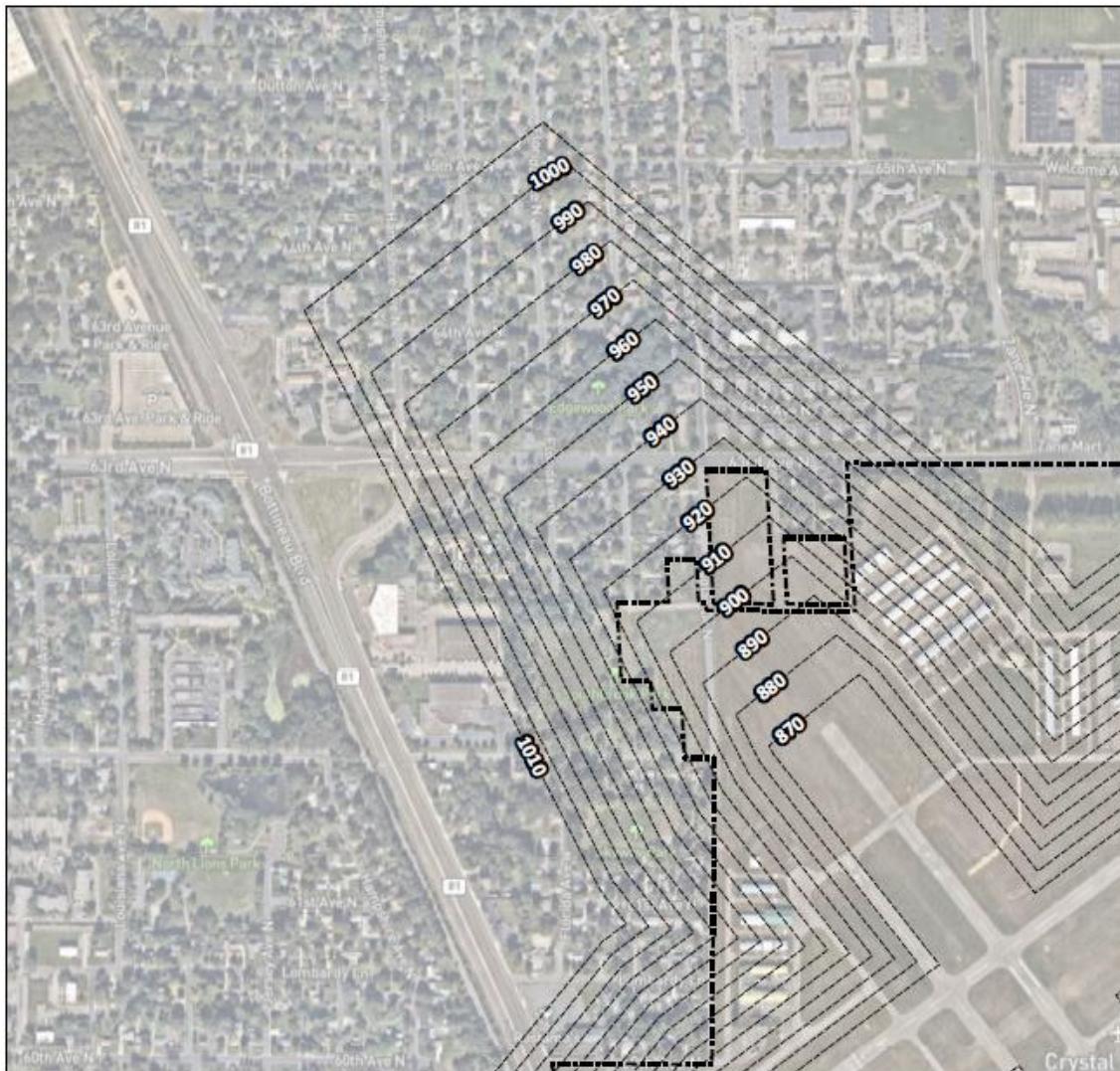


Airport Zoning Ordinance Development Review Guidance

Airspace Zone Height Limitations

The Airport Zoning Ordinance includes a set of grid maps (A-series) that show the Airspace Zone heights in 10-foot intervals for areas surrounding the airport.

