



**DU PAGE COUNTY ZONING BOARD OF APPEALS  
JACK T. KNUEPFER ADMINISTRATION BUILDING  
421 NORTH COUNTY FARM ROAD WHEATON, ILLINOIS 60187/ 630-407-6700**

**AGENDA  
THURSDAY, JULY 10, 2025  
ZONING BOARD OF APPEALS  
5:30 P.M.  
RM: 3-500 B**

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**1. CALL TO ORDER**

**2. ROLL CALL**

**3. PUBLIC COMMENT**

**4. APPROVAL OF MINUTES**

- A. Zoning Board of Appeals – ZONING-25-000015 Mamalat, LLC. – May 8, 2025 – Approval of Transcript as Minutes
- B. Zoning Board of Appeals – ZONING-25-000021 InSite Real Estate Investments Properties, LLC. - May 29, 2025 – Approval of Transcript as Minutes
- C. Zoning Board of Appeals – June Recommendation Meeting – June 5, 2025 – Approval of Transcript as Minutes

**5. PUBLIC HEARING**

**A. CASES:**

<u>CASE</u>	<u>TOWNSHIP</u>	<u>STATUS</u>
1. ZONING-25-000035 Hanna's Wheaton, LLC.	Milton	

**6. ACTION ITEMS**

- A. Consideration of New Rules of Procedure for the Zoning Board of Appeals

**7. OLD BUSINESS**

**8. NEW BUSINESS**

**9. ADJOURNMENT**

Revised June 2025

## **DU PAGE COUNTY ZONING BOARD OF APPEALS RULES OF PROCEDURE**

(As Adopted by the Zoning Board of Appeals on September 9, 1988)  
(Revised 1992; Revised, 1995, Revised 2004)(Revised 2005) (Revised 2012)(Revised 2025)

### **SECTION 1. OFFICERS AND DUTIES**

- 1.1 OFFICERS.** The officers of the DuPage County Zoning Board of Appeals shall consist of a Chair, Acting Chair, and Secretary.
- 1.2 CHAIR.** The Chair of the ZBA shall be appointed by the Chair of the County Board with the advice and consent of the County Board and shall perform all duties required by law, ordinance, and these rules and preside at all meetings of the ZBA. The Chair may administer oaths and compel attendance of witnesses as necessary to carry out the business of the ZBA. The Chair's signature shall be the official signature of the ZBA. The Chair shall preside over the meetings of the ZBA and shall maintain order and decorum at ZBA meetings.
- 1.3. ACTING CHAIR.** An Acting Chair, from the existing ZBA membership, shall be designated by the ZBA to serve in the absence of the Chair during the Chair's absence, disability, or disqualification.
- 1.4 SECRETARY.** The Secretary of the ZBA shall be the Department Director or his designee. The Secretary, subject to the direction of the ZBA and its Chair, shall keep the minutes of all ZBA proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact and shall also keep records of all official actions. The Secretary shall execute all documents in the event of unavailability of the Chair. The Secretary shall create all agendas for meetings of the ZBA.
- 1.5 CHAIR PRO-TEM.** From time to time the Chair may designate a Chair Pro-Tem from the existing membership to assume the duties of Chair at a meeting of the ZBA.

### **SECTION 2. SITE INSPECTIONS BY ZONING BOARD OF APPEALS MEMBERS**

- 2.1 GENERAL RULES OF CONDUCT FOR SITE INSPECTIONS BY MEMBERS OF THE ZONING BOARD OF APPEALS.**

- a. Members are encouraged to inspect the site which is the subject of a petition before the Zoning Board of Appeals at any time during the zoning process but shall not enter upon the property without the consent of the property owner.
- b. Members shall not meet with, nor confer with any party who may have an interest in the property being inspected or having an interest in the zoning case for which the property is the subject.

