

CITY OF MARSHFIELD, WISCONSIN POLICIES AND PROCEDURES

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CHAPTER: Zoning

SUBJECT: Zoning Board of Appeals Rules of Procedure for Holding a

Meeting in Which a Decision is Being Appealed or a Variance

Requested

POLICY NUMBER: 7.410

PAGES: 6

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ZONING BOARD OF APPEALS – CITY OF MARSHFIELD

RULES OF PROCEDURE FOR HOLDING A MEETING IN WHICH A DECISION IS BEING APPEALED OR A VARIANCE REQUESTED

1. BEFORE THE MEETING

- A. Zoning Administrator or Building Inspector provides a ruling or issues an order based on relevant sections of the City of Marshfield Municipal Code (Chapter 18 *General Zoning Ordinance* or Chapter 15 *Buildings & Building Regulations*).
- B. Party receiving ruling or order files an Appeal Application or Request for Variance in accordance with appeal periods or other submittal deadlines.
- C. Administrative Official forwards request(s) to the Board Secretary.
- D. Secretary sets tentative hearing for the next regular Zoning Board of Appeals meeting, unless a special meeting is requested.
- E. Secretary advises all Board Members of the meeting date & agenda items and arranges for alternates if necessary (due to anticipated absence or conflict of interest). Secretary ensures a

- quorum will be present before confirming & "noticing" the hearing date. The presence of four (4) members shall be present to constitute a quorum.
- F. Administrative Official advises applicant of hearing date.
- G. Secretary prepares public notice of the meeting to comply with open meeting law/public notice requirements. A public notice ad is forwarded to the Marshfield News-Herald for publishing one (1) week prior to the meeting.
- H. Administrative Official reviews the Appeal Application or Request for Variance and makes a report of facts to the Board. The Secretary mails the agenda, reports and other written material to regular and alternate Board Members within (10) days prior to the meeting.
- I. At least seven (7) calendar days prior to the hearing, Secretary sends written notice of the hearing to all property owners within 100ft of the subject property.

2. DURING THE MEETING/PRELIMINARY MATTERS

- A. Secretary distributes and collects sign-in slips (ATTACHMENT "A").
- B. Chairperson calls meeting to order.
- C. Secretary takes roll and confirms that a quorum is present. The presence of four (4) members shall be present to constitute a quorum. Assuming a quorum is present, the meeting will proceed.
- D. Minutes from the last meeting are read and approved.
- E. Chair, at his discretion, informs the public in attendance of general hearing procedures. (ATTACHMENT "B")
- F. Chair amends agenda as necessary, reordering agenda items.

3. DURING THE MEETING/PUBLIC HEARING

- A. Chair opens first public hearing item.
- B. Secretary reads variance request or appeal item into the record.
- C. Administrative Official presents a report of facts related to the variance request or appeal item.
- D. Board members are given opportunity to ask questions.
- E. Chair requests statement by the appellant. Appellant presents case.
- F. Board members are given opportunity to ask questions.
- G. Chair requests statements of others who have signed-in and wish to speak (pro/con/informational).
- H. Chair requests response by Applicant or Administrative Official, as applicable.

- I. Chair calls for final questions by Board members.
- J. Chair advises all parties and observers that their participation in the hearing has ended, declares the hearing on the item closed and announces deliberation of the decision.

4. <u>DURING THE MEETING/DELIBERATION & DECISION</u>

- A. The Board proceeds to make "Findings of Fact" based on the evidence. The findings for variances shall be based on standards set forth in Section 18- 35 of the Municipal Code.
- B. In deliberations, the Board may:
 - 1) Determine whether the application contains information necessary to make decision;
 - 2) Determine whether the Board has authority to make decision;
 - 3) Discuss pertinent facts from the hearing (ATTACHMENT "C" Optional worksheet for Board use);
 - 4) Determines which facts relate to the legal standards;
 - 5) Determines whether legal standards are met; and/or
 - 6) Attach any permit conditions.

C. Order and Determination

- 1) Board votes on case. A board member makes a motion to grant or deny the relief requested by the appellant. The motion is discussed. The vote is taken with each vote being recorded including those abstaining. If the motion is passed by majority vote of the Board, this constitutes the decision of the board.
- 2) Board directs any action to be taken by Administrative Official.

