

**VILLAGE OF BARTLETT
PLANNING & ZONING COMMISSION
RULES OF PROCEDURE**

Article 1 – Officers

Section 1. Selection

- A. Pursuant to Section 10-13-3 of the Bartlett Municipal Code, the Chairman of the Planning and Zoning Commission (the “P & Z Commission”) shall be the member of the P & Z Commission designated by the Village President at the time of his or her appointment.
- B. The Vice Chairman shall be appointed by the Chairman, subject to the confirmation of the P & Z Commission.
- C. The Director of the Planning & Development Services Department (the “PDS Department”) or his/her designee shall serve as the Secretary to the P & Z Commission.
- D. In the absence of both the Chairman and Vice-Chairman, an Acting Chairman shall be elected by the P & Z Commissioners physically present at the meeting constituting a physical quorum.

(For purposes of these Rules of Procedure, the term “Chairman” means the Chairman designated by the Village President, or in his or her absence, the Vice-Chairman appointed by the Chairman and confirmed by the members of the P & Z Commission, or in his or her absence, the member elected by the members physically present to serve as the Acting Chairman of the meeting. Further, for purposes of these Rules of Procedure, the term “members present” includes members of the P & Z Commission physically present at a regular or duly scheduled noticed, continued, rescheduled or special meeting of the P & Z Commission, and those members permitted to be present by electronic means passed by a majority of members physically present as provided in Article 3, Section 3 below.)

Section 2. Duties

- A. The Chairman shall preside at all hearings or meetings, shall provide that an oath be administered to all witnesses, shall sign documents on behalf of the P & Z Commission, shall direct the PDS Department to prepare all reports of recommendation or official action for the Village Board, and shall perform such other duties necessary to carry out the purpose the P & Z Commission.
- B. The Vice Chairman shall perform all the duties and exercise all the powers of the Chairman in the case of absence or disability of the Chairman. The Vice Chairman shall perform other such duties as directed by the Chairman.

- C. The Secretary or his/her designee shall call the roll, call public speakers, direct the preparation of the minutes of all meetings and public hearings and maintain records in accordance with the regulations of the Open Meetings Act, execute documents in the name of the P & Z Commission, prepare correspondence of subject to the instructions of the P & Z Commission and Chairman, and perform other such duties as the P & Z Commission may determine.

Article 2 – Meetings

Section 1. General Provisions

- A. All meetings and notices of Commission meetings shall comply with the Illinois Open Meetings Act, 5 ILCS 120/1 *et.seq.* (the “Open Meetings Act”). Unless a P & Z Commission meeting or portion thereof is closed pursuant to an express statutory exception under Section 2(c) of the Open Meetings Act cited in a motion to adjourn to closed session, all meetings of the P & Z Commission shall be open to the public. No final action shall be taken except at an open public meeting.
- B. A majority of the members of the P & Z Commission (five members assuming not more than one unfilled vacancy) shall constitute a quorum for the transaction of business and the taking of official action. A continuance of a public hearing to the next scheduled Commission meeting due to a lack of quorum shall not be considered transaction of business and all P & Z Commission business, including public hearing notice for a meeting at which there is no physical quorum present shall automatically be continued to the next regularly scheduled P & Z Commission meeting without further notice or republishing. The P & Z Commission may also continue, reschedule or reconvene a regular P & Z Commission hearing to a future date, time and place certain provided a physical quorum is present at which a member makes a motion to continue or reschedule or reconvene such regular meeting, and said motion passes, or it may hold a special meeting by complying with the requirements therefor hereunder and under the Open Meetings Act, including without limitation, providing notice to the members of the P & Z Commission and to the press requesting notice of such meetings, together with an agenda therefor, given not less than 48 hours before said special meeting and provided the requisite published, posted, and/or mailed notices of, and agenda for, the public hearing to be held at a special meeting state the date, time, place and subject matter of the public hearing to be held at such special meeting.
- C. A record of proceedings shall be maintained for all meetings of the Planning and Zoning Commission in accordance with applicable laws and shall at a minimum include the date, location of the meeting, Commission members present, and a record of any action taken by the P & Z Commission.
- D. Members of the public who wish to comment or testify at a public hearing to be conducted by the P & Z Commission shall comply with the provisions of Article V of these Rules of Procedure. Any member of the public who wishes to address the P & Z Commission for any other purpose, i.e., not a public hearing matter or a matter on the agenda for the P & Z Commission meeting for that date, may notify the Secretary

of his or her intent to speak during public forum; see Article IV for additional information.