### **SECTION 3. PUBLIC HEARINGS AND RECOMMENDATION MEETINGS**

- 3.1 DATE AND TIME OF ANY MEETINGS.** All meetings of the ZBA shall be held at the call of the Chair of the ZBA and at such times and places within the County as the ZBA may determine.
- 3.2 PUBLIC HEARINGS.** Public Hearings shall be conducted by the ZBA pursuant to these Rules, upon due notice published in a newspaper of general circulation published at least 15 days in advance of the hearing in the DuPage County Administrative Center.
- 3.3 RECOMMENDATION MEETINGS.** The ZBA will meet the first Thursday, or other date determined, of each month or at other times as determined by a vote of majority of ZBA, to consider those matters upon which it is required to hear and decide or to recommend to grant or deny.
- 3.4 OPEN MEETINGS.** All meetings of the ZBA are open meetings under the Illinois Open Meetings Act (5 ILCS 120/1, et seq.). Meetings shall have a properly posted agenda and shall be closed only where appropriate under the Open Meetings Act.
- 3.5 LOCATION.** The meeting for all Public Hearings shall be at the DuPage County Administrative Center located at 421 N. County Farm Road, Wheaton, Illinois. To the extent that the Chair of the ZBA, in his sole discretion, determines that the number of members of the public who wish to attend or participate in the Public Hearing exceeds the safe capacity of the available spaces in the Administrative Center, the Chair of the ZBA shall adjourn the public hearing and public meeting to a later date and location with sufficient capacity to permit members of the public to attend and participate.
- 3.6 RECORDINGS.** In the event that members of the Media appear at a hearing with the intent to record the proceeding, the Chair may require such persons to be restricted a designated area without materially restricting the right to make a record of the Hearing by such persons.

- 3.7 WITNESS IDENTIFICATION.** All persons wishing to make public comment at a hearing shall be required to state their name and address prior to making a public statement but shall not be required to do so in the event such person invokes his or her Constitutional rights of self-incrimination.

#### **SECTION 4. VOTING**

- 4.1 QUORUM.** A quorum shall consist of a majority of the seven (7) members of the Board.
- 4.2 ABSENCE OF QUORUM.** No recommendation meeting or any meeting where action is to be taken may be held in the absence of a quorum. However, public hearings do not require a quorum. These hearings are fact-finding in nature and may be held by one (1) member of the ZBA or by a Hearing Officer which shall be the Secretary or duly appointed Acting Secretary of the ZBA.
- 4.3 VOTING.** All matters except motions to table or defer at the option of the Chair shall be decided by a roll call vote. The concurring vote of four (4) members of the ZBA is necessary to reverse any order, requirement, decision or determination made by an administrative official charged with the enforcement of the Zoning Ordinance. An affirmative vote of four (4) members of the ZBA is also required to recommend any variations or modifications to the County Zoning Ordinance or to decide in favor of the applicant any matter upon which it is required to pass. A recommendation to deny any requested variation or modification to the County Zoning Ordinance shall require a majority vote of the entire membership of the ZBA.
- 4.4 NO RECOMMENDATION.** An application to vary or modify the County Zoning Ordinance which receives a tie or favorable vote by a lesser number than the required majority shall be considered "not recommended".
- 4.5 RECUSAL BY A BOARD MEMBER.** No member of the ZBA shall sit in hearing or vote on any manner in which they are personally or financially interested. Said member shall not be counted by the ZBA in establishing the quorum for such matter.
- 4.6 VOTING RIGHTS OF MEMBERS NOT ATTENDING PUBLIC HEARING.** A member may vote on a matter even if they have not attended the public hearing thereon, provided that they have familiarized himself with such matter by reading the record thereon.