As an example, the map for Airspace Zone Grid C3, which is on the northwest side of Crystal Airport (MIC), is shown below.

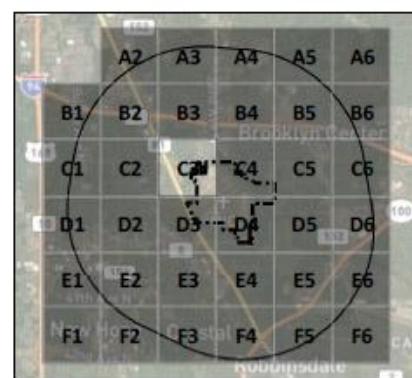


MIC Airspace Zones

A - C3

- MIC Property Line
- Airport Hazard Area
- Part 77 Contours

0 450 900
1 Feet



The heights on the Airspace Zone maps are expressed as above mean sea level (MSL), not above ground level (AGL). To calculate the above ground level height of the Airspace Zone, one must subtract the ground elevation from the airspace elevation.

To provide more specificity of the allowable construction heights for each parcel, the Airport Zoning Ordinance includes another set of grid maps called “Maximum Construction Heights Without Permit” (MCH-series).

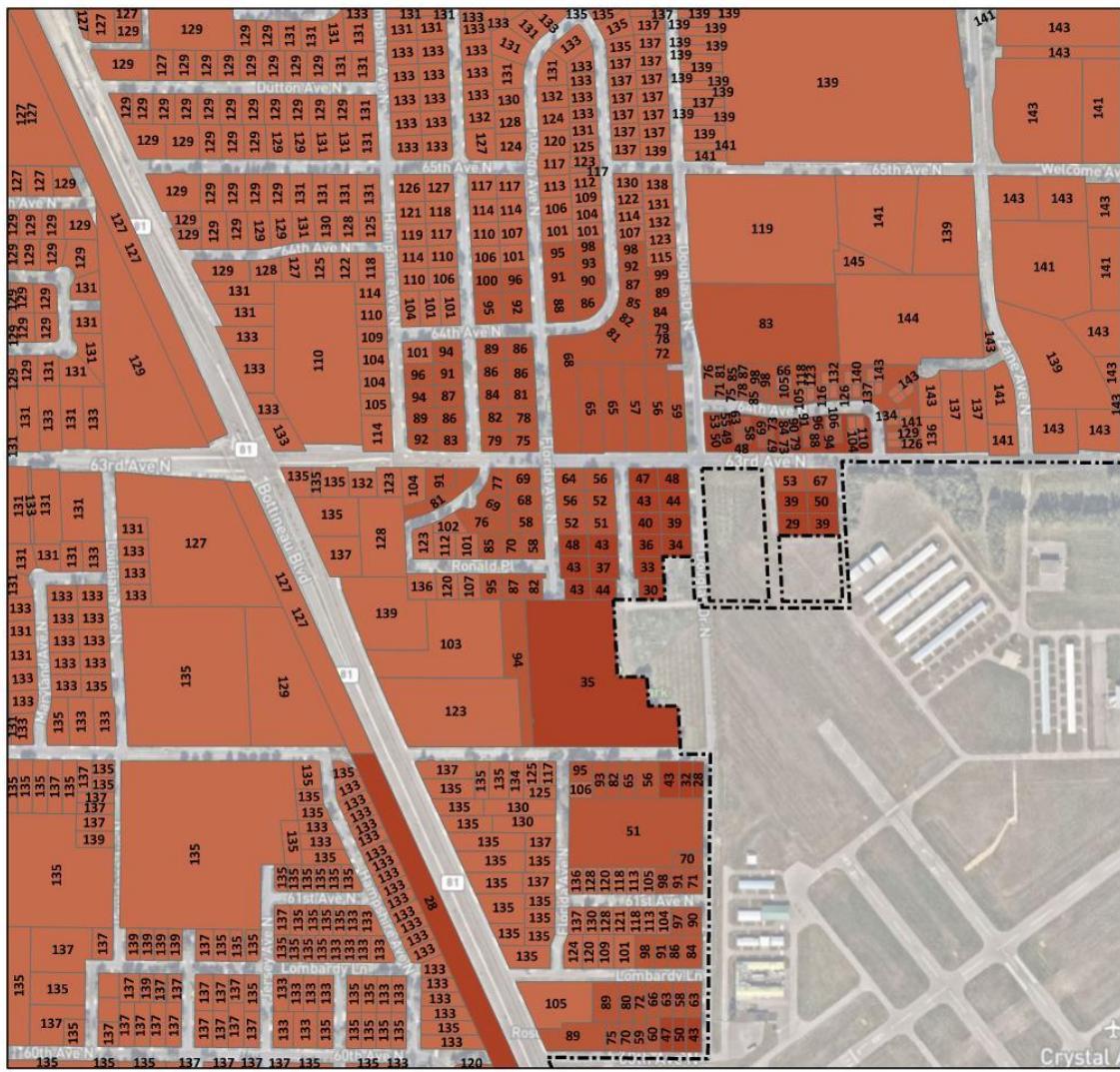
These maps establish a height per parcel up to which a City-issued Airport Zoning Permit is not needed.