Section 2. Regular Business Meetings

- A. The Regular Business Meeting of the P & Z Commission shall be held on the first Thursday of each month at 7:00 p.m.; provided, the P & Z Commission may adopt another hour and date of holding its meetings by majority vote, and/or provided the procedure for conducting a rescheduled regular meeting, continued meeting, reconvened meeting, or special meeting as are required under the Open meetings Act are complied with.
- B. All regular meetings of the P & Z Commission shall conclude at ten o'clock (10:00) p.m. unless extended to a time certain by a simple majority of Commission members present, or unless continued to the next regular meeting of the P & Z Commission by a simple majority vote of the Commission members present, or to a different date and time as stated in the motion to continue the P & Z Commission meeting which is duly passed.
- C. Public hearings shall be scheduled by the Chairman and the Planning & Development Services Department Director, and shall occur during the P & Z Commission's Regular Business Meeting. The Planning and Development Services Director shall publish proper notice for all public hearings in the newspaper of general circulation as required by law. The petitioner shall be responsible to provide all other notices required by law.
- D. The record of proceedings for all hearings shall include documentation that notices required by the Bartlett Municipal Code have been given.

Section 3. Special Meetings

A Special Meeting may be scheduled by the Chairman or the Planning & Development Services Director, provided that at least 48 hours' notice of and an agenda for said meeting is posted by the Village on its website and given by mail, email or telephone to each member of the P & Z Commission, and to the press that have requested notice of any such special meetings. The notice of the special meeting shall state the purpose and time of the meeting and shall otherwise comply with the Open Meetings Act.

Section 4. Legal Holidays

Any meeting that falls on a legal holiday (New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day) shall be held on such other date as may be agreed upon by the majority of the P & Z Commission, and provided notice thereof is given and posted as required under the Open Meetings Act.

Article 3 – Rules of Order

Section 1. Agenda

The Secretary shall prepare the agenda for each meeting of the Planning and Zoning Commission. The Director of Planning & Development Services or his or her designee, in consultation with the Chairman, shall endeavor to manage the agenda for the Planning and Zoning Commission so as to ensure that fair and full consideration is given to each item on the agenda. The Chairman may modify the order of consideration of any item on the agenda with the concurrence of a majority of the P & Z Commission members present.

Section 2. Regular Business Meetings

A. Order of Business: The order of business at regular business meetings shall be as follows:

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Public Forum
- V. Public Hearings
- VI. Reports and Recommendations
- VII. New Business/Old Business
- VIII. Adjournment

B. Item(s) Not on Agenda: The failure to specifically list a matter on the agenda shall not preclude discussion of any matter that is germane to a general topic listed on an agenda or meeting notice, but no public hearing shall take place on any item not on the Agenda for that meeting, and no final action nor vote on any recommendation of the P & Z Commission may be taken with respect thereto as to any matter not shown on the Agenda for that P & Z Commission meeting.

C. Conduct of Members:

- i. When two (2) or more Commission members seek recognition at the same time, the Chairman shall name and recognize the member who speaks first.
- ii. Commission members shall always demonstrate respect for the opinions of each other, members of the staff, and members of the audience.
- iii. While business of the P & Z Commission is being transacted, no Commission member shall leave the meeting without first informing the Chairman and ask to be excused.

D. Conduct of Public: All individuals participating in the meeting shall conduct themselves in a courteous and civil manner. No applause, cheering, or other distractions shall be permitted.

E. The Chairman shall take such actions as needed to maintain an orderly and civil meeting between both the public and the P & Z Commission members.

Section 3. Electronic Attendance

A. Electronic Attendance: A member of the P & Z Commission wishing to attend a Commission meeting electronically by telephonic or video means shall notify the Chairman and Secretary as soon as possible, but not less than twenty-four (24) hours before the meeting unless advance notice is impractical. Attendance by telephonic or video means is only permitted in cases of: 1) personal illness or disability; 2) employment purposes or other business of the P & Z Commission; or 3) a family or other emergency.

