



Board of Zoning Appeals Agenda

Meeting Date: April 18, 2024

Location: Sheridan Community Center, 300 E 6th Street, Sheridan IN 46069

Indiana law prohibits any person from communicating with Board of Zoning Appeals members before the public hearing with the intent to influence the Board members on a matter pending before the Board.

Public input may be submitted electronically to jmiller@sheridan.in.gov in advance of the meeting or in person during the hearing.

Agenda:

- I. Call to Order
 - II. Roll Call – Determination of a Quorum
 - III. Review Meeting Rules and Procedure
 - IV. Approval of February 15, 2024 Minutes
 - V. Meeting Announcements
 - a. Changes to Agenda
 - b. Continuance Requests
 - c. Withdrawal Requests
 - VI. Public Hearings: None
 - VII. Election of Officers
 - VIII. Rules of Procedure Review and Approval
 - IX. Adjournment
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**RULES OF PROCEDURE:
TOWN OF SHERIDAN BOARD OF ZONING APPEALS**

I. Membership, Organization and Meetings

1. Membership of the Board

a. The Board shall be made up of five (5) members as follows:

(1) Three (3) citizen members appointed by the Town Executive.

(2) One (1) citizen member who must be appointed by the Town Council.

(3) One (1) member appointed by the Plan Commission from the Plan Commission's membership (other than the member appointed pursuant to subsection a(1), above, who shall reside in the unincorporated jurisdictional area of the Board.

b. No member of the Board shall hold another elective or appointive office.

c. An appointing authority may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member of that appointing authority has a conflict of interest.

2. Officers of the Board

At its first regularly scheduled meeting of each calendar year, the Board shall select from its membership a Chair and Vice Chair. The Chair shall preside at all meetings, and, in his or her absence or disability, the Vice Chair shall preside. The Board shall elect a Chair Pro Tempore from among its members if both the Chair and Vice Chair are absent or disabled. If any office becomes vacant, the Board shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.

3. Secretary

The Board may appoint and prescribe the duties of a Secretary and any other employees as are necessary for the discharge of the Board's duties. If the Secretary is absent at any meeting, the Chair shall appoint a temporary Secretary.

4. Delegation of Authority

All ministerial duties of the Board not otherwise delegated may be delegated to the Director of Community Development or his or her authorized representatives, who are referred to generally in these Rules as the "Administrator".

5. Points of Order

The presiding officer of the Board shall, subject to these Rules of Procedure, decide all points of order or procedure, unless otherwise directed by majority of the members of the Board present.

6. Quorum and Official Vote

A majority of the entire membership of the Board constitutes a quorum. Action of the Board is not official unless it is authorized by a majority of the entire membership of the Board. All voting shall be by roll call or recorded vote, except in the case of unanimous vote.

7. Vacancies

If a vacancy occurs among the membership of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.

A member of the Board who misses three (3) consecutive regular meetings of the Board may be treated as if the member has resigned, at the discretion of the appointing authority.

8. Regular Meetings

The Board shall hold its regular meetings on the third Thursday of each month at 5:30 pm. in the Sheridan Community Center at 300 E. 6th Street, Sheridan, Indiana.

9. Special Meetings

Special meetings of the Board may be called by the Chair or by two (2) members of the Board upon written request to the Administrator. The Administrator shall send to all members, at least three (3) days (excluding Saturdays, Sundays and legal holidays) before the special meeting, written notice fixing the time and place of the meeting. Notice shall

also be given to the public and press in accordance with the Indiana Open Door Law I.C. 5-14-1.5.

Written notice of special meetings shall not be required if (i) the date, time and place of the special meeting is publicly fixed at a regular meeting; and (ii) all members of the Board are present at the regular meeting.

10. Executive Sessions

The Board may meet in Executive Session in accordance with I.C. 5-14-1.5-6.1.

11. Public Meetings

All meetings of the Board, except legally advertised executive sessions, shall be open to the public, who shall have the right to attend and record any meeting.

Public testimony will only be accepted at those meetings where the Chair opens a legally advertised public hearing.

12. Minutes

The Board shall maintain minutes of all meetings, including the record of the vote on all actions taken. The minutes of any Board meeting shall be filed with the Administrator and maintained as public records.

II. Filing of Petitions for Administrative Appeal, Use Variances and Development Standards Variances.

1. Who May File

Petitions for an Administrative Appeal, Use Variances, or Development Standards Variances may be initiated by a Petition signed by the owners of the land involved in the Petition. An Owner may be represented by an Authorized Agent. An Authorized Agent shall file a written statement with the Department of Planning and Development (the "Department"), signed by the Owners on a form acceptable to the Department, at the time of filing the Petition.

2. Filing Procedure

Petitions for public hearing before the Board shall be filed with the Department and the prescribed filing fees (if any) paid within two weeks of filing. The deadline for filing all petitions shall be as published on the Town's website.

