



Myersville Town Hall
301 Main Street
P.O. Box 295
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TOWN OF MYERSVILLE

Board of Zoning Appeals

Phone: (301) 293-4281
Fax: (301) 293-3080
Hours 8:00 am – 4:00pm
www.Myersville.org

Board Bylaws & Procedures

I. Objective

The Myersville Board of Zoning Appeals Bylaws are established to afford the Myersville Board of Zoning Appeals, all residents within the Town, and applicants before the Board, with an efficient, transparent, equitable, and predictable set of rules and procedures. The Board shall review all matters before it in an impartial and respectful manner, and consider testimony and evidence presented based on the merits contained within the applicable Town of Myersville Code of Ordinances (Town Code). The internal bylaws and procedures governing the Board of Zoning Appeals are resolved pursuant to §165-82 of Town Code and The Land Use Article, Annotated Code of Maryland. Whenever a conflict arises between the bylaws contained herein and the Town Code, or Annotated Code of Maryland, the presiding laws shall prevail; however, nothing contained herein shall be considered an inseparable clause in the event that one (1) or more sections of the bylaws and procedures is found to be in conflict with the aforementioned codes.

Copies of all proposed and adopted amendments to these bylaws, in addition to the agendas and meeting minutes of the Board of Zoning Appeals, shall be retained by the Town Planning Office and be made available to the public for inspection. It is the policy of the Board that all meeting minutes shall be permanently retained on file and all associated material be retained according to the Town of Myersville records retention policy.

II. Definitions

- A. Bylaws** – bylaws adopted by the Myersville Board of Zoning Appeals as contained herein.
- B. Town Code** – the Code of Ordinances of the Town of Myersville.
- C. Board** – the Myersville Board of Zoning Appeals.
- D. Member(s)** – a person appointed by the Mayor and confirmed by the Town Council to serve on the Board of Zoning Appeals

III. Officers and Member Responsibilities

A. Election of Officers

1. The Board shall convene annually on its regularly scheduled meeting date in June for the purpose of electing officers from among its members. The positions for election shall be for Chairperson and Vice Chair.

2. The staff liaison shall conduct the election for both offices as the first order of business after the meeting has been called to order and request that a member of the Board nominate a member other than themselves for the position of Chairperson. Any member receiving a nomination must verbally confirm acceptance of the nomination.
3. A majority vote shall elect the Vice Chair. The aforementioned procedures shall be followed for the election of Vice Chair. No election of officers shall take place at a meeting unless at least four (4) members are present.
4. Officers may be removed from their elected positions if a motion of no-confidence is made by any member and approved by a vote of four (4) of five (5) members of the Board. The motion of no-confidence must contain a cause and justification and be recorded within the meeting minutes. Removal from the office would be effective immediately upon adoption of the motion but shall have no effect on the appointment to, or membership on the Board.

B. Member Responsibilities

1. It shall be the duty of each member to attend all regular meetings, special meetings, and public hearings as scheduled or as called by the Chairperson.
2. When a member is aware that they will not be able to attend a Board meeting or event, they shall notify the staff liaison or The Chairperson at their earliest opportunity. The staff liaison shall retain attendance records for each meeting, special meeting, and public hearing.
3. In order to be eligible to vote on a matter of business on the agenda that requires an action by the Board, a member must attend all relevant meetings or review the meeting minutes and all related materials from any meetings from which the member was absent.
4. Each member is responsible for satisfying the Maryland Planning Commission and Board of Zoning Appeals Educational Training requirement within six (6) months from appointment in accordance with State Law. The training course may be obtained from the Maryland Department of Planning website or individual meetings may be arranged with the Planning Office to complete alternate training that would also meet state requirements.

C. Representation of the Board

1. The Chairperson shall represent positions and enforce actions on behalf of the Board as contained within these bylaws and the Town Code.
2. Members shall not speak on behalf of the Board as a whole unless specifically authorized to do so.

3. When speaking in public, members shall also indicate that they are speaking as individuals and their comments do not reflect the position of the Board or the Town.

D. Duties of Officers

1. Chairperson

- a) Conducts meetings.
- b) Determines procedures and points of order.
- c) Calls speakers and compels witnesses and testimony.
- d) Compiles and approves meeting agenda in consultation.
- e) Calls and schedules all meetings pursuant to adopted bylaws.
- f) Signs all official Board documents, approvals and correspondence and prepares position statements and/or letters as approved by the majority of Board or authorizes The staff liaison or a board member to do so on their behalf.
- g) May represent Board or attend meetings as provided for in adopted bylaws and as approved by majority of Board.
- h) May make motions or second motions and may vote in all matters before the Board.