No more than four Commission members may attend a P & Z Commission meeting electronically by telephonic or video means.

B. Physical quorum present: A majority of the P & Z Commission must be physically present at a meeting in order to achieve a quorum, and to vote on whether to allow or disallow a member or other members of the Commission who is/are not physically present, and who has/have requested to attend by meeting electronically.

C. Procedure:

- i. The Chairman will announce the name of any Commissioner(s) desiring to attend by telephonic or video means at the beginning of the meeting.
- ii. After a roll call establishing that a quorum is physically present, any member physically present may make a motion to permit another member (or members up to 4) to participate electronically by telephonic or video means. Such motion shall include the reason for the absence. All members physically present are required to vote on whether such participation will be allowed as to each member requesting to attend electronically based on one of the three permitted reasons set forth in Section 3 of this Article, and the motion must be approved by a vote of a majority of those members physically present for passage.
- iii. Commission members participating by telephonic or video means shall preface their comments by first stating their last name.

Section 4. Motions

Motions shall be made in the affirmative and, if conditions are proposed to be imposed on any recommendation with respect to any petition, such conditions shall be included in the motion or by reference to the staff report.

The motion shall be seconded by a voting member of the P & Z Commission and restated by the Chairman before a vote is taken. The name of the individual making the motion and the name of the individual seconding the motion shall be recorded. A motion is not before the P & Z Commission until it has been seconded.

All motions are debatable except the motion to adjourn and the motion to close debate and call the question.

A motion may be amended as provided in Robert’s Rules of Order, including but not limited to a motion to amend by the Commissioner who made the original motion, and must be seconded. The amended motion takes precedence over the original motion and must be voted upon if seconded. A motion to pass the original motion (as amended if the motion to amend passes) or as originally made (if the motion to amend fails to pass) must then be made or restated and a roll call vote thereon taken.

Section 5. Voting

The P & Z Commission shall conduct its vote in public session at the meeting in which evidence is concluded, unless the P & Z Commission determines additional time for deliberation is necessary and continues the public hearing for that purpose.

Voting on final recommendations of the Planning and Zoning Commission shall be by roll call. Other voting shall be by voice vote unless a roll call is requested by the Chairman or another member of the P & Z Commission. A majority of members present (in person and electronically) shall have a concurring vote order to constitute a simple majority recommendation for most matters as set forth in the following table; however, depending on the zoning relief sought in the petition before the P & Z Commission, e.g., appeals, variations, special use permits, and planned unit developments, the concurring vote of at least 5 members shall be required for a positive recommendation as to each form of zoning relief and/or subdivision approval sought as set forth in the following table. A tie vote shall result in “no recommendation”.

REQUEST	VOTE REQUIRED TO PASS MOTION TO RECOMMEND	
	Simple Majority of Members Present	Minimum Five (5) Affirmative Votes
Appeals		●
Comprehensive Plan Amendments	●	
Variations		●
Major Design Exceptions	●	
Text Amendments	●	
Rezoning/Map Amendments	●	
Special Use Permits		●
Site Plan Review	●	
Planned Unit Development		●
Preliminary Plat of Subdivision	●	

In the event that a vote on a motion to recommend in favor fails to pass by the Planning and Zoning Commission on any item under consideration, the Chairman shall note that fact and the Secretary shall provide the vote results and a summary of each Commissioner’s comments.

Section 6. Rules of Order

A. Robert's Rules of Order shall govern Commission proceedings.

Chairman to Preside: The Chairman shall preside at all regular business meetings and special meetings of the P & Z Commission provided that in the absence of the Chairman the Vice Chairman shall preside. In the absence of both the Chairman and the Vice-Chairman, an Acting Chairman shall be elected by the P & Z Commissioners physically present at the meeting shall preside.

