

DOOR COUNTY RESOURCE PLANNING COMMITTEE RULES OF PROCEDURE

Regarding:

Scheduling of Public Hearings Public Hearing Conduct and Testimony Zoning Decisions *Ex Parte* Communications

As authorized by s. 11.09(2), Door County Zoning Ordinance, these procedures are hereby adopted:

I – Scheduling of Public Hearings

Each application for a conditional use permit and petition for zoning amendment shall be scheduled for hearing as soon as allowed by the regular hearing calendar, legal notice requirements, and town review procedures. No more than four hearings shall be scheduled for any single hearing date.

II – Public Hearing Conduct

The Committee Chair shall open the hearing and explain the hearing procedure, which shall be as follows:

1. The Chair shall read the notice of the case.
2. Staff of the Door County Planning Department shall explain the case.
3. Resource Planning Committee members shall present any special personal knowledge of the case.
4. The principal applicant or agent shall be asked to present testimony.
5. Testimony from others in support of the application shall be presented.
6. Letters in support of the application shall be entered into the record. A summary of all letters shall be presented by the staff, but individual letters shall not be read.
7. Testimony in opposition of the application shall be presented.
8. Letters in opposition to the application shall be entered into the record. A summary of all letters shall be presented by the staff, but individual letters shall not be read.
9. Those who previously testified in support shall have an opportunity for rebuttal.
10. Those who previously testified in opposition shall have an opportunity for rebuttal.
11. At the conclusion of the hearing, the Chair shall immediately close the hearing record or shall establish a later closing date for each hearing record. No testimony, verbal or written, shall be received nor entered into the record after the closing of the record, unless a new public hearing for the same case should subsequently be opened. Written testimony arriving after

the record is closed shall be returned to the writer accompanied by an explanation of this procedure.

If the applicant/petitioner fails to appear at the hearing (in person, or by agent or counsel), s/he will be deemed to be in default and the conditional use permit or petition for zoning amendment may, in the Resource Planning Committee's sole discretion, be denied.

The applicant/petitioner may, if s/he failed to appear (in person, or by agent or counsel) for good reason, request in writing that the Resource Planning Committee reopen the default denial. Any request to reopen must be made (i.e., written request received by the Planning Department) within thirty (30) days of the default denial. The Resource Planning Committee may, in its sole discretion, reopen a default denial if good cause is shown, such as mistake, inadvertence, or excusable neglect. If a default denial is reopened, the applicant/petitioner must submit a new fee, unless the Resource Planning Committee determines otherwise.

III – Public Hearing Testimony

1. Eligibility: Any person may testify in any case in person, in writing, or by agent or attorney.
2. Identification: Anyone testifying shall give his/her name and mailing address and the name and address of anyone whom they represent.
3. Presentation: All testimony shall be directed to the Resource Planning Committee. Cross-examination of witnesses and exchanges between members of the audience shall not be allowed. The Resource Planning Committee may ask questions of any witness.
4. Alternate Procedures: When a particular circumstance so dictates, the Chair may limit the length of testimony, the number of appearances per person, the number of appearances per side, or make other similar rulings for the purpose of maintaining order and giving all sides an opportunity to be heard.

IV – Zoning Decisions

Decisions on zoning amendment petitions and conditional use permit applications shall be by majority vote of a quorum. A motion that results in a tie vote is lost. In the event of a tie vote where the motion was to approve, those voting "nay" shall have the responsibility of citing reasons. In the event of a tie vote where the motion was to deny, those voting "aye" shall have the responsibility of citing reasons.

Decisions of the Resource Planning Committee regarding conditional use permit applications may be appealed to the Door County Board of Adjustment as provided by the Door County Zoning Ordinance and Wisconsin State Statutes. Persons seeking to change or amend conditions attached to their conditional use permit shall apply for a new conditional use permit.

V – Ex Parte Communications

The Resource Planning Committee conducts zoning public hearings and decides upon zoning amendment and conditional use permit applications. In doing so, the committee's decisions determine the rights, privileges, and benefits afforded property owners in the use of the owner's property, as well as determine impacts that surrounding property owners may experience. To maintain public confidence in the fairness of the committee's decision-making process, it is imperative that the

Resource Planning Committee exercise legal due process in carrying out its decision making responsibilities. Legal due process involves: (1) providing all parties an opportunity for a fair hearing, (2) full disclosure of the information that a reviewing agency is considering, and (3) providing an opportunity for all appropriate parties to be heard.

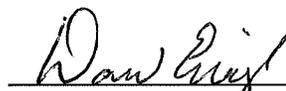
Legal due process requires, then, that a reviewing agency cannot engage in one-sided, or *ex parte*, communication with one of the interested parties in a case. To do so would violate the basic tenets of due process and destroy public confidence in the decision-making duties of the agency involved.

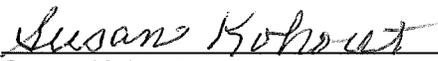
As a practical matter, avoiding all *ex parte* contacts is very difficult. In recognition of this practical problem, the Resource Planning Committee hereby adopts the following policies:

1. Each Resource Planning Committee member will exercise independent discipline to avoid *ex parte* contacts to the utmost extent.
2. When *ex parte* contact does occur and information about a zoning case is thereby received, the following actions shall be taken:
 - a. When such contact occurs prior to the public hearing about a zoning case, the appropriate member(s) shall announce at the public hearing: (1) that information was received outside of the public hearing, (2) who provided the information, and (3) what information was imparted.
 - b. When such contact occurs after the public hearing about a zoning case, but prior to the Resource Planning Committee arriving at a decision on the case, the appropriate member(s) shall inform the Resource Planning Committee Chair, who may, in the exercise of her/his discretion, arrange for another public hearing to be held for the purposes of (1) placing the information on the record and (2) giving all parties an opportunity to respond to the information.

RESOURCE PLANNING COMMITTEE


Kenneth Fisher, Chair


David Enigl, Vice-Chair


Susan Kohout


David Lienau


Donald Sitte

Dated: July 17, 2014

MKG/lr
07/17/2014