3. Form of Filing

All Petitions to the Board shall be on forms provided by the Department. In addition, site plans, surveys, legal descriptions, building elevations, sign details, proposed commitments and any other relevant supporting documentation shall be of usable scale and quality.

4. Findings of Fact

The Board shall, in all cases heard by the Board, make written Findings of Fact in support of the Board's decision as prepared by the Administrator. The Petitioner shall, at the time of filing the Petition, file proposed detailed written Findings of Fact.

5. Specifying of Request

All Petitions shall specify the appeals, variances or exceptions requested. Any items, even if indicated on the proposed plans, shall not be considered a part of the request presented to the Board for its consideration unless such items are specified in the Petition.

III. Agendas

1. Numbering of Petitions

Each Petition filed in proper form pursuant to the guidelines established by the Department shall be numbered and docketed by the Administrator for an initial hearing by the Board to be held as published on the Town's website to allow for adequate staff review. Such Petitions shall be numbered consecutively in the order of their filing according to the type of Petition.

2. Standard Agenda. The order of business on the agenda for each regular meeting of the Board shall be:

- A. Call to Order
- B. Roll Call – Determination of a Quorum

- C. Review of Meeting Rules and Procedures
- D. Approval of Past Meeting Minutes
- E. Meeting Announcements
 - 1) Changes to Agenda
 - 2) Continuance Requests
 - 3) Withdrawal Requests
- F. Public Hearings
- G. Other Business
- H. Adjournment

3. On the date of the public hearing, the Board shall hear Petitions in the order of their numbers. The Board may, in its discretion and at public hearing, change the order in which Petitions shall be heard at the public hearing.

IV. Notice Requirements for Petitions for Administrative Appeal, Use Variances or Development Standards Variances.

Notice of all Petitions for Administrative Appeal, Use Variances, Development Standards Variances for public hearing before the Board, shall be given to all interested parties or property owners in the following manner:

1. Notice by Publication

Notice shall be published by the Board in accordance with IC. 5-3-1 at least ten (10) days prior to the date of the public hearing. Publication costs for variance petitions shall be the responsibility of the Town.

2. Notice by Mailing

a. Method of Notice. The petitioner shall give notice of any matter requiring public hearing or action by the Board to all Interested Parties by first class mail sent at least ten calendar days before the Board meeting.

b. Interested Parties. In accordance with IC 36-7-4, Interested Parties are hereby determined to be at least two property owners (adjoiners and adjoiners' adjoiners) other than the petitioner in all directions from the perimeter of the subject property, and the owners of any subject property who are not petitioners, limited to maximum distance of 660 feet to the nearest points of the subject property and an otherwise eligible property when the petitioner's property is within the corporate limits of the Town. For petitioners whose property lies outside the corporate limits but within the jurisdictional limits of the

Town, the notice limits are increased to maximum distance of 2,640 feet to the nearest points of the subject property and an otherwise eligible property. Petitioners whose property abuts or includes a county line (or a county line street or road or county line body of water) are required to notify the adjoining in Hamilton County as described above, and all owners of real property to a depth of two (2) ownerships or 660 feet into the adjacent county, whichever is less.

c. Subject Property. For purposes of this notice requirement, subject property is defined as the entire lot or parcel involved in the request, including any contiguous (or adjoining as described below) lots or parcels owned or controlled by the same entity or associated entity that controls the parcel involved in the request.

d. Adjoining Property. For purposes of this notice requirement, adjoining property is defined as follows:

1. All property that has any contiguous boundary with the subject property; and
2. All property that would be contiguous if it were not separated from the subject property by street, railroad right-of-way, easement, alley, runway, or similar feature.

e. Property Owners. For purposes of this notice requirement, property owners shall be defined as follows:

1. The names and addresses of owners of record of real property as listed in the office of the Auditor of Hamilton County or as determined from the Geographic Information System (GIS) of the County available through the internet.

2. If property is subject to the Horizontal Property Law (1C 32-1-6), the owner of each condominium unit within the area defined in Subsection B shall be entitled to notice.

f. Applicant's Responsibilities. The applicant shall be responsible for researching and notifying Interested Parties set forth in this Article, including the cost of the research and notification. The applicant shall also be responsible for providing proof of notification to the Board.

3. Affidavit of Notice

Petitioner shall file an Affidavit of Notice, in a form as specified by the Department, indicating compliance with all notice requirements of these Rules, prior to the public hearing.

4. Defective Notice

If proper notice has not been given, the Petition may be continued until a later date to allow time for un-notified persons to prepare for the public hearing. Personal appearance shall waive any defect in notice unless the defect in notice is timely raised at the beginning of the hearing in which the Petition is to be heard while the Board is considering requests of continuances and prior to the calling of the first Petition for public hearing.