B. The Chairman shall preserve order and decorum and shall decide on all questions of order.

C. Precedence of Motions:

- i. Motion to adjourn to a date certain.
- ii. Motion to adjourn.
- iii. Motion to continue the meeting to a time certain.
- iv. Motion to close debate and call the question. When a motion is made to "close debate and call the question" a vote on the main motion shall be taken without further debate unless either a motion to adjourn is made or unless the motion is objected to. If the motion to close debate and call the question is contested by an objection to the motion, the Chairman will ask for a roll call on the motion to close debate and call the question, which shall pass if approved by a majority of the P & Z Commission present (in person or electronically). A motion to close debate and call the question does not require a second.
- v. Motion to amend.
- vi. Motion to table to a date certain.
- vii. Main motion
- viii. Motion to reconsider at the same meeting. A motion to reconsider a decision made at the same meeting the original vote was taken may be made by any member of the P & Z Commission, if that member voted with the prevailing side. If the motion to reconsider is made before another item has been discussed, and if the motion is seconded and passed by a two-thirds (2/3) vote of the P & Z Commission, the item may be reconsidered at that meeting.
- ix. Motion to change a vote. A member has a right to change his or her vote up to the time that the result is announced; after that, he or she can make the change only by the unanimous consent of the assembly granted without debate.
- x. Motion to suspend the rules. Planning and Zoning Commission procedural rules may be temporarily suspended for only the matter under consideration at any time by a vote of two-thirds of Commissioners present. However, rules relating to issues governed by State statute shall not be so suspended.
- xi. Motion to remove an item from the agenda. This motion is appropriate when the P & Z Commission chooses to take no action on an item (e.g., when the petitioner has withdrawn the request).

Article 4 – Public Forum

Section 1. Public Forum

The Open Meetings Act provides that members of the public must be given an opportunity to address public officials at open meetings and provides that public comment maybe subject to the rules established and recorded by the public body. The purpose of the public forum is to allow members of the public an opportunity to address the Planning and Zoning Commission on issues of concern to them which are not part of the agenda.

Section 2. Public Comment

- A. All members of the public who want to address the Planning and Zoning Commission at a P & Z Commission meeting shall sign up before the start of the meeting identifying themselves by name and indicating the general nature of the topic they wish to address.
- B. Members of the public shall be called in the order that they signed up (except as to public hearings which are governed by Article 5). Speakers shall address the Planning and Zoning Commission from the podium and shall state their name and address for the record before beginning their remarks.
- C. Speakers shall limit their remarks to no more than three (3) minutes unless additional time is granted by the Chairman or by majority vote of the Planning and Zoning Commission. A timer shall be used to notify speakers when the allotted time has expired. Speakers will be informed when their allotted time has expired. Upon the expiration of the allotted time, speakers shall stop speaking and leave the podium unless additional time is granted or unless there are questions directed to the speaker from Planning and Zoning Commission members.
- D. Public participation during the public forum shall be limited to no more than thirty (30) minutes in total unless extended for a time certain by the Chairman or by a majority vote of the P & Z Commission. If there are more speakers signed up to address the P & Z Commission than time will allow, public forum shall be bifurcated and continued to the end of the agenda, prior to new business.

ARTICLE 5 – PUBLIC HEARING RULES OF PROCEDURE.

These Public Hearing Rules of Procedure are designed to ensure a fair and thorough public hearing process and should be considered the general parameters governing zoning public hearings.¹ These Rules of Procedure apply to all public hearing participants who, for the purposes of these Rules of Procedure, are the petitioner, petitioner’s witnesses, and attorneys

¹ It is important to make it clear that the rules of procedure are general in scope and, as noted later in the paragraph can be temporarily waived, suspended, or adjusted to meet the particular needs of the public hearing process. This statement makes it clear that the rules are designed to be flexible and this is consistent with the Supreme Court’s decision in Klaeren v. Village of Lisle, 202 Ill.2d 164 (Ill. 2002) where the Court explained, among other things, that “We recognize that the right is not unlimited and may be tailored by the municipal body to the circumstances specifically before it.” Klaeren at 185

representing the petitioner, objector(s), objector's witnesses, and attorneys representing objectors, if any.² All such participants are expected to conduct themselves according to these rules and in a respectful and professional manner. While the Bartlett Planning and Zoning Commission (the "P & Z Commission") has the authority, if it deems necessary, to temporarily waive, suspend, or otherwise adjust these Rules as circumstances warrant, failure by any participant in the public hearing process to follow these Rules of Procedure, as may be adjusted by the P & Z Commission may result in removal from the public hearing by the Chairman of the P & Z Commission