5. REPEAT STEPS UNDER ITEMS #3 and #4 FOR OTHER HEARINGS/AGENDA ITEMS

6. ADJOURN MEETING

7. AFTER THE MEETING

- A. Secretary prepares the minutes of the meeting, which should include the roll call, all matters discussed, all decisions (including the fact finding and key evidence upon which decisions have been based). The minutes shall constitute the record of the decision of the Board.
- B. Secretary provides the appellant written notice of the decision made in their case. This can be done via a copy of the minutes or by a formal notice.

Attachment "A" Zoning Board of Appeals Sign-In Slip

Date:Agenda Item:	
Name:	
Address:	
Representing:	
\Box I wish to speak in favor of the appeal or variance application.	
\Box I wish to speak in opposition of the appeal or variance application.	
\Box I wish to speak for informational purposes only.	
☐ I do not wish to speak.	
Comments	
Comments:	
(Return to the Board Secretary)	

Instructions for witnesses:

- Complete sign-in slip and deliver to the Board Secretary.
- You will be recognized by the Board Chair when it's your turn to speak.
- Direct all comments, questions and replies to the Chair.
- When asked to speak:
 - o State your name and address for the record.
 - o Indicate whether or not you are "for" or "against" the request or are speaking for informational purposes.
 - o Please state your qualifications to speak on the matter or the source of your information.
 - o Limit your comments to facts relevant to the case at hand.

Zoning Board of Appeals City of Marshfield P.O. Box 727 630 S. Central Avenue Marshfield, WI 54449

Attachment "B"

ZONING BOARD ANNOUNCEMENT OF PROCEEDINGS

Role of the Board

The Zoning Board of Appeals of the City of Marshfield is an appellate board required by state law in any municipality that has adopted a zoning ordinance. The Board's authority is limited to hearing appeals regarding interpretations of ordinance provisions and decisions of administrative officials, and consideration of variances to dimensional standards of the zoning ordinance. The Board functions like a court. Its purpose is to give fair hearing to any person whose property interests are affected by these matters. Its job is to apply the zoning ordinance and appropriate legal standards to the facts of each case. Board meetings and public hearings are open to the public. A taped recording is being made of the proceedings for public record.

Validity of Permits Approved by the Board

After Board approval, you must obtain the necessary building permits or zoning department approvals prior to starting construction. Construction must be substantially completed within 12 months of the date of the Board's decision. Building permits may be revoked for violation of any conditions imposed by the Board.

Appeal of Board Decisions

A decision of the Board may be appealed to Wood or Marathon County Circuit Court within 30 days after the decision. Applicants commencing construction prior to expiration of the 30-day appeal period assume any risk of having the Board decision overturned.

Order of Events for Hearings

Hearings will be opened by reading of the appeal or variance request. The applicant's statement and administrative official's report will each be presented, followed by questions from the Board. Public testimony will be heard next, followed by related Board questions and responses by Applicant or Administrative Official. If the Board has all of the necessary facts, it will close the record, deliberate and decide the matter before proceeding to the next item on the agenda. Decisions will be documented in the minutes and the Board Secretary will mail a copy to parties as soon as practical. Minutes of Board meetings and Decisions will be kept on file in the office of the Board Secretary.

Attachment "C"

DECISION FORM – Zoning Board of Appeals, Marshfield, WI **Worksheet – For Board Reference Only in Reasoning Decision

pplicati	
	on
NDING	S OF FACT
	of the proposed construction or property that relate to the grant or denial of the variance
	n or appeal are:
	- The order of the Administrative Official (is / is not) in excess of his/her authority because
the zoni	oning Administrator's interpretation of Section ng code (is / is not) a correct interpretation because
ARIAN	CE—The variance (does/does not) meet all three of the following tests:
٨	Unnecessary hardship (is /is not) present since strict application of the terms of the zening
A.	Unnecessary hardship (is /is not) present since strict application of the terms of the zoning ordinance (would/ would not) deny the applicant all reasonable use of the property because
B.	The handship (is / is not) due to physical limitations of the managery with an then the
	The hardship (is / is not) due to physical limitations of the property rather than the
	circumstances of the appellant because
	circumstances of the appellant because
	The variance (will /will not) be contrary to the public interest and (will /will not) observe
	circumstances of the appellant because
	The variance (will /will not) be contrary to the public interest and (will /will not) observe