#### **SECTION 5. CONDUCT OF PUBLIC HEARING**

- 5.1 GENERAL RULES FOR PUBLIC HEARINGS.** Except as otherwise provided for hearings on Appeals (Se. 5.3), the following procedures shall apply

in order to ensure the maintenance of proper decorum and order and the maximization of public participation:

- a. The Chair shall regulate the conduct of the proceedings and may make rulings to disallow any testimony or evidence in accordance with the Rules.
- b. The Chair will announce the name of the petitioner, petition number, the nature of their request, and the publication of the required public notice.
- c. The Board will first hear statements from the petitioner or their attorney and/or witnesses on behalf of the petitioner.
- d. Upon completion of the petitioner's presentation, the members of the Zoning Board of Appeals and staff may ask questions of the petitioner, petitioner's counsel, and any witnesses called by the petitioner.
- e. After all the questions from the members of the Zoning Board of Appeals are answered, the Chair will ask for questions, from the public. Questions must be relevant to matters heard and be limited in scope to the points raised during the petitioner's presentation. All questions and responses shall be addressed to the Chair.
- f. Petitioner, representatives, consultants, etc. who will give testimony on behalf of citizens will be sworn by Court Reporter, Notary Public, or the Chair or Acting Chair. Any members of the public or other persons wishing to testify shall raise their hands, and when recognized by the Chair, will state their name, address, and be sworn by the Court Reporter, Notary Public, or the Chair or Acting Chair. Any minor wishing to testify under oath shall be questioned by the Chair to determine the minor's competent understanding of the meaning of testimony given under oath.
- g. The Board then will hear statements or testimony from persons who wish to support the petitioner in the following order: (1) municipalities; (2) civic organizations, community associations; (3) persons representing the interest of surrounding neighborhood organizations; (4) other members of the public wishing to offer testimony. Any person representing a municipality, neighborhood, civic, or community organization must submit satisfactory proof of authority before giving testimony.
- h. Any person wishing to offer testimony may do so only once, and absent leave of the Chair, shall not be permitted to testify again before the ZBA on the same petition. The Chair may grant leave for successive testimony where the petitioner substantially amends the content of the petition, but

such successive testimony may only be limited to portions of the petition which have been amended.

- i. The Board then will hear statements, testimony or evidence from persons opposing the request of the petitioner, in the following order: (1) municipalities; (2) civic organizations, community associations; (3) persons representing the interests of surrounding neighborhood organizations; (4) other.
- j. Any member of the Zoning Board of Appeals may ask questions of any person giving testimony at the public hearing.
- k. Testimony and evidence which is cumulative, repetitious, duplicative, harassing, argumentative or irrelevant to the case being heard will be disallowed.
- l. Cross examination of persons giving testimony must be relevant to matters heard and be confined to the points raised during that person's testimony. Where a person asserts that effective cross examination requires the matter to be continued that person shall request the same, stating his/ her reasons and the Chair shall rule on such request.
- m. Following the statements for and against the Petition, the Board will permit the petitioner to make a brief summation prior to closing the hearing. In the petitioner's summary, there shall be no additional exhibits presented to the Board, nor shall any new evidence be entered for the record.

## **5.2 PUBLIC HEARING ADJOURNMENT.**

- a. The Zoning Board of Appeals shall conduct their public hearings for not more than 2 hours in one sitting, absent a waiver of this rule by the Chair of the ZBA. Matters which require more than 2 hours to complete the public hearing shall be adjourned at a natural breaking point in the hearing and set over for further proceedings at a future date. At the discretion of the ZBA Chair, a public hearing may proceed in excess of 2 hours where such waiver is in the best interest of the petitioner, public, and the efficient operation of the ZBA. Such adjournment shall be to a specific date for the purposes of taking additional testimony and evidence.
- b. At the conclusion of the Public Hearing the Chair will close the hearing and no further testimony or evidence will be taken, unless the Chair adjourns the hearing to a date specific for the purpose of taking further testimony and evidence.

