

BY-LAWS MARQUETTE CITY BOARD OF ZONING APPEALS

A. NAME:

1. The name of this board shall be called the Marquette City Board of Zoning Appeals (hereinafter called the Board).

B. OBJECT:

1. The Board shall have the powers and responsibilities granted by Public Act 110 of 2006, the Michigan Zoning Enabling Act as amended and as granted by all other applicable laws.
2. The Board shall also have all powers and responsibilities as granted by the Marquette City Code.

C. MEMBERS:

1. Appointments to the Board shall be made by the City Commission.
2. The term of appointment shall be three (3) years.
3. A member whose term has reached or exceeded six (6) years shall not be reappointed until one (1) year has elapsed.
4. Terms shall expire on February 15th of each year unless new appointments have not been made.
5. Alternate members shall be appointed and serve according to the procedures set forth in Article 13, Section 54.1304 of the Land Development Code as amended.
6. One member of the Board shall be a member of the Planning Commission.
7. "Full Board Membership" for purposes of hearing appeals shall consist of seven (7) members.
8. The Board shall not conduct business unless a majority of the regular members are present.
9. *Ex Parte* contact
 - a. Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the Appeals Board whenever possible.
 - b. Despite one's best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the Appeals Board at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.
10. Site Inspections
 - a. Site inspections are encouraged to be performed by board members and no more than one member of the Appeals board may be conducting a site visit at a time, unless a public meeting is held on a site which would allow for a quorum to be present.
11. Not Voting On the Same Issue Twice.
 - a. Any member of the Appeals Board shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:
 - 1). When the appeal is of an administrative or other decision by Planning Commission, and the member of the Appeals Board sits both on the Planning Commission and Appeals Board.
 - 2). When the appeal is of an administrative or other decision by any committee of the Planning Commission, legislative body, other committee, and the member of the Appeals Board sits both on that committee and Appeals Board.

D. OFFICERS:

1. Officers of the Board shall be a Chair, and a Vice-Chair.
2. The duties of the Chair shall include the following:
 - a. Shall preside at all meetings.
 - b. Shall represent the Board before the legislative body.
 - c. Perform other such duties as may be ordered by the Board.
3. The duties of the Vice-Chair shall include the following:

- a. Act in the capacity of Chair, in the Chair's absence.
- b. Shall represent the Board before the legislative body, in the Chair's absence.
- c. Perform other such duties as may be ordered by the Board.
4. The Zoning Official shall designate the individual who shall serve as the Commission's Secretary.
5. The officers of the Board shall be elected at the regular March meeting of each year. Special elections may be held to fill vacancies.
6. The term of office of the Board's officers shall be one year. Officers may be reelected.
7. In the case there are no officers present at a meeting, the members present shall select an acting chair in accordance with Roberts Rules of Order.

E. CONFLICT OF INTEREST GUIDELINES:

1. Statement of Principle – It is the belief of the Board of Zoning Appeals that all members should vote on all matters unless they have a conflict of interest in a specific matter.
2. Determination of Conflict – As a rule, the following situations indicate a conflict of interest. This list is not intended to include all possible situations, nor do all situations listed here necessarily constitute a conflict.
 - a. Where the member has a direct financial interest in the outcome of the matter before the Board.
 - b. Where the member has shared financial interests with the person or people who will be directly affected by the outcome.
 - c. Where the member has a close family tie with the person or people who will be directly affected by the outcome.
 - d. Where the member owns property which will be directly affected by the outcome (other than decisions which will affect all or large groups property in the City).
3. Declaring a Conflict – A member is expected to declare a conflict if one exists. If the member does not declare a conflict, and another member, or member of the public feels there is a conflict, said member or persons may raise the issue before the Board begins consideration of the matter.
4. Procedure – Questions of conflict of interest shall be resolved in the following manner:
 - a. If a member is certain there is a conflict, the member shall so declare.
 - b. If a member is uncertain if a conflict exists, the member should describe the situation to the Board which may discuss whether a conflict exists.
 - c. If the possible conflict is raised by another member or a member of the public, the Board shall discuss the situation in an attempt to determine if a conflict exists.
 - d. The board shall vote on whether a conflict of interest exists.
 - e. If conflict exists then the member shall remove themselves from the meeting room for the duration of that hearing where there is a conflict of interest, and the member shall be called back to the meeting once the hearing is completed.

F. MEETINGS:

1. All meetings of the Board shall be open to the Public.
2. Regular meetings of the Board shall be held in the Commission Chambers of City Hall at 7:00 pm on the first Thursday of each month.
3. When a meeting falls upon a holiday, the meeting shall be held at the regular time on the subsequent Thursday.
4. Special meetings of the Board may only be held at 7:00 pm on the third Thursday of the month unless an alternative date is scheduled at a regular meeting of the Board.
5. A written request outlining the need for a special meeting shall be received by the Secretary of the Board.
6. The Secretary shall confirm the attendance of a minimum of four (4) Board members prior to processing any legal notices or scheduling the special meeting.
7. Notification procedures must be met for all public hearings.
8. Additional items may be added to the agenda once the meeting is set.
9. A special meeting fee, as set by the City Commission, will be charged.