A copy of these Public Hearing Rules of Procedure together with registration forms shall be made available online and shall be kept on a table outside the meeting room for members of the public to be completed and filed with the Secretary. If an individual has not registered to provide comment, testimony, or questions on a petition before the P & Z Commission, or to otherwise address the P & Z Commission on any public hearing matter before it, but wishes to do so, that individual can obtain a registration form outside the public hearing room, fill the form out, and give it to the Secretary for the meeting, but shall be called to comment, testify, or ask questions (other than cross examination) after all individuals who pre-registered have commented, testified, or asked questions (other than cross examination).³

NOTICE TO ALL INDIVIDUALS WHO MAY WISH TO CROSS EXAMINE AN APPLICANT'S WITNESS(ES): Please note that if an individual or ownership entity did not receive personal mailed notice of the public hearing and wishes to cross-examine the applicant, or any applicant witnesses, that individual or its authorized representative must register not less than seven days before the public hearing date to conduct the cross- examination.⁴

All public hearings held before the P & Z Commission, unless otherwise required by law, will be administrative hearings. The Rules of Evidence and other Rules of Civil Procedure will not be enforced, but may serve as guidance, where appropriate, at the sole discretion of the Chairman of the P & Z Commission.⁵

Section 1. Notice.

Prior to commencement of the public hearing, the Secretary, being the Director of the PDS Department, or his or her designee who is present at the public hearing, shall confirm that proper notice of the public hearing was given in accordance with state statutes and

² This statement makes clear that all who appear before the body holding the public hearing are subject to the rules and avoid debates as to the scope of their applicability.

³ Registration rules are useful to not only manage the public hearing process, but also keep a record for municipal files on who appeared and provided testimony. In addition, the registration forms can have a notes section that may be used by the Chairperson or secretary of the P & Z Commission holding the public hearing to note the testimony offered.

⁴ Title 10 Chapter 13 of the of the Bartlett Municipal Code requires that personal notice be sent to surrounding property owners of a zoning application on a given parcel. Individuals and entities that have received or are entitled to receive personal notice under Section 10-13-12:C of the Bartlett Municipal Code shall have an automatic right to cross examination and a qualified right for those who did not receive personal notice. These rules are set up for such a two stage system of cross examination.

⁵ This paragraph makes it clear that public hearings before the P& Z Commission are not court proceedings and, that while some procedure will be used, it is a more flexible and informal process than a court proceeding.

the Bartlett Municipal Code, that documentation of such notice is included in the case file for the petition/applicant (“petitioner”) before the P & Z Commission and that each is properly identified as an exhibit to the record.

Section 2. Introduction by the Chairman.

The Chairman will begin each public hearing by announcing the name of the petitioner and their petition request(s). (not all public hearing requests are for relief, Mark Hopkins asked for a different term to be used) The Chairman will explain the procedures for the conduct of the public hearing. An oath will be administered to all persons intending to testify during the course of the public hearing, and may be administered in mass to all individuals who will testify at the public hearing. Nothing said by attorneys representing any party will be considered evidence or testimony, unless the attorney’s client is not present at the public hearing, and if he or she intends to testify or present evidence on behalf of a client opposed to solely to raising legal arguments, is sworn under oath. The Chairman will remind those people previously sworn under oath from a continued or reconvened public hearing that they remain under oath.

Section 3. Village Staff’s Summary of Petition.

Village staff will summarize the basic facts of, and relief requested in, the petition. In the event that the hearing is continued from a previous date, staff will be asked to provide any new, additional, or supplemental information.

Section 4. Petitioner’s Presentation.

The petitioner will present the petition with testimony of witnesses and other evidence. In general, the P & Z Commission should allow the petitioner to make this presentation without interruption, except for those questions allowed by the Chairman that may be immediately necessary to aid the P & Z Commission or the public in understanding a particular aspect of the presentation.