- c. Where, in the opinion of the Zoning Board of Appeals, the petitioner has failed to submit the appropriate documents for the public hearing, or the evidence submitted is not sufficient, the Zoning Board of Appeals may follow the policy hereinunder:
- (i) The Zoning Board of Appeals may adjourn the public hearing to a date specific public hearing to allow the petitioner to submit the required information pursuant to the rules herein.
    - (A) The date of the public hearing will be scheduled at the discretion of the Zoning Board of Appeals but shall be no later than any open date on the schedule of public hearings maintained in the office of the County Development Department.
    - (B) The petitioner shall be notified of said public hearing date the evening of the original public hearing.
  - (ii) The Zoning Board of Appeals may require the petitioner to incur additional expenses associated with the extended public hearing.
- d. The Petitioner or any person who has previously testified under oath may submit written statements or testimony or other documentary evidence concerning the case after the close of the Public Hearing. Such submissions shall be considered to be under extensions of the testimony provided under oath and must be truthful and correct. To the extent that the submissions raise new issues beyond the scope of the persons' previous testimony, Petitioner shall be afforded the opportunity to cross examine the person, upon written request to the ZBA Chair. Such statements, testimony, or documentary evidence shall be submitted to the Secretary of the Zoning Board of Appeals by four thirty o'clock P.M. two (2) Fridays preceding the Thursday Zoning Board of Appeals Recommendation Meeting, or as otherwise stated by the Chair at the Public Hearing thereon, prior to the date of the Recommendation Meeting at which the case is to be considered. All such submissions shall be dated and identified as Petitioner's or an Objector's Exhibit by the Secretary of the Zoning Board of Appeals.
- e. Where a meeting becomes unsafe due to weather, fire, or other disaster, the Chair may, at his discretion, adjourn the meeting to a later date, later time or different location so as to preserve and ensure the safety of meeting attendees or participants.

- f. **CONDUCT AT HEARING.** In order to maintain an orderly and efficient Hearing and to create a clear record, members of the public shall refrain from applause or other disruptions directed at any other member of the public during public comment periods or at any other time. The Chair may admonish any member of the public who disregards this Rule and may, in the discretion of the Chair, have a member or members of the Public removed from the Hearing or adjourn the Hearing to a date certain.
- (i) If, in the opinion of the Chair, a meeting has become unruly or disorderly due to members of the public causing disturbances and preventing the free and fair conduct of a public hearing, the Chair shall have the power to require the meeting room to be cleared. Prior to exercising this power, the Chair shall make findings on the record which indicate the specific conduct causing the disruption and informing those present that if the conduct does not cease immediately, the room will be cleared, or the matter will be adjourned. Where the conduct is that of an individual or smaller group of individuals, the Chair may, in their discretion, order disruptive individuals removed and not adjourn the meeting.

**5.3 APPEALS.** An appeal may be taken to the Zoning Board of Appeals by any person aggrieved, or by any office, department, board or bureau of the County, unless otherwise provided by law. Such an appeal shall be taken within ten (10) days after the action complained of, by filing with the Director, County Development Department, and with the Zoning Board of Appeals, a notice of appeal specifying the grounds thereof. The Director, County Development Department, shall forthwith transmit to the Zoning Board of Appeals all of the papers constituting a record upon which the action appealed from was taken. To ensure fundamental fairness, the following procedures shall apply:

- a. Chair's Statement: Identifying Appeal, Public Notice Information, explaining Rules of Procedure
- b. Introduction into evidence of Notice of Appeal and record upon which action appealed from is taken
- c. Opening statements of Parties to appeal
- d. Prove-up of Violation (if question of fact as to Violation is presented by Appellant's pleading)
- (1) Direct examination of Witness(es)
- (2) Cross examination of Witness(es)
- e. Defense of violation (County or Party Thereto)



- (1) Direct examination of Witness(es)
  - (2) Cross examination of Witness(es)
- f. Rebuttal by County (if any)
- g. Surrebuttal by defense (if any)
- h. After deliberation, the ZBA shall make a Statement of the findings of fact, and the decision may be rendered at close of appellant's case, or at the next ZBA Recommendation Meeting, at the discretion of Chair. No further evidence may be taken from any party at the Recommendation Meeting.