The “Maximum Construction Heights Without Permit” were calculated by identifying the location on each parcel where the highest ground elevation was under the lowest airspace zone elevation.

Next, the ground elevation was subtracted from the airspace zone height at that location (with a 10-foot buffer from the Airspace Zones).

These heights are intended to provide a buffer below the Airspace Zones so the City Zoning Administrator can review proposed developments that are getting close to penetrating the Airspace Zones.

The Maximum Construction Height Without Permit for Grid C3 is shown on the next page.



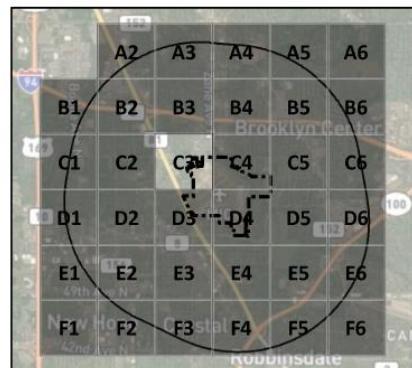
MIC Maximum Construction Height Without a Permit

MCH - C3

MIC Property Line

— Airport Hazard Area

0 450 900
Feet



As a point of clarification, an Airport Zoning Permit issued by the City Zoning Administrator is different than a variance issued by the Board of Adjustment. Three cases are described below:

- Case 1: If a proposed development does not exceed the Maximum Construction Height Without Permit elevation, no Airport Zoning Permit¹ or variance² is needed. *However, an FAA airspace review³ may still be required and is strongly recommended for development in the vicinity of airports to avoid downstream delays.*
- Case 2: If a proposed development exceeds the Maximum Construction Height Without Permit elevation but does not penetrate the Airspace Zone, the applicant will need to obtain an Airport Zoning Permit from the City Zoning Administrator but not a variance.
- Case 3: If a proposed development exceeds both the Maximum Construction Height Without Permit elevation and penetrates the Airspace Zone, both an Airport Zoning Permit and a variance will be needed.

For example, suppose a hypothetical development request for a 100-foot tall structure at the site noted below.



The Maximum Construction Height Without Permit for this parcel is 119 feet AGL (from grid map MCH-C3). The Airspace Zone height at this location is approximately 1010 feet MSL (from grid map A-C3).

The ground elevation at this site is approximately 866 feet MSL, so the proposed structure height is approximately 966 feet MSL (866 feet ground elevation + 100 feet structure = 966 feet, < 1,010 feet). The proposed structure is approximately 44 feet below the Airspace Zone surface.

¹ The Airport Zoning Ordinance does not specify a format for an Airport Zoning Permit. See attached example.

² A copy of the MSP Airport Zoning Board of Adjustment Variance Application Form is attached.

³ FAA airspace review means submitting a Form 7460-1 "Notice of Proposed Construction or Alteration" to FAA via the Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) website at: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.