V. Conduct of Public Hearings

1. Time Allowed and Procedure for Hearing of Petitions

In order to provide all interested parties with a fair hearing, Petitioners and remonstrators shall be afforded a reasonable amount of time for the presentation of evidence, statements and argument at the public hearing of every Petition before the Board. The order of the presentation of evidence, statements and arguments shall be as follows:

a. Staff of the Board shall be given reasonable time by the Board to introduce the matter being considered and for the presentation of evidence and statements regarding the matter being considered.

b. Petitioners shall be allotted a total of fifteen (15) minutes to present evidence, statements and arguments in support of the matter being considered.

c. The Chair shall then open the public hearing. All persons, including any remonstrators, wishing to speak on the petition shall be allotted a total of three (3) minutes. One person representing a group shall be allotted a total of five (5) minutes.

d. The Petitioner shall then have a total of five (5) minutes for rebuttal, which shall include only evidence, statements and argument in rebuttal of the remonstrators' or the Staff's evidence, and a brief closing statement.

e. At the conclusion of remarks by any party, the Board shall have the right to ask questions pertaining to the evidence, statements and argument presented. Time involved

in responding to questions by the Board by either the Petitioner or remonstrators shall not be considered for purposes of calculating equal time for presentation. The presiding officer shall have authority to cut off repetitious and irrelevant testimony and shall make reasonable efforts to allow equal time for Petitioners and remonstrators.

2. Testimony

Any person giving testimony to the Board regarding any pending Petition shall first state his/her name and address for the record prior to beginning testimony.

3. Orderly Conduct

All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as breach of the privileges extended by the Board and shall be dealt with by the presiding officer as is deemed fair and proper.

4. Continuances

Requests for continuance by Petitioners or remonstrators shall be considered at the beginning of each public hearing agenda prior to calling the first Petition for public hearing listed on the agenda. A continuance request may be made in person or in writing and shall:

a. Specify the date to which the continuance is requested; and,

b. Indicate whether it is the first request made by the party for continuance of the hearing on the subject Petition. Continuances may be granted by motion of the Board at the hearing upon showing of good cause (e.g., the need for additional time for negotiation between Petitioners and remonstrators which will reasonably increase the likelihood of agreement between the parties; the unforeseeable need for additional information; or, the unforeseeable absence of key witness) and provided that the non-requesting party does not suffer significant hardship because of the grant of continuance (e.g., presence of remonstrators at the hearing who would be inconvenienced by having to reappear; or, additional expense incurred by Petitioner as result of time delay).

The Board may, at any time, in its discretion, continue the hearing of any Petition. On its own motion, the Board may determine if re-notification of interested property owners shall be required for any continued hearing. Continuances granted for periods of time in excess of two months shall require re-notification of interested property owners.

5. Contacting Board Members Regarding Pending Petitions Prohibited

No person shall contact any member of the Board in advance of a public hearing on any pending Petition with intent to influence the Board member's action on such Petition. A written request for continuance as provided for by these rules shall not be construed to be prohibited contact of Board member.

6. Secretary's Written Report

Nothing in these Rules of Procedures shall be deemed to prohibit the Department from submitting a written report, stating any facts concerning the physical characteristics of the area involved in the Petition, together with recital of surrounding land use and public facilities available to service the area, or other pertinent facts. The written report may also contain an opinion of the proposed pending Petition and report from the Department. A copy of such statement shall be made available to the Petitioner and all remonstrators of record, if any.

7. Disqualification of Board Member in Case of Personal or Financial Interest

A member of the Board who has some personal, direct or indirect financial interest in any Petition presented shall recuse himself or herself insofar as the particular Petition is concerned, not sit as a member of the Board during the hearing of the particular Petition and shall not participate as a member in the Board's hearing or decision in such Petition. In the case of a conflict of interest, the Board shall enter into its records the fact that a regular member has such disqualification and the name of the alternate member, if any, who participates in the decision or hearing in place of the regular member.

8. Amendments

Requests to amend any Petition may be filed in writing prior to or at the beginning of any hearing, or may be made orally at the hearing. Any remonstrators present shall have the right to be heard on any objections they may have to such proposed amendment and may request a continuance of the hearing to allow time to study the proposed amendments. It shall be within the discretion of the Board to grant or deny requests for such continuances and to require re-notification. In making this determination, consideration shall be given on whether or not the Staff and any remonstrators have had sufficient time to adequately review these new amendments or supporting documents. Provided, however, any proposed amendment to change the use or to include additional Development Standards Variances shall be re-docketed and re-advertised.

VI. Final Disposition of Petitions

1. Dismissal of Petitions

a. The Board may dismiss a Petition for lack of prosecution when the Petitioner fails to appear. The Board may also dismiss a Petition for lack of jurisdiction.

b. Any Petition which has been dismissed by the Board for lack of prosecution shall not again be filed for consideration within a period of three (3) months from the date of the dismissal, except upon motion to permit re-filing adopted by a majority vote of all members of the Board at a regular or special meeting, for good cause shown.

