



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1056

Introduced 02/03/11, by Rep. Darlene J. Senger

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-13-25

Amends the Illinois Municipal Code. Establishes procedural rules that apply when a municipality makes a decision in regard to any petition or application for special use, variance, rezoning, or other amendment to a zoning ordinance that is subject to judicial review because of an action brought by an interest party. Defines interested party to mean the petitioner, the municipality, any unit of government having jurisdiction over the territory that is the subject of the petition, or any person or entity required to be given notice of the public hearing by mail. Sets forth the due process procedures concerning notice, subpoenas, the right to present evidence at a hearing, and meetings for purposes of case management. Effective immediately.

LRB097 06363 KMW 46444 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-13-25 as follows:

6 (65 ILCS 5/11-13-25)

7 Sec. 11-13-25. Actions subject to de novo review; due
8 process.

9 (a) Any decision by the corporate authorities of any
10 municipality, home rule or non-home rule, in regard to any
11 petition or application for a special use, variance, rezoning,
12 or other amendment to a zoning ordinance shall be subject to de
13 novo judicial review as a legislative decision, regardless of
14 whether the process in relation thereto is considered
15 administrative for other purposes.

16 (b) Any action seeking the judicial review of such a
17 decision shall be brought by an interested party ~~commenced~~ not
18 later than 90 days after the date of the decision, and after
19 giving 5 days' written notice to the corporate authorities, by
20 filing a complaint for review of the zoning decision in the
21 circuit court. The case shall be set for early hearing as in
22 the case of a motion.

23 (c) ~~(b)~~ The principles of substantive and procedural due

1 process apply at all stages of the decision-making and review
2 of all zoning decisions. In accordance with those principles,
3 and notwithstanding the provisions of Section 11-13-7a of this
4 Article:

5 (1) notice shall be given as required by the statute
6 governing the zoning relief requested, or as may otherwise
7 be legally required;

8 (2) the Chairman of the Board, commission, or other
9 hearing body, or the hearing officer, shall consider any
10 request for subpoenas, and may issue subpoenas that are
11 reasonably expected to lead to relevant documents or
12 testimony; subpoenas shall be enforceable only against
13 persons or for documents which have a substantial
14 evidentiary connection with (i) the property that is the
15 subject of the zoning petition, (ii) facts that support or
16 negate the requisite legal standards for granting the
17 zoning relief sought in the petition, and (iii) facts that
18 support or negate the conclusion that property owned or
19 resided upon by interested parties will be substantially
20 affected by the outcome of the decision on the petition;
21 all matters relating to subpoenas concerning particular
22 zoning relief, including all enforcement and motions to
23 quash, shall be heard in a single action to be filed not
24 later than 14 days after the date of a decision on the
25 issuance of subpoenas, however, the court obtaining
26 jurisdiction over any such matter may retain jurisdiction

1 until the disposition of the case by the municipality;
2 service of those subpoenas shall be made in the same manner
3 as summons in a civil action;

4 (3) at the hearing on the petition, all interested
5 parties shall have the right to present evidence and
6 witnesses on their behalf, subject to reasonable
7 limitations as to time, relevance to the legal standards in
8 issue applicable to the zoning relief sought in the
9 petition, redundancy, and the efficiencies of an orderly
10 proceeding;

11 (4) at the hearing on the petition, interested parties
12 shall have the right to question the petitioner and other
13 interested parties, subject to reasonable limitations as
14 to time, relevance to the legal standards in issue
15 applicable to the zoning relief sought in the petition,
16 redundancy, and the efficiencies of an orderly proceeding;
17 and

18 (5) the Chairman of the Board, commission, or other
19 hearing body, or the hearing officer, may, before or during
20 the hearing, convene a meeting of the interested parties
21 for purposes of case management and establishing a
22 pre-hearing or hearing plan to govern the presentation of
23 testimony and other evidence, questioning, relevance, time
24 limitations, and other reasonable considerations that
25 promote an efficient and orderly hearing; any and all
26 objections relating to a hearing plan or other rules

1 established for hearings, pursuant to this paragraph,
2 shall be waived unless made at the meeting, and shall be
3 subject to judicial review in a single action that must be
4 filed no later than 7 days after the date such hearing plan
5 or rules are established, however, the court obtaining
6 jurisdiction over any such matter may retain jurisdiction
7 until the disposition of the case by the municipality.

8 (d) For purposes of this Section, an "interested party"
9 means the petitioner, the municipality, any unit of government
10 having jurisdiction over the territory that is the subject of
11 the petition, or any person or entity required to be given
12 notice of the public hearing by mail.

13 (Source: P.A. 94-1027, eff. 7-14-06; 95-843, eff. 1-1-09.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.