2. Vice Chair

- a) Assists Chairperson in conducting meetings and advise on points of procedure.
- b) Assists Chairperson in tasks as assigned.
- c) Conducts and chairs meetings in the absence of Chairperson.
- d) Calls special meetings or workshops in the absence of Chairperson.
- e) May make motions or second motions and may vote on all matters before the Board.
- f) In the event that any of the following circumstances occur, the Vice Chair assumes the position of Chairperson for the remainder of the Chairperson's elected term:
 - i. vacate the position
 - ii. removed as Chairperson on a vote of no-confidence
 - iii. removed by the Mayor and Council
 - iv. is unable to perform duties as Chairperson
- g) Should the aforementioned circumstances occur and result in the elected Vice Chair becoming Chairperson, then the position of acting Vice Chair shall be assumed by the Board member with the most accumulated years of service on the Board – whether consecutive or not – until an election is held during a regular meeting, or until the remainder of the Vice Chair's elected term has expired.

IV. Meetings.

A. Meetings & Procedures

1. Regular meetings shall be held quarterly at fixed date intervals as determined by the Board. If there is no business before the Board by the close of business

ten (10) days before the scheduled meeting, the Chairperson may give notice to the Board members and the public that the regular meeting shall not be held.

2. The Chairperson may call special meetings or alter the date of regular meetings so long as he or The staff liaison has given the Board members and the public at least 48 hours of notice of the date and time of such meeting.
3. A quorum, being required for action to be taken on any business item, shall consist of three (3) Board members. When a quorum is not present, no matters requiring voting shall be conducted and public hearings shall be rescheduled. Matters scheduled on the agenda may be discussed by those present so long as no action is taken in the absence of a quorum.
4. For the purposes of rules of procedure utilized during regular and special meetings, the Board hereby adopts the most current edition of *Robert's Rules of Order* by reference as the *de facto* procedural guidelines. Where a conflict arises between *Robert's Rules of Order* and these bylaws, the provisions within the bylaws shall prevail. Failure to strictly adhere to these guidelines shall not invalidate otherwise valid actions of the Board. Appeals of all points of procedure shall be directed to the Chairperson. The Chairperson may either consult the Vice Chair for an opinion and/or shall render a final determination.
5. The order of business shall be in accord with the agenda unless a motion is approved by a majority of members present at the beginning of the meeting to add an item of business or revise the order.
6. All meetings, special meetings, and public hearings conducted by the Board shall conclude no later than 11:00 PM when commencing at 7:00 PM. No new item of business or deliberation shall begin after 10:45 PM.
7. The Board retains the right to continue any meeting, special meeting, or public hearing to the next regular meeting or to a date of its choosing by a majority vote of the Board members present and voting.
8. All citizens shall have the opportunity to present comments at the end of the agenda at all regular meetings. The Chairperson shall retain the right to limit the amount of time allotted to speakers during public comment.
9. The Board may vary or suspend any of these meeting procedures or rules of order by a majority vote of the Board members present and voting when not in conflict with State Law or Town Code. Justification for the variance or suspension must be noted in the motion and recorded in the meeting minutes.
10. Matters or appeals that have been denied by the Board will not be reconsidered for twelve (12) months if deemed to be substantially the same application.
11. When members are unable to be physically present at a meeting, special meeting or public hearing, the use of teleconference or videoconference functions by that member to participate in discussion shall be permitted.

B. Voting

1. A tie vote by the Board shall be interpreted as a failure to approve the motion upon which the vote was taken. Additional motions may then be proposed; however, failure to approve applications, appeals, etc. shall constitute a denial. If a tie vote remains on an advisory matter, the Board's action shall be deemed as "No- Recommendation".
2. Any member disqualifying or recusing themselves from a vote shall indicate such prior to discussion on the matter before the Board. Upon indicating a recusal for a matter before the Board, the member shall then excuse themselves from dais or table for the duration of the discussion, hearing and vote on the item and shall offer no testimony or discussion.

C. Requests for Consideration

1. All applications for variances and special exceptions shall be made on the official application provided by the Board and submitted to the Town Planning Office.
2. All requests for a public hearing concerning allegations of an administrative error by the Town shall be made in formal writing and submitted to the Town Planning Office.
3. Where an item requiring action by the Board has specific timeframes or submittal requirements that exceed the requirements within these bylaws, then the requirements within Town Code shall prevail.
4. Items that do not require immediate action and are informational in nature or require only discussion or direction by the Board shall be forwarded to the Chairperson for consideration to be placed on a future meeting agenda at the Chairperson's discretion.

