

City of Marshall
ZONING BOARD OF APPEALS

RULES OF PROCEDURE

Section 1.0 Purpose

The following rules of procedure are hereby adopted by the City of Marshall Zoning Board of Appeals (hereinafter known as the ZBA) to facilitate the performance of its duties as outlined in Sections 601 through 607 of Public Act 110 and in Chapter 156 of the Marshall City Code.

Section 2.0 Creation and Membership

The ZBA shall consist of five members and two alternates appointed by the City Council of which one may be a council member.

2.1 Terms

- A. Each member shall be appointed for a three year, renewable term and one of the regular members may be a Planning Commission member.
- B. One of the two alternates may be a member of the City Council.

Section 3.0 Officers

3.1 SELECTION

At the regular meeting in May of each year, the ZBA shall select from its membership a Chair, Vice Chair and Secretary.

3.2 TENURE

The officers shall take office at the same meeting of their selection and shall hold office for a term of one year or until successors are elected. All officers are eligible for reelection.

3.3 DUTIES

- A. The Chair shall preside at all meetings and perform such other duties as may be ordered by the ZBA.
- B. The Vice Chair shall act in the capacity of Chair in the Chair's absence.
- C. In the event that the office of Chair becomes vacant, the Vice Chair shall succeed to this office for the unexpired term and the ZBA shall elect a successor to the office of Vice Chair for the unexpired term.
- D. In the event that the office of both Chair and Vice Chair become vacant, the ZBA shall elect an alternate Chair to serve until the next regularly scheduled selection of officers.
- E. In the event that both the Chair and Vice Chair are absent from a meeting of the ZBA, the Secretary shall act as Chair for the duration of said meeting.
- F. The Secretary shall be responsible for executing documents in the name of the ZBA.

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3.4 ADMINISTRATION

The City Manager shall appoint a member of the City staff to serve as staff liaison to the ZBA.

Section 4.0 Notice of Appeal

Any person, firm or corporation, or any officer, department, board or bureau may appeal or seek a variance in writing on a form provided by the Zoning Administrator, signed by the property owner of record, and upon payment of a fee as may be established by City Council.

4.1 FILING

- A. Notice of Appeal must be filed with the Zoning Administrator twenty one (21) calendar days prior to the next regularly scheduled ZBA meeting for an appeal to be heard at that month's regular meeting.
- B. Said notice shall be sent by mail or delivered personally to the respective owners at the address given in the last assessment roll.
- C. Said notice shall be made a minimum of five (5) days prior to the meeting at which the appeal is to be heard.
- D. Said notice shall be posted on the bulletin board in the lobby of Town Hall.

4.2 NOTIFICATION

- A. Notice of a Public Hearing to hear an appeal shall be made to all owners of record of property and the occupants of all single-family and two family dwellings within three hundred (300) feet of the premises in question.
- B. Said notice shall be sent by mail or delivered personally to the respective owners at the address given in the last assessment roll.
- C. Said notice shall be made a minimum of fifteen (15) days prior to the meeting at which the appeal is to be heard.
- D. Said notice shall be posted on the bulletin board in the lobby of Town Hall.

4.3 DEADLINE FOR ACTION

- A. The ZBA shall hear the case, then render and file its decision within thirty (30) days following the final hearing.
 - 1. The case shall be heard in accordance with Section 5.3 of these procedures.
 - 2. The minutes of the meeting at which the case was heard shall reflect the action taken by the ZBA
 - 3. A copy of the ZBA's action shall be transmitted to the applicant and to the Building Inspector.

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Section 5.0 Meetings

5.1 REGULAR MEETINGS

Meetings of the ZBA shall be held on the third Thursday of each month at 7:00 p.m. provided the ZBA has business to conduct. Said meetings will be held in Town Hall.

If there is a change in the schedule of regular meetings of the ZBA, a public notice stating date, time, and site shall be posted in the lobby of Town Hall a minimum of twenty four (24) hours in advance of said meeting.

5.2 SPECIAL MEETINGS

The Chair may call a special meeting of the ZBA. Said meeting will be held in Town Hall. A public notice announcing the special meeting will be posted in the lobby of Town Hall a minimum of twenty four (24) hours in advance of said meeting.

5.3 RESCHEDULED MEETINGS

For a rescheduled regular or special meeting of the ZBA, a public notice stating date, time, and site shall be posted in the lobby of Town Hall a minimum of twenty four (24) hours in advance of said meeting.

5.4 ATTENDANCE

If any member of the ZBA is absent for three consecutive meetings, that member shall be considered delinquent. Delinquency shall be grounds for removal from the ZBA by City Council.

5.5 QUORUM

Four members of the ZBA shall constitute a quorum for the conduct of its business.

