

**MARSHVILLE PLANNING BOARD/  
BOARD OF ADJUSTMENT MINUTES  
June 13, 2022 - 7 PM.**

**Planning Board Minutes**

**In Attendance:** Chairperson Susan Drake, Board Members Rusty Johnson, Tracy Stancil, Tom Appenzeller, and Nancie Mandeville.

**Staff in Attendance:** Planning and Zoning Administrator Jonathan Wells and Town Clerk Ann Sutton.

**Call To Order (Planning Board):** The meeting was called to order by Chairperson Susan Drake. Board Member Johnson gave the invocation, and all gave the Pledge of Allegiance.

**Consent Agenda:** Board Member Rusty Johnson made a motion to approve the May 9, 2022 Planning Board Minutes with a change concerning bona fide farms. In the bona fide farms discussion on May 9, the wording should say that jurisdictions struggle to find ways to meet the bona fide farm requirements. Chairperson Drake suggested that bona fide farms be put on a future agenda for discussion. A second to the motion to approve the May 9, 2022 minutes, with changes, was made by Board Member Appenzeller. All ayes.

**Discussion on Rules of Procedures:** Planning and Zoning Administrator Wells ensured all had copies of the draft Rules and Procedures for the Planning Board. He stated the Rules and Procedures that were available to him predated the 160D changes and the changes in the Municipal Development Ordinance. However, the Municipal Development Ordinance does allow the Planning Board to adopt its own rules and procedures with the approval of the Town Council. Chairperson Drake reminded everyone that once the procedures are approved, there should be a copy in each board member's book. Chairperson Drake also thought it should be posted on the website to give prospective board members an idea of how the Board operates.

Planning and Zoning Administrator Wells wanted to bring the Rules and Procedures in alignment with the 160D changes and the Municipal Development Ordinance. He changed the name of chairman to chair throughout the document to be gender-neutral.

After discussing Article 2 Section 2, all agreed on the duties and powers of the Planning Board.

*The ~~purposes~~ duties and powers of the Planning Board are as follows:*

*(A.) To provide recommendations to the Town Council with regard to map amendments (rezoning), text*

*amendments, and other matters on which the Town Council seeks advice;*

- (B.) To update Town Plan 2035 for the planning and development regulation jurisdiction, including any extraterritorial territory under its jurisdiction, subject to specific direction from the Town Council;*
- (C.) To render opinions and make recommendations on all issues, requests, and petitions related to the Marshville Development Ordinance and the Town Plan 2035 that may be adopted and/or amended from time to time and that require approval by the Town Council; and*
- (D.) To make such other studies and plans and review such other related matters as directed by the Town Council.*

Council Member Johnson asked if board appointments begin in July, should the election of officers also be in July? Planning and Zoning Administrator Wells said that was an excellent point since July will be the first organizational meeting, and there may be new appointments. Chairperson Drake agreed that the election of officers should be in July now that appointment dates had changed to the same month (previous rules and procedures had the officer elections in April). Chairperson Drake suggested that the appointed dates for each member be on the sign-in sheets, so the board member will know exactly when their term expires.

Chairperson Drake asked about the appointment of three-year terms. Mr. Wells said that we had fixed that problem in this current appointment. Mr. Wells reminded all that Board Member Johnson will be reappointed in one year, and the ETJ members are being reappointed by Union County for three years. Nancie Mandeville was just appointed, so her position will be reappointed in two years. Therefore, the appointments will be staggered from here on.

Council Member Johnson spoke about Article 6 Section 2 concerning unexcused absences. If consecutive absences occur, does the Town Council remove the member, or is it up to the Planning Board to remove that person? Planning and Zoning Administrator Wells said it was up to the Planning Board to vacate that position. However, the Planning Board does not have the authority to appoint someone to that position. Town Council is responsible for Planning Board appointments. Board Member Johnson asked if the Town Council appointed a Planning Board member, should the Town Council not have them taken off the Planning Board if there is a reason to do so? Chairperson Drake asked that Mr. Wells see if he could reword the section to say that the Planning Board would recommend a person be removed from the Board due to unexcused absences.

Planning and Zoning Administrator Wells asked if everyone wanted to keep the wording of Article 7 Section 1. Board Member Mr. Appenzeller liked the meeting date of the second Monday of each month. All others liked the consistency of the meeting time.

A discussion was had concerning a quorum. There was confusion on what constituted a quorum. Mr. Wells and the Town Clerk will look at the definition of this discussed at the next meeting.

There was also confusion with Article 8-1. The sentence "Only unexcused Planning Board members present at a duly convened meeting shall be eligible to vote." Planning and Zoning Administrator Wells will review and possibly rewrite the sentence. Chairperson Drake also pointed out that Article 8 Section 5 had the wording of "non-excused member" being used instead of unexcused. Non-excused will be used throughout Article 8 to be consistent.

Changes were made to Article 8 Section 6 to change (a) to Call to Order and (b) Determination of Quorum. Chairperson Drake recommended Mr. Wells look at other rules and procedures and come back with recommendations.

Board Member Johnson would like an invocation for each meeting. Board Member Appenzeller said that we could do that, but it should not be a part of the order of business because of the division of church and state. We can still have an invocation, but it does not have to be a part of the printed order of business in the rules and procedures book. Chairperson Drake asked that Mr. Wells and Town Clerk Sutton look into the legality of prayer at government meetings and bring back the information at the next meeting.