D. Business Conducted Electronically

1. Recognizing the prevalence of electronic forms of media, the Board desires to enact a consistent policy in utilizing these technologies.
2. No member shall post, disseminate, or discuss information pertaining to pending matters before the Board via electronic mail or social media applications.
3. No member shall disseminate unauthorized information by said electronic means. Public information may be personally disseminated following the conclusion of the matter before the Board.
4. Electronic correspondence may be utilized to discuss routine matters before the Board, disseminate information, documents and reports, and forward incoming correspondence relevant to a matter that has formally been submitted to the Town for consideration so long as the correspondence is not conducted in real-time that would purposely constitute a quorum. Furthermore, members and staff may utilize electronic means of communication to facilitate the business of the Board and to advise on matters before the Board. The Board

shall not conduct votes or prejudice themselves on any matters by means of communication.

E. Testimony, Public Comment & Public Hearing Procedures

1. In accordance with Maryland Court of Special Appeals decision, *Heard vs. Foxshire Associates* (2002), all witnesses shall be sworn in when testifying before the Board on those matters decided on the evidence in the record. Testimony must be addressed to the Chairperson and must be directly pertinent to the application, relevant Codes, and testimony provided by witnesses. The Chairperson shall retain the right to limit or dismiss testimony or evidence that is considered spurious, leading, personally injurious, unsubstantiated, repeating or does not abide by the provisions contained within this Article.
2. The ordinary order of public hearings and time limits for testimony shall be as follows:
 - a. Chairperson's statement and overview of procedures.
 - b. Staff report and recommendation.
 - c. Reading of agency comments.
 - d. Testimony by the applicant or the applicant's agent or attorney.
 - e. Public comment.
 - f. The Chairperson may allow reasonable cross-examination of witnesses at a time and in a manner considered reasonable by the Chairperson under the circumstances.
 - g. Applicant's Rebuttal.

V. Ethics, Conflict of interest and Lobbying

A. Ethics Compliance

1. Board members are generally subject to the provisions of the Frederick County Ethics Ordinance, as amended from time to time, except those provisions requiring the filing of an annual financial disclosure form.
2. In the event that any other ethics policy is adopted by the Board or ethics and lobbying ordinance adopted hereafter by the Myersville Mayor and Council, the provisions of these policies and/or ordinances shall supersede the provisions of the Frederick County Ethics Ordinance as it applies to the Board.

B. Conflicts of Interest

1. No Board member shall vote on a matter in which they have a personal involvement or the appearance of a conflict of interest or as otherwise specified in the County's Ethics Ordinance.
2. When voting upon matters in which a Board member maintains a personal, professional, familiar or financial relationship with an applicant, and/or the Board member has had verbal, written or electronic contact with the applicant or citizen submitting comments or testimony on any matter before the Board, then the Board member shall state for the record that such relationship exists, or contact has occurred prior to voting upon the matter in question.

C. Legal Counsel

1. Members are encouraged to consult the Town Attorney or staff as to the propriety of their voting on any matter which may involve a conflict of interest.

VI. Role of Advisers, Staff & Consultants

A. Staff Liaison

1. The staff liaison or designee of the Planning Office shall serve as the formal staff liaison and advisor to the Board. The staff liaison shall also serve as the primary contact for all communications between Board members, staff, applicants, and residents.
2. The staff liaison shall administer and execute matters of policy on behalf of the Board. When there are significant changes proposed to matters of Board policy, the staff liaison shall present the proposal to the Board for resolution at its regular meetings.

VII. Amendments to Bylaws

A. Initiation

1. Amendments to these bylaws may be initiated by any member of the Board during a regular meeting.
2. No permanent amendment shall be voted upon during the meeting in which it is introduced.

B. Notice

1. Notice of the proposed amendment(S) and its scheduled date for consideration shall be posted either at Town Hall or on the Town's official website for at least 10 days.

C. Consideration

1. Consideration of any proposed amendment shall require a public hearing and must be discussed and voted upon in public session.

D. Adoption

1. Adoption of any proposed amendment shall require a majority vote.
2. Amendments shall become effective one day following the date of adoption.

E. Suspension

1. No part of Article VII of these bylaws shall prevent the Board from suspending standard meeting procedures or points of order contained within Article IV as provided within that article.