5.6 VOTING

At all meetings of the ZBA, each regular member attending shall be entitled to cast one vote on each matter before the ZBA. Roll call vote is required for cases but not for other business. In the event that any member shall have a conflict of interest involving a matter then before the ZBA, the member shall disclose the same and abstain from voting on the matter. The minutes shall reflect that such a member abstained from voting on the matter. The ZBA alternate member(s) may vote in the absence/abstinence of a regular member. The concurring vote of three (3) members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official or body; to decide in favor of an applicant on any matter upon which the ZBA is required to act; and to grant a variance from any non-use or dimensional standard in the zoning ordinance.

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The concurring vote of four (4) members shall be necessary to grant a use variance from the use provisions in the zoning ordinance.

5.7 MOTIONS

The name of the maker of the motion and the second shall be recorded in the minutes of the meeting. All motions shall reflect the finding of fact relating to the matter being voted upon. A vote on the motion shall follow discussion.

- A. All motions shall be made in the affirmative.

Section 6.0 Order of Business

6.1 AGENDA

- A. Call to order
- B. Roll call
- C. Consideration of minutes of previous meeting
- D. Approval of agenda
- E. Audience participation
- F. Site inspection, then recess (if meeting was posted to include site inspection)
- G. Reconvene and roll call (if following a site inspection)
- H. Public Hearing(s)
- I. Action on petitions(s)
- J. Other business
- K. Public comment for items not on the agenda
- L. Reports
- M. Adjourn

6.2 PUBLIC HEARING PROCEDURE

- A. The Chair declares the hearing open and states its purpose and cites the public notification procedure that was followed.
- B. The Chair shall announce the order to be followed.
 - 1. Explanation of case.
 - 2. Comments by Zoning Administrator.
 - 3. Comments and explanation by petitioner.
 - 4. Comments by ZBA members relating to site inspection if applicable.
 - 5. Questions by ZBA members.
 - 6. Public comments in support of the petitioner.
 - (a) All comments shall be addressed to the Chair.
 - (b) Each person will be given to the opportunity to speak.
 - (c) Each speaker shall give name and address.
 - (d) Second comments not permitted until all have had opportunity to speak for the first time.

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- (e) Chair reserves the right to terminate a presentation or ask for summation if comments are repetitive.
- (f) A time limit may be imposed.
- 7. Public comments in opposition to the petitioner.
 - (a) All comments shall be addressed to the Chair.
 - (b) Each person will be given to the opportunity to speak.
 - (c) Each speaker shall give name and address.
 - (d) Second comments not permitted until all have had opportunity to speak for the first time.
 - (e) Chair reserves the right to terminate a presentation or ask for summation if comments are repetitive.
 - (f) A time limit may be imposed.
- 8. Rebuttal.
- 9. Summarize any letters and/or petitions for the record.
- 10. Close the public hearing.

6.3 ACTION ON PETITION(S)

- A. Action on the case for which the Public Hearing was held
 - 1. During the ZBA discussion, facts based on all information presented are discussed that include a “finding of fact”.
 - (a) Motion is proposed based on “finding of fact”.
 - (b) The motion is discussed.
 - (c) Action on the motion is taken.

6.4 PUBLIC PARTICIPATION

Members of the public, both residents of the City of Marshall and others, are invited to address the Board during two portions of the regular ZBA agenda. Prior to the Board’s discussion of regular agenda items, members of the public are invited to provide comment of items on the agenda. Comments unrelated to items on the agenda will be welcomed during a second “public comment” time noted later on the agenda. The Chair will first recognize any member of the public wishing to address the Board. Individuals will speak from the podium or a hand held microphone, state their name and address and limit their comments to a total of five (5) minutes during each of these “public comment” times. Members of the public will not routinely be involved in the Board’s discussion or deliberation upon agenda items unless called upon by the Chair.

6.5 COMMENTS OUT OF ORDER

The chair shall rule out of order any remarks that are personal, about another’s race, religion, gender, physical condition, ethnic background, beliefs or similar topics.

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6.6 RECESS

- A. The Chair may recess a Public Hearing and/or meeting to another time.
 - 1. If the meeting has been longer than three (3) hours.
 - 2. If facts pertaining to the case must be gathered.
 - 3. The time, day, month, date and location to reconvene must be stated as part of the motion to recess.
 - (a) Notice to reconvene shall be posted in the lobby of Town Hall for a minimum of twenty four (24) hours.

6.7 PARLIAMENTARY PROCEDURE

Robert's Rules of Order shall be followed at all ZBA meetings.

Section 7.0 Amendments

These rules may be amended at a regular meeting of the ZBA by a majority vote of the total ZBA membership so long as the amendment does not conflict with state law, zoning ordinance, or court decision and were introduced at a previous regular meeting. Amendments become effective immediately upon approval.