Instructions about how to e-file an airspace review case on the OE/AAA website are available here:
<https://oeaaa.faa.gov/oeaaa/external/content/efilerGuide.jsp>

As the proposed structure height is below the Maximum Construction Height Without Permit, a City-issued Airport Zoning Permit would not be required. Additionally, no variance is needed as the structure does not penetrate the Airspace Zone surface. This is a “Case 1” example. *However, recall that an FAA airspace review process may still be required and is strongly recommended regardless of the Case 1 example.*

In addition to the permanent structure review, if a temporary construction crane with a height of 150 feet AGL was required to build the 100-foot structure, it would penetrate the Airspace Zone surface (866 feet + 150 feet = 1,016 feet, > 1,010 feet). Therefore, the construction crane would require both a City-issued Airport Zoning Permit and a variance from the Board of Adjustment. This is a “Case 3” example.

The “[MSP Zoning Ordinance Height Calculator](#)”, available on the MAC website, was developed as a tool to quickly identify both the Maximum Construction Height Without Permit and Airspace Zone heights for potential development sites in the vicinity of the airport.

**Note regarding FAA airspace review results – The Airspace Zone in the Airport Zoning Ordinance is based on a general set of FAA airspace protection surfaces. However, a runway end can have multiple sets of protected airspace surfaces of varying dimensions and slopes depending upon the types of published instrument approach and departure procedures. While not common, it is possible that the Airspace Zone in the ordinance is less restrictive than other airspace surfaces protected by FAA. It is important to submit an airspace review study to the FAA for all development in the vicinity of an airport as soon as possible in the development review process to confirm that no FAA airspace surfaces are penetrated, even if the Airspace Zone is not penetrated.*

Land Use Zone Limitations

Restrictions for JAZB Land Use Zones 1 and 2 are provided in Section V.B of the ordinance. The extents of the JAZB Land Use Zones are shown in the SZ-series of grip maps.



The hypothetical development site used above is shown on grid map SZ-C3.

This site is not within JAZB Land Use Zone 1 (Blue), but is within Land Use Zone 2. Therefore, the following general restrictions apply.

3. ***Land Use Zone 2 Restrictions.*** No land use in Land Use Zone 2 shall violate the height restrictions set forth in Section IV.B. or the general restrictions contained in Section V.B.1.

Land Use Zone 2 primarily is used for governance of height restrictions set forth in IV.B and V.B.1., where IV.B covers permanent structures/trees, and V.B.1. covers general restrictions (radio, electronic facilities, glare, etc.) which are covered under the FAA 7460 Obstruction Evaluation process.

- We use the standard City forms to apply and require:
 - An application form signed by the owner or owner's rep
 - A letter summarizing the request and proposal
 - Plans that document the proposal, location, height, etc.
 - We do not charge a fee
- We create a City case file for the application just like it was a City application. That helps for document retention, monitoring the 60/120 day approval clock and integrating it into our workflow.
- We treat the review and approval process just like an administrative zoning application. It is assigned to a planner familiar with airport zoning who sets up the case file, reviews the application, confirms compliance, prepares the approval letter, etc. I review the letter and then forward to our CD Director (“Airport Zoning Administrator”) to sign off.
- I recommend having one planner that specializes in airport zoning issues.
- It’s good practice to talk through airport zoning issues, if applicable, at the first pre-application meeting. Strongly encourage the applicant to file the 7460 FAA review ASAP to avoid delays later.
- Also, be cognizant that FAA height limits may be more restrictive in some cases than airport zoning height limits and that FAA height limits are not mapped. The 7460 process is really the only way we’ve found to discover them.

Airport Zoning Variance Request Process

- Applicant submits completed Variance Application form to Airport Zoning Board of Adjustment (BOA) Secretary (PDF via email and/or hard copy)
- MAC staff reviews application for completeness and renders determination within 15 business days
 - If complete, MAC BOA Secretary coordinates scheduling of BOA meeting (within 60 days of application submittal)
 - If incomplete, MAC staff notifies applicant of application deficiencies and awaits re-submittal
- See attached sample BOA Rules of Procedure



January 12, 2015

Mr. David Peters
South Loop Investments, LLC
P.O. Box 3208
Park City, UT 84060

**RE: Airport Zoning Permit Application - 8100 26th Avenue South.
Case File #8490J-15**

Dear Mr. Peters:

On December 28, 2015, as required by the MSP International Airport Zoning Ordinance, you submitted an application for Airport Zoning Permits for a five-story hotel at 8100 26th Avenue South, a parking structure at 2500 E. 82nd Street, and for temporary tower cranes to construct the hotel and ramp. You also submitted a variance application to the Board of Adjustment for the MSP International Airport Zoning Ordinance to allow the proposed tower cranes to exceed the height limits set by the MSP International Airport Zoning Ordinance.