## **SECTION 6. CONDUCT OF RECOMMENDATION MEETING**

**6.1 ATTENDANCE.** The Zoning Board of Appeals Recommendation Meeting is an open meeting pursuant to the Illinois Open Meetings Act. Members of the public are welcome to attend. All Recommendation Meetings are held in DuPage Administrative Center located at 421 N. County Farm Road, Wheaton, Illinois.

### **6.2 CONDUCT OF MEETING.**

- a. Without further testimony, each case is reviewed by the Zoning Board of Appeals. Cases shall be reviewed and determined based solely on the sworn testimony and evidence presented.
- b. Additional written testimony, as referenced above, submitted prior to the Recommendation Meeting and made part of the file shall be reviewed by the Board.
- c. No person, other than Zoning Board of Appeals Members is permitted to speak during the deliberation on any case unless asked a specific question by a Board Member.
- d. All Recommendation Meetings shall be recorded by the Secretary of the Zoning Board of Appeals. These recordings shall be maintained until the County Board takes action on the cases involved.

## **SECTION 7. GENERAL POLICIES**

**7.1 SURVEY /SITE PLAN REQUIREMENTS.** The Petitioner must submit one (1) copy of a plat of survey dated not less than one (1) year prior to the date of the petition unless in the judgement of the staff or the Chair a survey older than one (1) year will not materially diminish the ability of the ZBA to evaluate the petition. Petitioner must submit one (1) copy of a site plan with the application for zoning relief. Neither the survey nor the site plan are required to be original

and copies will be adequate. A site plan is considered a critical document to the zoning petition. Accordingly, a site plan must accurately and clearly depict dimensions and all other details upon which the ZBA will rely on to consider the requested relief.

**7.2 RECONSIDERATION OF ZONING CASES.** After a recommendation has been made by the Zoning Board of Appeals, the County Development Committee of the County Board may wish to send such case back to the Zoning Board of Appeals for reconsideration of its vote where significant new information has been made available. If the Committee asks the Zoning Board of Appeals to reconsider its vote in a case, the following procedure shall be used:

- a. The Committee need not but may in its discretion, hear new testimony or evidence pertaining to the case, but may consider issues relative to the facts presented at the Public Hearing, which have not been addressed by the ZBA in their findings of fact and which issues could affect the outcome of the case.
- b. The Committee may send the case back to the Zoning Board of Appeals outlining each issue which the Committee has raised.
- c. The Planning and Zoning Staff shall notify the Petitioner and all those persons who objected to the case at the Public Hearing, if addresses are available, not less than one (1) week before the Zoning Board of Appeals will reconsider said petition.
- d. Rules covering conduct of the Recommendation Meetings shall be used in any reconsideration of a vote, which rules do not allow the submission of additional testimony or evidence by an interested party.
- e. Where a material change to the Petition is made during or following the Public Hearing, a new Public Hearing shall be scheduled at the discretion of the Chair for the purpose of reasonably informing the public of the details of the petition.

**7.3 PETITIONER'S REQUEST TO CONTINUE OR WITHDRAW.** Any request by a Petitioner to Continue a Public Hearing or withdraw a Petition shall be made by the close of business on the business day prior to the scheduled hearing date.