Board Member Johnson asked why Public Comments are at the end of the agenda. Chairperson Drake said it was decided to be placed at the end of the agenda because people attending the meetings had questions about things they heard. Board Member Johnson reminded all of the long meeting that was held recently where a citizen had to sit through the meeting to address the Board on a subject that was not discussed at the meeting. Planning and Zoning Administrator Wells suggested that prior to the approval of the agenda, a board member could add "public comments" to the agenda based on information that the board member has been made aware of. The agenda could be adopted with the added public comments item at the beginning of the meeting. The board members would like to keep public comments at the end of the meetings. If someone would like to speak at the beginning of the meeting, they could notify us ahead of time. The Board could then make an addition to the agenda prior to approval.

It has been brought to Chairperson Drake's attention that there is a halfway house at 312 E. Main Street. Halfway houses are not allowed in the jurisdiction. The house could be operating as a family care center or a group home. She would like for Planning and Zoning Administrator Wells to look into this concern.

Planning and Zoning Administrator Wells said that he went to the Town Board to ask that the appointments to the Planning Board and Board of Adjustments be on July 1 of each year to coincide with the fiscal year. He also asked that the terms be staggered. Here is what appointments were made:

Susan Drake - June 30, 2024

Rusty Johnson – June 30, 2023

Nancie Mandeville – 2025 (will realign in the fall when a new appointment is made to carry her to June 30, 2025)

Tom Appenzeller and Tracy Stancil -2025 with Union County's approval

This will be appointments for both boards. No term will be longer than three years. We have two vacancies. Board Member Appenzeller would like a business owner on the Board. Mr. Wells said they might not have voting rights or privileges due to a possible conflict of interest.

**Public Comments:** no public comments

**Adjournment:** Board Member Johnson made a motion to adjourn the meeting. Board Member Appenzeller seconded this. All ayes. 8:25 pm

## **Board of Adjustments Minutes**

**In Attendance:** Chairperson Johnson, Board Members Susan Drake, Tracy Stancil, Tom Appenzeller, and Nancie Mandeville.

**Staff in Attendance:** Planning and Zoning Administrator Jonathan Wells and Town Clerk Ann Sutton.

**Board of Adjustment Call to Order:** Chairperson Johnson called the meeting to order.

**Discussion on Rules of Procedures:** Planning and Zoning Administrator Wells ensured all had copies of the draft Rules and Procedures for the Board of Adjustments. Planning and Zoning Administrator Wells wanted to bring the Rules and Procedures in alignment with the 160D changes and the Municipal Development Ordinance. He changed the name of chairman to chair throughout the document to be gender-neutral. In addition, Mr. Wells made minor tweaks to make the document a little easier to understand.

Board Chair Johnson asked about alternates for the Board of Adjustments. Mr. Wells said that alternates should be at all meetings but could not vote unless there was an absent board member. The alternate must be at all meetings so they would know the cases brought before the Board of Adjustments.

Board Member Johnson asked who was responsible for enforcing the ordinances. If there is one, Mr. Wells said it would be himself, the Land Use Administrator, or the Code Enforcement Officer.

After discussion, it was determined that, if necessary, Board of Adjustment meetings would meet on the fourth Monday of the month. The Board of Adjustments would not meet unless a case was presented.

There was a discussion of the need to have the meetings open to citizens who would need to plead a case or present evidence.

Concerning the Conduct of the Meetings, it was decided to remove (d) Other Business.

Board Member Appenzeller asked if Public Comments are needed in the Conduct of Meetings? Planning and Zoning Administrator Wells reminded all that Board of Adjustment meetings are judicial meetings based on fact and not opinion or hearsay. So Public Comments would not have a purpose in the Board of Adjustment meetings.

Board Member Johnson asked about a quorum concerning the Board of Adjustment meetings. Mr. Wells referred to Article 160D, which stated that four-fifths of the sitting members of the Board should be necessary to grant a variance; otherwise, a simple majority of the Board members are required to affirm, etc. Mr. Wells will research to see if he can make this information clearer to the reader.

Board Member Mandeville referred all to page 9 under Conduct of Hearing. Board Member Mandeville questioned whether or not the first paragraph under F meant there could be public comments. Chairperson Drake referred the Board to the second paragraph in F stating that any person wanting to

Speak or present evidence must be under oath. The Chairperson has the right to call the speaker out of order if the speaker offers an opinion or hearsay. Public Comments should be at the Planning Board meetings. Under oath, facts and evidence should be presented at the Board of Adjustment meetings.

Planning and Zoning Administrator Wells will work on clarifying the items discussed in the Rules and Procedures document and bring it back to the Board.

### **Other Business:**

Planning and Zoning Administrator Wells said that he has received a number of calls concerning modular homes. These are different than manufactured and mobile homes. He thinks it would be prudent to formulate a definition for modular homes. So he will work on a definition to present to the Planning Board.

Planning and Zoning Administrator Wells has been approached by someone who would like to be a CBD dispenser/outlets. This is not in the Table of Uses, so he hopes to come back with information on this item.

Mr. Wells needed to schedule a Board of Adjustment meeting. All agreed on the fourth Monday in July, which will be July 25<sup>th</sup>.

Board Member Appenzeller nominated Board Member Johnson to be the Board of Adjustment Chair. Board Member Mandeville seconded the motion. All ayes.

Board Member Mandeville nominated Board Member Appenzeller to be Vice-chair of the Board of Adjustment. Board Member Stancil seconded the nomination. All ayes.

Board Member Appenzeller asked Mr. Wells to get an update on Ms. Allies' beer and wine application.

Board Member Johnson asked for a preview of the Board of Adjustment meeting on July 25<sup>th</sup>. Planning and Zoning Administrator Wells said that it was a variance request for a sign deminitional change at a new business on Hwy 74. The new business is between 120 and 140 feet from Highway 74. Based on our ordinances, the request says the sign can not be seen from the road. The business owner wants a bigger sign.

**Adjournment:** Board Member Appenzeller made a motion to adjourn the meeting. Board Member Stancil seconded the motion. All ayes.