On December 7, 2015, the Board of Adjustment for the MSP International Airport Zoning Ordinance approved your application for a height variance for the tower cranes. Given the Board of Adjustment's approval of the height variance, I am now approving an Airport Zoning Permit for the hotel structure, parking structure, and the two tower cranes subject to the following conditions of approval.

1. Hotel structure height must not exceed 884 feet above mean sea level.
2. Parking ramp structure height must not exceed 870 feet above mean sea level.
3. Tower crane heights must not exceed the heights approved by the Board of Adjustment for the MSP International Airport Zoning Ordinance.
4. The applicant must abide by the variance conditions of approval adopted by the Board of Adjustment for the MSP International Airport Zoning Ordinance.
5. No equipment, antennas or other features shall be placed on the roof of the hotel structure in a manner that would increase the overall height of the structure without the Bloomington Community Development Director's prior review and approval.
6. Future development or building phases of the Alpha B project will require separate Airport Zoning Permits if the structure or construction crane will be over 60 feet in height.

PLANNING DIVISION

1800 W. OLD SHAKOPEE ROAD, BLOOMINGTON MN 55431-3027
PH 952-563-8920 FAX 952-563-8949 TTY 952-563-8740

AN AFFIRMATIVE ACTION/EQUAL OPPORTUNITIES EMPLOYER

Should you have any questions regarding this approval, please contact Michael Centinario,
Planner, at (952) 563-8921.

Sincerely,

A handwritten signature in black ink, appearing to read "LARRY LEE".

Larry Lee
Community Development Director
Airport Zoning Administrator for Bloomington

**MINNEAPOLIS-ST. PAUL INTERNATIONAL AIRPORT
(WOLD-CHAMBERLAIN FIELD)
ZONING ORDINANCE**

**BOARD OF ADJUSTMENT
VARIANCE APPLICATION FORM**

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his/her property not in accordance with the regulations prescribed by the Minneapolis-St. Paul International Airport (Wold Chamberlain Field) Zoning Ordinance (“MSP Zoning Ordinance”) may apply to the MSP Zoning Ordinance Board of Adjustment for a variance from such regulations in accordance with the requirements set forth in the MSP Zoning Ordinance.

Please complete the entire form and provide as much information as possible. Attach separate pages and documents where necessary. The burden is on the variance applicant to provide all information needed by the Board of Adjustment and to persuade the Board that a variance should be granted.

If you have any questions about this form, please contact Jenn Felger, JAZB Secretary for the Wold Chamberlain Field Joint Airport Zoning Board, at 612-726-8189.

MSP Zoning Ordinance Board of Adjustment

Variance Application Form

Version 6-13

APPLICATION INFORMATION

Please provide the following information:

1. Applicant's Identification

NAME _____
(LAST) _____ (FIRST) _____ (M.I.) _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

HOME PHONE (_____) - _____

BUSINESS/MOBILE PHONE (_____) - _____

EMAIL (if available) _____

2. Fee Owner's Identification

NAME _____
(LAST) _____ (FIRST) _____ (M.I.) _____

ADDRESS (if different) _____

CITY _____ STATE _____ ZIP _____

DAYTIME PHONE (_____) - _____

SIGNATURE _____ DATE ____ / ____ / ____

3. Legal Description of Site (attach survey, if possible)

4. Property Identification Number _____

5. Zoning Classification

MSP Zoning Ordinance Board of Adjustment

Variance Application Form

Version 6-13

6. Present Use(s)

7. Attach site plan, drawn to scale, showing all existing conditions and proposed improvements, if any (including construction start and end dates).
8. Please provide the dates and descriptions of any preliminary and final approvals regarding your property given by the municipality in which your property lies, and attach copies of such approvals.

9. List the provisions and cite to sections of the MSP Zoning Ordinance from which variance is requested.

10. Provide cost estimates for compliance with the Ordinance and describe changes that would be made to the land, structure or construction plan to gain compliance.