**7.4 MEETING AGENDAS.** The Secretary of the ZBA shall prepare agendas which include all agenda items for consideration before the ZBA. Agendas shall be posted on the bulletin board at the entrance to the County Administrative Building and shall be posted on the County website within the time frame required by the Illinois Open Meetings Act. The meeting agenda will be set forth in substantially the following form:

- A. Call to Order
- B. Roll Call
- C. Public Comment
- D. Approval of Minutes
- E. Public Hearings or Recommendations on Petitions
- F. Old Business
- G. New Business
- H. Adjournment

**7.5 PUBLIC COMMENT.** The ZBA acknowledges that the Illinois Open Meetings Act requires that members of the public be afforded the opportunity to address the ZBA at each public meeting. Similarly, the Petitioner has the right to cross examine and question persons offering testimony in hearings related to their petition (subject to certain limitations). Members of the public who wish to address the ZBA pursuant to their statutory rights under the Open Meetings Act are permitted to do so without being placed under oath. Statements by members of the public not placed under oath shall not be considered by the ZBA in rendering their decision on the petitions being heard by the ZBA. Statements by members of the public not under oath shall not render those members of the public subject to cross examination by the Petitioner or other members of the public. Members of the public who address the ZBA outside of the public hearing are limited to 3 minutes of comment per person. The aggregate amount of public comment under the Open Meetings Act shall not exceed of 30 minutes per meeting. These time limits shall not apply to persons offering testimony, cross examining witnesses, or otherwise participating in the public hearing.

**7.6 ATTENDANCE AND PARTICIPATION BY ELECTRONIC MEANS.** Members of the Zoning Board of Appeals are permitted to attend and participate in meetings remotely using electronic means as permitted by the Open Meetings Act. Members may be permitted to participate remotely, by teleconference or videoconference where the member is prevented from attending in person due to (1) personal illness or disability, (2) employment purposes or the business of the public body, (3) a family or other emergency or (4) unexpected childcare obligations. The member seeking to attend by electronic means must notify the ZBA secretary in advance of the meeting, unless such notification is impracticable. Permission for a member to attend remotely shall require a motion, second, and majority vote of the members present at the meeting.

**7.7 PARLIAMENTARY AUTHORITY.** Robert's Rules of Order, Newly Revised shall govern the ZBA in all cases other than public hearings, where such rules are not inconsistent with applicable State statute, these rules of the ZBA or other County Ordinances.

## **SECTION 8. DECISIONS**

- 8.1 TIME OF DECISION.** Decisions by the ZBA shall be made within sixty (60) days from the date of Public Hearing unless the ZBA agrees to defer or table the petition for a longer period of time.
- 8.2 FORM OF DECISIONS.** Decisions shall be made in writing. Any decisions which deny the petitioned relief shall be signed by the Secretary of the Zoning Board of Appeals. All decisions shall state the findings of fact which were the basis of the ZBA's determination and as may be required by the DuPage County Zoning Ordinance. Decisions may state any conditions reasonably related to a petition which the ZBA deems necessary to protect the public interest. Decisions on appeals to the ZBA may reverse or affirm, wholly or partly, or may modify the order or requirement of the administrative official appealed from.
- 8.3 CONFLICTS WITH OTHER LAWS OR REGULATIONS.** The standards in any local law or ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.
- 8.4 NOTICE OF DECISION.** Copies of the decisions of the ZBA shall be transmitted forthwith to the County Development Committee of the County Board and to the applicant.

## **SECTION 9. ADOPTION AND AMENDMENT OF THESE RULES AND REGULATIONS**

- 9.1 ADOPTION.** Upon adoption of these rules by the ZBA, the Secretary shall file a copy of these rules with the County Clerk and they shall be a public record. Copies of these rules shall also be posted on the County website.
- 9.2 AMENDMENT.** These rules may be amended by an affirmative vote of not less than the majority of the entire membership of the ZBA.

Attachment 1

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF DU PAGE    )

ZBA PETITION NO. \_\_\_\_\_

AFFIDAVIT

I, \_\_\_\_\_, do solemnly swear or affirm that the  
statements and information in the attached documents, identified as:

and submitted by me relative to the above petition, are true and complete to the best of my  
knowledge or belief.

\_\_\_\_\_  
SUBSCRIBED and SWORN to  
(OR AFFIRMED) before me

\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public