

Rules and Procedures

McCordsville Board of Zoning Appeals

Article 1: Authority, Jurisdiction, and Purpose

- 1) The McCordsville Board of Zoning Appeals, hereinafter referred to as the Board, was established by the Town Council of McCordsville, Indiana, in accordance with the provisions of IC 36-7-900 series, of the General Assembly of the State of Indiana, and all Amendments thereto.
- 2) The Board shall have jurisdiction over all land within McCordsville.
- 3) The Board's purpose is to conduct public hearings and render decisions on appeals, variances, special exceptions or changes of non-conforming uses and to hear other petitions deemed to fall under its cognizance including appeals from and review of any decision or determination made by the Plan Director, as provided for the McCordsville Zoning Ordinance. The Board shall enforce the provisions of said ordinance, and promote the health, safety and general welfare of the residents of McCordsville.
- 4) Administrative Officer. The Town Manager, including any staff members or other designee(s), shall act as the Administrative Officer and shall have the principal responsibility for the administration and enforcement of the *Zoning Ordinance*. Their duties shall include, but not be limited to:
 - a) Inspections. Conducting inspections of structures and properties to determine compliance with the requirements of the *Zoning Ordinance* and all approvals granted by the MBZA in the execution of its duties as established by the *Zoning Ordinance* and Indiana State Code.
 - b) MBZA Applications. Receiving, processing docketing, and referring to the MBZA all appropriate applications.
 - c) Clerical & Technical Assistance. Providing all such clerical and technical assistance as may be required by the MBZA in the execution of its duties as established by the *Zoning Ordinance* and Indiana State Code.

Article 2: Membership

Membership of the MBZA				
Member	Appointment	Initial Term		Qualifications
1	Town Council President <i>MPC Member</i>	January 1, 2011	January 1, 2014	Must reside within the jurisdictional area of McCordsville and may not hold an elective or appointive office for the town.
2	Town Council President <i>Non MPC Member</i>	January 1, 2011	January 1, 2013	
3	Town Council President <i>Non MPC Member</i>	January 1, 2011	January 1, 2012	
4	Town Council <i>Non MPC Member</i>	January 1, 2011	January 1, 2015	
5	MPC <i>MPC Citizen Member</i>	January 1, 2011	January 1, 2015	

- 1) Pursuant to IC 36-7-4-902, the Board shall consist of five (5) members who shall be appointed as follows:
 - a) Three (3) citizen members appointed by the Town Council President, one (1) of who must be a member of the Plan Commission while the other two (2) must not be members of the Plan Commission.
 - b) One (1) citizen member appointed by the Town Council, who must not be a member of the Plan Commission.
 - c) One (1) citizen member appointed by the Plan Commission, who must be a citizen member of the Plan Commission other than the member appointed under (a) above.

Article 3: Duties and Powers

- 1) The Board shall hold meetings, keep minutes, and pursuant to notice, shall conduct hearings, compel the attendance of witnesses, take sworn testimony, and render decision in writing, all as required by law. When permitting any appeal, variance, special exception or change of non-conforming use, the Board may impose such conditions and requirements as it deems necessary for the protection of adjacent property and the public interest.
- 2) The Board may appoint, prescribe the duties, and fix the compensations of such employees as are necessary for the discharge of the duties and responsibilities of the Board. All compensations shall be subject to approval of the Town Council. The Board may make contracts for special or temporary services, professional counsel and technical services with such compensation as approved by the Town Council.
- 3) The Board may approve the attendance at a state, regional or national conference of its members or employees, and approve the actual expenses of the attending member of employee provided the amount has been approved by the Town Council.