Section 5. Public Comment, Testimony, General Questions (Other than Cross-Examination).⁶

- A. General. At the start of the period for public comment, testimony, and general questions, the Chairman will advise the public:
 - i. of amount of time permitted for public testimony, comment, and general questions;

⁶ This section establishes the rules for general comments, testimony and questions and is distinguished from the rules for cross-examination. This Section of the Rules clarify they are not the rules for cross-examination to avoid confusion among members of the P & Z Commission and the general public. The distinction between general comments, testimony, and questions and cross-examination is further established in these rules by requiring that they be directed to the P & Z Commission for later redirection to staff or the petitioner.

- ii. that all speakers state their names and addresses before addressing the P & Z Commission.
 - iii. to avoid repetitive comments, testimony, and general questions;
 - iv. to appoint only one person to speak on behalf of a group; and
 - v. that all information presented to the P & Z Commission is under oath.
- B. Each person will be permitted to speak one time only, unless the Chairman determines that allowing a speaker to address the P & Z Commission again will contribute new testimony or other evidence. Unless more time is deemed necessary by the Chairman, all comments from the public will be limited to no more than five minutes per person.
- C. **Testimony, Evidence, and Questions.** Members of the public and their attorneys should address their comments, testimony, and general questions to the P & Z Commission. Following the conclusion of all public participation, the Chairman will direct the questions from the public to the petitioner or staff in an orderly and consolidated manner for response.

Section 6. Cross-Examination.⁷

- A. In addition to asking general questions, the public and their attorneys will have an automatic or qualified right to cross-examine petitioners and petitioners' witnesses in accordance with the following:
- i. **Personal Notice Recipients' Automatic Right.** People who received a personal notice addressed to them as required under the Zoning Ordinance about the public hearing, or people who should have received personal notice as provided in Section 10-13-12:C of the Bartlett Municipal Code but did not actually receive such notice and are present at the public hearing, have an automatic right to cross-examine petitioners and petitioners' witnesses. People wishing to exercise this right must be prepared to demonstrate to the satisfaction of the Chairman that they are the person to whom the notice was addressed or that they reside at the address on the notice, or are within the parameters of people required to receive personal notice. This right is based upon the fact that these people have a unique interest in ensuring the preservation of the property values of their home, as well as the use and quiet enjoyment of their property. People who qualify under this right should be prepared to elicit information that addresses these valuable property interests.
 - ii. **Petitioners' Automatic Right.** Petitioners have a right to cross-examine any witness offered in opposition to their petition.

⁷ These rules govern the cross-examination process and create an automatic right and qualified right to cross examination based on whether or not a person received, or was entitled to receive, personal notice of the public hearing. The right to cross examination is well established under Illinois law (See E & E Hauling, Inc. v. County of DuPage, 77 Ill.App.3d 1017 (2nd Dist. 1979)) and Klaeren, *supra*.)

- iii. **General Public Qualified Right.** Any other party who does not otherwise have an automatic right to cross-examination under these rules must file a formal registration and request to do so at least 7 days in advance of the scheduled public hearing date or continuation thereof.⁸ The request must be made on forms approved by the P & Z Commission and submitted to the Director of the Planning & Development Services Department. Requesters will be informed as to whether their right to cross-examine witnesses has been granted or denied within 2 days of the public hearing by the Chairman, or his or her designee, and no such request will be unreasonably denied.
- B. **Expert Witnesses.** An individual presenting information to the P & Z Commission as an expert witness shall provide by P & Z Commission with his or her name, the city, county and state (if other than Illinois) where he or she resides, the address of the business which he or she represents, and a description of the area of knowledge or purported expertise of such witness. It is preferred that such witness register with the Recording Secretary with a business card and/or curriculum vitae. Such witness shall be allowed to testify subject to cross-examination and the conditions set forth herein or as may be reasonably imposed by the Chairman.
 - C. All members of the public and their attorneys conducting cross-examination are subject to, and must tailor their cross-examination in accordance with the following:
 - i. The matters that are subject to cross-examination are factual and not merely matters of taste or personal opinion;
 - ii. The cross-examination will help simplify otherwise complex issues before the P & Z Commission; and
 - iii. The cross-examination relates to the factors to be considered by the P & Z Commission in making its recommendation.⁹
 - D. In all instances, the Chairman may specify which issues are considered relevant to the factors the P & Z Commission must use to make its recommendation and limit cross-examination accordingly. People wishing to cross-examine witnesses

⁸ The qualified right to cross-examine witnesses requires a registration in advance of the public hearing. The purpose of requiring registration is to, among other things, understand the extent of potential community concern or opposition to a project, ensure that those who want to cross-examine witnesses understand the rules governing the cross-examination process and to facilitate an orderly and efficient public hearing process.