MSP Zoning Ordinance Board of Adjustment

Variance Application Form

Version 6-13

11. State the age and condition of the portions of the land or structure(s) that currently obstruct airspace, if any.

12. State the impact on the operation of the land or structure(s) from which an airspace obstruction must be removed to gain compliance with the Ordinance.

13. On a separate page, please state the reasons why this variance is in accordance with the MSP Zoning Ordinance Section IX (Variances). In doing so, explain why: 1) literal enforcement of the Zoning Ordinance would result in practical difficulty or unnecessary hardship; and 2) a grant of the variance would be consistent with the public interest, do substantial justice and be in accordance with the spirit of the MSP Zoning Ordinance.

14. Please attach any correspondence with the Federal Aviation Administration (FAA) regarding the land or structure(s) and its/their impact on airport operations.

15. Please attach a certified list of the names and addresses of the owners of property located within 100 feet.

MAILING INSTRUCTIONS

For a variance application to be considered it must be mailed to the following:

1. Six copies via certified United States Mail to:

MSP Zoning Ordinance Board of Adjustment
c/o JAZB Secretary Jenn Felger
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

2. Via regular United States Mail to:

The Zoning Administrator of the jurisdiction in which the structure, tree or property is located as designated in Section XI.B. of the MSP Zoning Ordinance.

REQUIRED SUBMITTALS CHECKLIST

- Completed Variance Request Form
- Legal description of the property (with survey, if possible)
- Site plan
- Reasons application is in accordance with variance section of Zoning Ordinance
- Correspondence with FAA (if any)
- List of all property owners (from city) within 100 feet of applicant's property
- Copy of last decision made by your city.

MSP ZONING ORDINANCE BOARD OF ADJUSTMENT

Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) Zoning Ordinance

RULES OF PROCEDURE

October 21, 2002

The following rules of procedure are adopted by the MSP Zoning Ordinance Board of Adjustment ("Board") to facilitate the performance of its duties as established by the Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) Zoning Ordinance ("MSP Zoning Ordinance") and Minn. Stat. § 360.071, Subd. 4.

Section 1. MEETINGS

- 1.1 Time and Day.** All meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine.
- 1.2 Place.** Meetings shall be held in Room 3040, Lindbergh Terminal, Wold-Chamberlain Field, Minneapolis-St. Paul International Airport or at such other places as shall be convenient to the matters under consideration at the meeting.
- 1.3 Public.** All meetings and hearings, and all records and minutes shall be open to the public, unless closure of such meeting is permitted by law.
- 1.4 Quorum.** Three Board members shall constitute a quorum for the transaction of business.
 - a.** Whenever a quorum is not present, those present may adjourn the meeting or hold the meeting for the purpose of hearing interested parties on such matters as are on the agenda.
 - b.** No final or official action shall be taken at a meeting where a quorum is not present. However, the facts and information gathered at such a meeting may be taken as a basis for action at a subsequent meeting at which a quorum is present.
- 1.5 Vote.** Unless otherwise determined by the Board, voting shall be by voice.
 - a.** Each member's vote on each particular issue shall be recorded or, if a member is absent or fails to vote, the minutes shall indicate such fact.

- b. The concurring vote of a majority of the members of the Board shall be sufficient to reverse any order, requirement, decision or determination of a Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under the MSP Zoning Ordinance or to effect any variance in the MSP Zoning Ordinance.

Section 2. ORGANIZATION

2.1 Election of Chair

- a. The Board shall elect from its membership a Chair.
- b. If the Chair is absent from a meeting, the Board shall select a member to serve as Acting Chair.

2.2 **Tenure.** The Chair shall take office immediately following election and shall hold office at the pleasure of the Board until a successor is elected and assumes office.

2.3 **Duties.** The Chair, or in the Chair's absence the Acting Chair, shall preside at meetings, and perform such other duties as may be ordered by the Board.

- a. The Chair shall not move for action but may second motions.
- b. The Chair, or Acting Chair, may administer oaths and compel the attendance of witnesses.

2.4 Secretary

- a. The Chair will appoint a secretary subject to approval by voice vote of the Board. The secretary does not have to be a Board member.
- b. The secretary shall be responsible for recording the minutes, keeping the records of Board actions and providing clerical service to the Board.