10. The Chairman of the Board of Zoning Appeals or the City Commission may request a special meeting of the Board with twenty four (24) hours notice. Such meetings shall not involve public hearings.
11. A quorum for the transaction of all business shall be four (4) members.
12. The concurring vote of a majority of the members of Board is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the Board is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

G. AGENDAS:

1. All matters which require a public hearing shall be submitted to the Community Development Department on an appropriate application form not less than twenty (20) business days prior to the meeting. Forms are available at the Department or from the City's webpage at www.marquettemi.gov.
2. All items to be placed on the agenda that do not require a public hearing must be submitted to the Secretary not less than ten (10) days prior to a meeting, unless the addition of such item(s) are accepted by a quorum of the Board Members then present.
3. Items which are not on an agenda may be submitted at a meeting during the time allotted for citizens wishing to address the Board. The Board may consider these items upon permission of the quorum of the Board Members then present.
4. A member of the audience speaking during the public comment portion of the agenda shall limit his/her remarks to 3 minutes. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If members of the audience select a single spokesperson, that individual shall be able to make public comment at the Appeals Board meeting without time limit or an extended time limit.
5. The order of the agenda shall be as follows:
 - a. Roll call
 - b. Minutes of the previous meeting
 - c. Additions / Deletions to the agenda
 - d. Citizens wishing to address the Board
 - e. Public hearings
 - f. Unfinished business
 - g. New business
 - h. Citizens wishing to address the Board
 - i. Board member comments.

H. PUBLIC HEARINGS:

1. The Chairman or appropriate delegate shall announce the hearing and request supporting documentation and correspondence from staff.
2. The Chairman or appropriate delegate then opens the public hearing inviting the petitioner to speak and then inviting members of the audience to speak.
3. Members may question either staff or the petitioner with concurrence of the Chairman or appropriate delegate.
4. Citizens or petitioners speaking to the Board must be recognized by the Chair and state their name and address for the record.
5. After all citizens have had the opportunity to speak, the Chairman or appropriate delegate will close the Public Hearing, and the Board will commence deliberations.
6. Members may question the petitioner or any citizen during deliberations.
7. Following discussion and deliberation by the Board Members, the Chairman or appropriate delegate will ask for a motion.

I. RULES OF ORDER / MOTIONS:

1. The Chairman or appropriate delegate will solicit and acknowledge a motion on the issue.
2. Motions may be made by any member other than the Chairman or appropriate delegate, then recognized by the Chairman or appropriate delegate. The maker of the motion is entitled to speak first.

3. Motions must receive a second and be recognized by the Chairman or appropriate delegate.
4. The Chairman or the appropriate delegate will ask for discussion on the motion.
5. Following appropriate discussion, the Chairman or the appropriate delegate will call for a vote on the motion.
6. If the board chooses to postpone a decision, the board must find that they have insufficient information to make their decision, and have a date when they can get the information and an identified source for the information stated in the motion.
7. Motions should be considerate of the following that the Board shall make a finding that the requirements of Article 14, Section 54.1404(B)(5) (a) through (j) of the Land Development Code and located on the variance application have been met by the applicant.

J. GENERAL RULES OF DEBATE:

1. The maker of a motion is entitled to speak first.
2. A member must obtain the floor by being recognized by the Chair.
3. A member may not speak against their motion but may vote against it.
4. A courteous tone must be maintained, and interjecting personal comments or attacking other members' motives is prohibited.

K. PROCEDURES:

1. An appeal for review of any administrative action shall not be accepted more than sixty (60) days after that action.
2. Appeals, petitions, or requests for action which require public hearings shall not be accepted for consideration less than twenty (20) business days before the meeting date.
3. Current surveys or locational sketches, prepared by a licensed surveyor, indicating all existing and proposed construction must be submitted at the time of, and with the application for all public hearings involving dimensional variances, Class A Designation of non-conforming use and structures, and Expansion of Class A Designation of non-conforming use and structures.
4. Applicants are encouraged to include elevations/ facades of proposed structures or additions, photos of similar construction, and/ or identification of proposed finish materials in the application. These additional materials do not need to be prepared by a professional and are not required to be submitted with an application unless necessary to determine a dimensional variance other than required yard area.
5. Support materials that are not required to be submitted with an application, shall be submitted to the Community Development Department ten (10) days prior to the date of the hearing. All materials shall be considered property of the City and must remain on file
6. Notice of the Public Hearing shall be given by the Secretary not less than fifteen (15) days prior to the hearing pursuant to Act 110 of 2006 which requires that notice be given to all persons to whom real estate is assessed within 300 feet of the boundary of the property in question and to occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
7. Following the public hearing, the Board shall make a determination within forty-five (45) days.

L. AMENDMENTS

1. The Board may alter or amend its Bylaws at any time, when not in conflict with City Charter or City Code, by two-thirds vote, after notice has been given of the proposed alteration or amendment at a previous board meeting.

Adopted: 8-6-20