⁹ These rules require people wanting to cross-examine witnesses to tailor their cross examination to a reasonable scope of questioning. Cross-examination should be straight-forward and assist the public body in reaching its decision. Without appropriate tailoring, cross-examination can become tedious and irrelevant, confusing the applicant, the public, and the P & Z Commission. A useful requirement is to require that those conducting cross-examination limit their questions to the factors required to be demonstrated to support the zoning relief. These factors, or standards, are listed in the zoning code sections set forth in Title 10, Chapter 13 of the Bartlett Municipal Code dealing with the zoning relief in question (i.e., comprehensive plan amendments, variations, major design exceptions, text amendments, map amendments/rezoning, special use permits, site plan review, planned developments, planned unit developments, and subdivision approval (Title 11)).

must be aware of the factors that guide the P & Z Commission in its considerations of a given petition and must tailor their cross-examination to these factors. Failure to do so may result in disqualification from cross-examination.

- E. The Chairman will determine whether a party conducting cross-examination is eliciting relevant information and may direct a cross-examiner to adjust his or her questioning accordingly. In addition, the Chairman may restrict the scope of cross-examination to the testimony offered. Cross-examination designed to elicit extraneous, irrelevant, or repetitive testimony will be ruled out of order by the Chairman and may result in disqualification of the person from further cross-examination of the witness.
- F. The P & Z Commission acknowledges the rights of parties to cross-examine witnesses, but parties wishing to do so must accept that the P & Z Commission is not a court of law and the normal rules of evidence that would otherwise exist in those settings are not applicable in the P & Z Commission's proceedings. In order for the P & Z Commission to most effectively carry out its responsibilities, parties wishing to cross-examine witnesses must respect this fact and conduct themselves accordingly.
- G. Finally, parties wishing to cross-examine witnesses offered by a petitioner are expected to respect the right of the petitioner to a prompt and efficient process. The use of cross-examination that deviates from these rules will be viewed as an abuse of process and infringement on the right of a petitioner to a prompt and efficient process and result in immediate disqualification from further cross-examination or testimony.

Section 7. Subpoena of Witnesses.

- A. There is no automatic right to request the issuance of a subpoena for any witness.¹⁰ However, upon:
 - i. a proper showing that the testimony to be elicited is relevant to the factors under consideration by the P & Z Commission;
 - ii. an allegation of some special interest beyond that of the general public;
 - iii. that the evidence to be elicited from the subpoenaed witness cannot be obtained through some other document or testimony; and

¹⁰ Some attorneys have argued that the right to subpoena witnesses, currently limited under the zoning statutes (compare 65 ILCS 5/11-13-3(e) "the chairman...may... compel the attendance of witnesses" to 65 ILCS 5/11-13-7(a) "Zoning variation and special use applicants and property owners, as set forth in Section 11-13-7 of this Act [in municipalities of 500,000 or more population], shall have the following rights...to have subpoenas issued for persons to appear at board of appeals' hearings and for examination of documents"), extends to all municipalities based on the Appellate Court decision in Klaeren [citation omitted]. The Supreme Court declined to adopt the Appellate Court's decision in this regard, criticizing the Appellate Court, "the appellate majority too strictly relied on the Municipal Code for its resolution of this cause." Klaeren, 202 Ill.2d at 181. These rules follow the Supreme Court's decision, creating a qualified right for subpoena of witnesses only, and also incorporates the discretionary language of 65 ILCS 5/11-13-3(e) where the chairperson "may" compel the attendance of witnesses and that failure of a subpoenaed witness to appear will not delay the proceedings before the public body.

- iv. that the request is reasonable and does not appear to be made solely to cause delay and/or to continue the public hearing.