Section 3. PROCEDURE

3.1 **Parliamentary procedure.** Parliamentary procedure governed by *Roberts Rules of Order* shall be followed at meetings where hearings are held. At special meetings and when obviously useful, the Board will hold group discussions not following any set parliamentary procedure except when motions are before the Board.

- 3.2 Notice.** Notice of Board of Adjustment meetings at which variance requests or appeals will be considered shall be given by mailing a meeting notice to the current Wold-Chamberlain Field Joint Airport Zoning Board mailing list and to property owners located within one hundred feet of the affected property. Such notice shall be mailed a minimum of five calendar days prior to the Board of Adjustment meeting.
- 3.3 Hearing Procedure.** At hearings, the following procedure shall be followed on each case:
- a. Chair shall state the case to be heard.
 - b. Chair shall call upon the staff representative to present the staff report, if any.
 - c. Chair shall ask the applicant to present the case.
 - d. Interested persons may address the Board, g1vmg information regarding the particular proposal.
 - e. Petitioners and the public are to address the Chair only, not staff or other Board members.
 - f. There shall be no dialogue among the Board members, staff and the public during the hearing. Board members may ask questions of persons addressing the Chair in order to clarify a fact, but any statement by a member for anything other than to question may be ruled out of order.
 - g. After all material and relevant facts and information have been brought forth, the hearing may be closed.
 - h. If the hearing is closed, the Chair may recall anyone who testified during the hearing in order to clarify points raised subsequent to the closure of the hearing. If testimony received subsequent to the closure of the hearing brings forward new facts or information of a substantive nature, the hearing may be reopened so that all interested parties may be heard again.
 - i. Upon completion of the hearing on each case, the Board shall discuss the item at hand and render a decision.

- j. The Chair shall have the responsibility to inform all parties of their rights of appeal on any decision or recommendation of the Board to the District Court of Hennepin County.

3.4 Action.

- a. No action on any item shall be taken by the Board unless it has, to its own satisfaction, considered all reasonably available relevant information pertaining to the request.
- b. The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of the MSP Zoning Ordinance.

3.5 Correspondence Items. Matters for discussion which do not appear on the agenda shall be considered and discussed by the Board only when initiated and presented by a member of the Board and shall be placed at the end of the regular agenda.

Section 4. VARIANCES

4.1 Application. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in the MSP Zoning Ordinance may apply to the Board for a variance from such regulations in accordance with the requirements set forth in the MSP Zoning Ordinance.

4.2 Timeline. The Board shall determine whether a variance application is complete and act to grant or deny any variance in accordance with the provisions of Minn. Stat. § 15.99.

4.3 Standards. Such variances may be allowed only in accordance with the standards and conditions set forth in the MSP Zoning Ordinance.

Section 5. APPEALS

5.1 Application. Any person aggrieved, or any taxpayer affected by any decision of a Zoning Administrator made in the administration of the MSP Zoning Ordinance, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of a Zoning Administrator is an improper application of the MSP Zoning Ordinance as it concerns such governing body or board, may appeal to the Board in accordance with the requirements set forth in the MSP Zoning Ordinance.

- 5.2 Procedures for Appeals.** All appeals must be commenced in accordance with the procedures set forth in the MSP Zoning Ordinance.
- 5.3 Timeline.** The Board shall determine whether an appeal application is complete and act to grant or deny any appeal in accordance with the provisions of Minn. Stat. § 15.99.
- 5.4 Standards.** The Board shall make its decision in accordance with the standards and conditions set forth in the MSP Zoning Ordinance.

Section 6. MISCELLANEOUS

- 6.1 Suspension of Rules.** The Board may suspend any of these rules by a unanimous vote of those members present.
- 6.2 Amendments.** These rules may be amended at any regular or special meeting by a majority of the members of the Board.
- 6.3 Service on the Board.** All applications for appeals and variances and all other correspondence and communications shall be served in person or by U.S. Mail on the General Counsel of the Metropolitan Airports Commission. No timeline shall commence until proper service has occurred.

Adopted this 21st day of October 2002, by:

Boivin	<u>Aye</u>
Houle	<u>Aye</u>
Long	<u>Aye</u>
McKasy	<u>Aye</u>
Williams	<u>Aye</u>

Filed by _____, Secretary