Article 4: Actions and Decisions

- 1) The Board may dismiss an appeal for want or prosecution of the lack of jurisdiction.
- 2) No petition may be withdrawn by the petitioner after a vote has been ordered by the Chairperson.
- 3) No request, petition, or appeal which has been decided adversely against the petitioner shall again be placed before the Board for consideration within a period of six (6) months from the date of the decision previously rendered.
- 4) No appeal concerning a decision of the Plan Director shall be heard by the Board unless filed with the Board within thirty (30) days after the final disposition or decision has been made by the Plan Director.
- 5) After an order, special exception, or variance is granted by the Board, the petitioner shall have sixty (60) days to secure any necessary improvement location permit(s). Said permit shall be valid for a period of one (1) year.
- 6) Any order, special exception, or variance granted by the Board shall expire either one (1) year from the date of approval, or when the necessary improvement location permit(s) expire, whichever date comes later.
- 7) The Board may grant extensions or renewals for a period of time as determined by the Board to be appropriate.

Article 5: Meetings

- 1) Meetings shall be at the call of the Chairperson and at other times as the Board may determine. The meeting shall normally be devoted to the consideration of petitions for variances, special exceptions, appeals, changes of non-conforming use or other legitimate request deemed to fall within the Board's authority, and shall be open to the public. Discussions of zoning in general, the introduction of resolutions by the Board, routine business and administration, and policy determination shall be considered as time permits.
- 2) A majority of the members (at least three (3)) shall constitute a quorum. No action shall be official unless authorized by a concurring vote of at least three (3) members.
- 3) It shall be the policy of the Board that no member who has direct or indirect monetary or other personal interest in any project or petition being considered officially by the Board shall in any way act or vote upon such project or petition, but shall signify such interest and be excused from the Board's proceedings as they apply thereto. The minutes of such meetings shall clearly indicate the non-participation of such members.
- 4) All Board meetings shall be open to the public.
- 5) Public hearings shall be held within a reasonable time after the receipt of an application. However, the public hearing shall not be held sooner than ten (10) days after the application's receipt.
- 6) Notice of public hearing, including written notice to parties of interest, shall be made as required by Section 10.02 of the McCordsville Zoning Ordinance.

- 7) No petition shall be introduced for consideration after 10:00pm. Agenda items remaining on the agenda shall be automatically placed at the beginning of the agenda at the next regularly scheduled meeting of the MBZA.
- 8) The order of business at regular monthly meetings shall be as follows:
 - a) Roll call of members present;
 - b) Approve minutes of previous meetings as required;
 - c) Public hearings on petitions and other business as scheduled by the Administrative Officer;
 - d) Correspondence and reports;
 - e) Unfinished business;
 - f) New business
 - g) Adjournment.
- 9) The order of business at special meetings shall be as follows:
 - a) Roll call of members present;
 - b) Statement of business as scheduled by the Administrative Officer;
 - c) The special business;
 - d) Adjournment.
- 10) In the conduct of public hearings the Chairperson shall:
 - a) Request the Administrative Officer to present the petition, with a brief background and graphic illustrations;
 - b) Recognize the petitioner, clarify the petition as required so all present understand, and swear in the petitioner.
 - c) Recognize those appearing on behalf of the petitioner.
 - d) Recognize those appearing against the petitioner, including any questions about the petition.
 - e) Allow presentations, questions/comments, and rebuttal as follows:
 - i) Ten (10) minutes for the petitioner to present their case;
 - ii) Ten (10) minutes for attendees to question/comment;
 - iii) Five (5) minutes for government/public elected officials to comment;
 - iv) Five (5) minutes for the petitioner to answer questions and offer rebuttal.
 - v) Ask the Board members if there are any questions regarding the petition.
 - vi) Call for any motions from Board members regarding the petition, and call for a vote on any such motions.
 - vii) Call for a vote on the petition and announce the decision.
- 11) In reaching a decision on a petition, the Board shall recognize its responsibility to promote the health, safety, and general welfare of the residents of the entire Town. It shall recognize that the burden of proof for a variance, special exception, change of non-conforming use, appeal or other legitimate petition lies with the petitioner and that all decisions must be based on an analysis of the fact and consideration of the remonstrance's as presented at the hearing, and the requirements of the Zoning Ordinance.