The Chairman may, in accordance with state law, compel the attendance of witnesses. Any person who satisfies the requirements for issuance of a subpoena will be completely responsible for presenting the witness before the P & Z Commission, including, without limitation all costs, attorneys' fees, and enforcement of the subpoena. In no event will subpoenas be issued to obtain documents or other non-testimonial evidence.

- B. Failure of a subpoenaed witness to appear will not result in a delay of the proceedings before the P & Z Commission.

Section 8. Time for Non-Petitioner Presentation(s).

As a general rule, all other parties desiring to make a presentation will be collectively allowed an equal amount of time as was provided the petitioner for its full presentation. Multiple parties desiring to make presentations are expected to coordinate their efforts to maintain efficiency and the promptness of the proceedings and to stay within the general time parameters set forth herein.

Section 9. Response by the Petitioner.

The Chairman will allow the petitioner a reasonable time to respond to the public testimony and comments presented, but no more than half the time as was used by all other non-petitioners.

Section 10. Questions by the P & Z Commission.

The P & Z Commission members may ask questions of any individual that may be necessary to clarify material presented or the relief requested. At the conclusion of the questions, the public hearing will be closed.

Section 11. P & Z Commission Discussion and Deliberation.

During the P & Z Commission's discussion, members of the P & Z Commission may direct additional questions to the petitioner, witnesses for the petitioner, or members of the public who testified. The petitioner, witnesses for the petitioner, or members of the public or their attorneys may not address the P & Z Commission during this portion of the meeting without the consent of the Chairman.

Section 12. P & Z Commission Action.

Based on the discussions, the P & Z Commission may: (a) request the petitioner, a member of the public, Village staff, and/or the Village Attorney to provide new or additional information and continue the hearing to a date certain; or (b) take action (vote) on the petition and make its recommendation to the Board of Trustees. A vote by

the P & Z Commission will close the public hearing unless the hearing was closed by the P & Z Commission following the conclusion of all testimony.¹¹

Article 6 – Conflicts of Interest

Any member of the Planning & Zoning Commission who has a conflict of interest in a matter before the P & Z Commission shall not participate in the discussion, deliberation or vote thereon. Conflicts of interest may arise from various scenarios including but not limited to, financial, ownership or property interests, conflicts with employment or appointments, or conflicts with a publicly-stated opinion on a pending application.

If a Commissioner determines that he or she has a conflict of interest, that commissioner shall state the nature of the conflict, recuse himself or herself from that matter, including removing himself or herself from the meeting until the discussion, deliberation and vote is resolved. The P & Z Commission member's recusal will be considered an abstention and shall not be counted as either an aye or a nay vote. Further, the recusing member shall not be counted in determining the total number of votes required to recommend approval of a matter before the P & Z Commission, any statute, ordinance or rule of parliamentary procedure to the contrary notwithstanding.

Article 7 – Miscellaneous

Section 1. Suspension of the Rules

The P & Z Commission may suspend any of these rules, with the exception of the vote requirements, for a single meeting, or for a single item on its agenda at such meeting, by a vote of two-thirds Commission members present, provided said rule suspension does not violate the Illinois Open Meetings Act.

Section 2. Amendments

These rules may be amended at any regular or special meeting by a two-thirds vote of total membership of the P & Z Commission if amendment of the rules is included on the P & Z Commission Agenda. Any proposed amendment must be presented in writing before the vote on the amendment is taken.

Section 3. Attendance

A member of the P & Z Commission shall notify the Chairman and Secretary of their absence as soon as possible, but not less than twenty-four (24) hours before the meeting unless advance notice is impractical.

¹¹ The closing of the public hearing upon a vote of the P & Z Commission on the application provides flexibility to take additional testimony, in the discretion of the P & Z Commission, up to the point of a vote on an application. An earlier vote to close the public hearing could result in the P & Z Commission being required to reopen the public hearing, including requirements to publish and deliver new notice. Failure to follow these procedural requirements on the reopening of a public hearing could result in technical challenges to the public hearing process.

A P & Z Commission member shall not miss two (2) consecutive meetings without first discussing the absences with the Chairman or PDS Director.

Any P & Z Commission member absent from three (3) or more meetings in any twelve (12) month period may be recommended for dismissal. This shall be at the discretion of the Village President and may include consideration of factors such as extenuating circumstances associated with the absences.