2. Withdrawal of Petitions

No Petition may be withdrawn by the Petitioner after a vote has been ordered by the presiding officer. A Petition which has been properly withdrawn by the Petitioner may be heard at the next regular meeting of the Board upon republication of the legal notice and re-notification of interested property owners. Any Petition which has been withdrawn by the Petitioner, and which has not been set for hearing at the next regular meeting as described above, shall not be re-filed for consideration within a period of three (3) months from the date of said withdrawal, except upon motion to permit re-filing adopted by a majority vote of all members of the Board at a regular or special meeting, for good cause shown.

3. Re-Filing Following Adverse Decision

No parcel that has been the subject of an adverse decision on a Petition for Use Variance or Development Standards Variance, by the Board shall again be included in a Petition within six (6) months from the date of the adverse decision, unless the Board by an official vote at a public hearing, decides for good cause shown, to allow the re-filing.

No Petitions for Use Variance or Development Standards Variance that has been the subject of a prior denial by the Board shall be granted except upon adoption of an additional finding that substantial change in the particular circumstances which induced the prior denial has occurred. It shall be the responsibility of the Petitioner to prepare and submit, at the time of filing, detailed written findings of fact reflecting the substantial change in circumstances. Any such Petition filed without the additional finding shall be deemed incomplete and shall not be docketed for public hearing.

4. Findings of Fact

The Board is required to enter written Findings of Fact in support of its determinations. Such Findings of Fact may be entered at the initial public hearing or, at the Board's discretion, the hearing on the Petition may be continued until the next regularly scheduled meeting of the Board for the adoption of the Findings of Fact. If the Petition is continued for the adoption of Findings of Fact, no further testimony need be taken by the Board prior to adoption of the Findings of Fact.

VII. Waiver of Rules

The Board shall have the right to waive any portion of these Rules of Procedure upon their own motion, or upon request of any interested party, for good cause shown, provided, however, the Board may not waive any portion of these Rules setting forth the requirements established by Indiana statute.

VIII. Virtual Meeting Policy

Members of the Board may participate in Board meetings by electronic means in accordance with I.C. 5-14-1.5-3.5. A Board member who participates in a meeting by an electronic means of communication shall be considered present for purposes of establishing a quorum but may participate in final action on any matter taken at the meeting only if the member can be seen and heard. Board members participating by an electronic means may not participate in taking final action to: (1) adopt a budget; (2) make a reduction in personnel; (3) initiate a referendum; (4) establish or increase a fee; (5) establish or increase a penalty; (6) use the Board's eminent domain authority; or (7) establish, raise, or renew a tax.

IX. Amendments

Amendments to these Rules of Procedure may be made by the Board upon the affirmative vote of majority of the members of the Board

X. Definitions

As used in these Rules of Procedure, the following terms shall have the following meanings:

ADMINISTRATOR: The Director of Planning and Development or his or her authorized representatives.

AUTHORIZED AGENT: Any party duly authorized in writing by the Owner of a subject parcel to act on the Owner's behalf with respect to the Petition for Administrative Appeal, Use Variances, Development Standards Variances or special exception.

BOARD: The Town of Sheridan's Board of Zoning Appeals established pursuant to the Advisory Planning Law of the State of Indiana.

BUSINESS DAY: The day when the offices of the Department of Planning and Development are open to the public for the transaction of business for the entire period of its normal operating hours.

DEPARTMENT: The Department of Planning and Development established by the Ordinances of the Town of Sheridan.

PLAN COMMISSION: The Town of Sheridan Plan Commission established pursuant to the Advisory Planning Law of the State of Indiana.

PETITION: An application for Administrative Appeal, Use Variance or Development Standards Variance filed with the Department of Planning and Development for public hearing by the Board in compliance with all applicable state laws, local ordinances and rules of procedure.

PETITIONER: The Owner of parcel or the Owner's duly Authorized Agent, attorney or representative who makes an application for an Administrative Appeal, Use Variance or, Development Standards Variance filed with the Department of Building and Zoning for public hearing by the Board.

SECRETARY: The Secretary of the Board as duly appointed by the Board in accordance with IC. 36-7-4-913.

STAFF: The Director of Planning and Development, any employee of the Board, or any attorney or agent of the Board or the Director of Planning and Development.

XI. Adoption

The foregoing Rules of Procedure of the Town of Sheridan Board of Zoning Appeals, were adopted by the affirmative vote of the undersigned members of the Board of Zoning Appeals on the _____ day of _____, 2024, effective immediately upon passage.

Chair

Date

Vice Chair

Date

Secretary

Date

Board Member

Date

Board Member

Date

Attested by:

Commission Attorney

Date