
- 3) Appellate body: A body authorized to review the judgments made by other people or bodies. The Board of Appeals hears appeals of the decisions of the Zoning Administrator and decisions of the Sawyer County Zoning Committee. The Circuit Court hears appeals of the Board's decisions.
- 4) Briefs: A concise and brief statement expounding on the legal issues and the authorities.
- 5) Certiorari: A written order from a higher court to a lower court demanding a transcript of the proceedings of a case for review. Review of the Board's decision is by the Circuit Court in an action of certiorari. The records will be judged on the evidence presented and the procedures followed by the Board in hearing the case and reaching a decision.
- 6) Executive (closed) session: A session closed to the public based on a majority vote of the members for the purpose of deliberating quasi-judicial matters or conferring with legal counsel.
- 7) Findings of Fact: A statement of the Board's rationale behind the decision and facts that support the decision.
- 8) Hearing de novo: To hear anew. A hearing de novo may be granted by the court if the decision was based on insufficient evidence or the findings of fact are insufficiently recorded.

9) Moot question: A hypothetical question. A question which does not rest upon existing facts or rights; a question as to which in reality there is no actual controversy existing.

10) Variance: An action which authorizes the construction or maintenance of a building in a manner inconsistent with the dimensional requirements of a zoning ordinance. A variance may only be granted in cases of unnecessary hardship and when the spirit of the ordinance is not violated.

11) Unnecessary hardship: A unique and extreme inability to conform to the provisions of a zoning ordinance due to physical factors which are not solely related to economic loss or gain. An applicant must prove unnecessary hardship.

The foregoing rules and regulations are hereby adopted by the Board of Appeals for the County of Sawyer on 23 May 1985.

SAWYER COUNTY BOARD OF APPEALS

/s/ Arvid H. Vallem, Chairman

/s/ Charles Balczewski

/s/ Raymond E. Zubrod

Resolution 5-85 adopted on June 20, 1985 by the Sawyer County Board of Supervisors to adopt said rules and regulations for the Sawyer County Board of Appeals.

/s/ Wayne Somerville
County Board Chairman

/s/ Frank W. Duffy
County Clerk