Article 6: General Meeting Conduct and Procedures

- 1) Every person appearing before the Board shall abide by the order and direction for the Chairperson. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privilege of the Board, and shall be dealt with as the Chairperson deems fair and proper.
- 2) The Board reserves the right to impose time restrictions for presentations by petitioner, remonstrator, or any interested municipal or governmental entity.
- 3) The Board reserves the right to continue any petition, if during the course of the hearing, the Board receives new information by either testimony, documents, or in any other format which it deems significant and which it is believed additional time is needed to properly evaluate and assimilate.
- 4) Prior to the hearing a petition before the Board, an inspection of the property involved in said petition shall be made by either Board members, the Plan Director, or a combination of the two. The results of the

inspection shall be presented at the hearing. The results as presented will be included as part of the minutes of the hearing.

Article 7: Filing of Petitions

- 1) All petitions to the Board shall be filed with the office of the Administrative Officer on the approved forms at least fifteen (15) days prior to the date of the hearing. A legal notice of the public hearing shall be published by the petitioner in a newspaper of general circulation within Hancock County at least ten (10) days prior to the hearing at the expense of the petitioner. Notice of such hearing shall be served by the petitioner to abutting property owners at least ten (10) days prior to the hearing. Proof of such advertising and notification of abutting property owners shall be filed with the office of the Plan Director prior to the hearing.
- 2) A "Notice of Hearing" sign provided by the Plan Commission shall be posted by the petitioner on the property within fifteen (15) feet of the road easement and clearly visible from the road or street for at least ten (10) days prior to the hearing. Failure to comply with the above requirements shall be grounds for continuing the petition until the next regularly scheduled public hearing of the Board. Appeals filed with the Board must meet the same requirements, including legal notice advertising requirements. A deposit of one hundred dollars (\$100.00) is required for the sign.
- 3) All petitions filed with the Board shall be accompanied by the required filing fee.
- 4) All petitions must include the following items:
 - a) Name and address of the petitioner and the notarized signature of the petitioner.
 - b) Affidavit of Notice of Public Hearing including the list of property owners notified by certified mail.
 - c) The legal description of the property.
 - d) The date the property was purchased by the petitioner.
 - e) A statement as to the purpose of the petition.
 - f) Location of the property by road numbers and how the property is zoned.
 - g) Seven (7) copies of a plat map or accurate drawing, drawn to scale, of the property, including location, dimensions of the property, all buildings, setbacks, parking areas, the location of septic systems and wells, if applicable, and the proposed changes.

Article 8: Officers, Plan Commission Records

- 1) A Chairperson shall be elected at the first regular meeting of the Board in each calendar year. The chairman shall preside at all regular and special Board meetings.
- 2) A Vice-Chairperson shall be elected in the manner prescribed for the President and shall have the authority to act as Chairperson during the absence or disability of the President.
- 3) A Secretary shall be elected in the manner prescribed for the Chairperson and Vice-Chairperson and shall have the authority to act as President during the absence or disability of the Chairperson or Vice-Chairperson.
- 4) The Administrative Officer shall cause minutes of the Board's meetings to be maintained in a permanent volume, notice to be served of all public hearings, and notification to be served to all members of all meetings.
- 5) A Recording Secretary shall be appointed by the Plan Director. The Recording Secretary, subject to the direction of the Chairperson and the supervision of the Plan Director, shall record all examinations and other official actions including all important facts pertaining to each meeting and hearing, all resolutions or motions acted upon by the Board, final determination on any question, indication the names of any members absent or failing to vote. All records shall be public and shall be immediately filed in the office of the Recording Secretary.

Article 9: Amendments of Rules and Procedures

- 1) Amendments to these Governing Rules, Policies and Procedures may be made by the Board at any regular or special meeting upon the affirmative vote of a majority of the members. Any amendment to the governing

rules must be presented at least thirty (30) days prior to voting on the amendment. The suspension of any rule or procedure may be ordered at any meeting by a unanimous vote of those present.

Article 10: Adoption and Amendment History or Rules and Procedures

1) Adopted: _____

2) Amended: _____

Attest:

Administrative Officer: _____
Date

Chairman: _____
Date

Vice-Chairman: _____
Date

Secretary: _____
Date