



# **MARVIN BOARD OF ADJUSTMENT RULES OF PROCEDURE**

*Adopted April 21, 2026*

## **I. General Rules**

The Zoning Board of Adjustment (hereinafter referred to as the “Board”) shall be governed by the terms of Chapter 160D of the General Statutes of North Carolina and by the Marvin Development Ordinance (MDO). All members of the Board shall thoroughly familiarize themselves with these laws. The Board, being a public body, shall at all times conduct meetings in conformity with the applicable Open Meetings Law statutes.

## **II. Officers & Duties**

### **A. Appointments**

The Board of Adjustment shall consist of five (5) regular members and two (2) alternate members, each appointed by the Village Council. Persons may be appointed to the same position for successive terms. Members of the Board must be at least 18 years of age to serve.

The alternate members of the Board shall be requested to attend all regular and special meetings and shall be able to cast a vote when a regular member of the Board is absent or if any Board member has a conflict of interest.

Once appointed by the Village Council, the alternate members shall be assigned numbers “1” and “2” by the Chair. The following system shall be employed for using alternate members:

*Member “1” shall first be asked to serve. If he/she is absent or has a conflict of interest, Member “2” shall be asked to serve. If Member “1” does serve, Member “2” will be first asked to serve at the next meeting. If Member “2” does serve, Member “1” will be asked to serve at the next meeting. If Member “2” is asked to serve, but is absent or has a conflict of interest, Member “1” shall serve.*

### **B. Elections**

A Chair and a Vice Chair shall be elected by majority vote of the regular Board membership. Each officer shall serve for a one (1) year term but may be elected by the Board membership for successive terms to the same office. Annually, at the regular meeting of the Board held in the month of March, a Chair and Vice Chair shall be elected. Each officer shall serve until relieved of his duties as herein provided.

### **C. Duties**

The Chair shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chair shall appoint any committees found necessary to investigate any matters before the Board. The Vice Chair shall serve as acting Chair in the absence of the Chair, and at such times he/she shall have the same powers and duties as the Chair.

### **D. Secretary**

The Village Council shall arrange to have secretarial duties performed for the Board. Said persons(s) (hereafter referred to as the “Secretary”), subject to the direction of the Chair, shall take minutes and keep all records. The Secretary shall conduct all correspondence of the Board, arrange for all public notices required to be given, notify members of pending meetings and their agenda, notify parties to cases before the Board of its decision on such cases, and generally supervise the clerical work of the Board. The Secretary shall keep in a permanent volume the minutes of every meeting of the Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any question, indicating the

names of members absent or failing to vote. If the Secretary is chosen from outside the membership of the Board, he/she shall not be eligible to vote upon any matter. The minutes and records of the Board of Adjustment shall be kept in the Office of the Village Clerk.

### **III. Rules of Conduct for Members**

#### **A. Removal**

Members of the Board may be removed for cause, including violation of the rules stated below herein.

#### **B. Attendance**

In order for the Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any regular member is absent for two (2) consecutive meetings, the Chair may direct the Secretary to notify such member in writing of his absences and if such member fails to attend the next meeting, the Board of Adjustment may, by a majority vote of the remaining regular and alternate members, request that the position be vacated and also request that a replacement be made by the Village Council.

#### **C. Conflicts of Interest**

Every member shall disclose any conflict of interest to the Board at commencement of any decision before the Board and the Board will make a determination on recusal. An interested party may also challenge the existence of a conflict of interest by any member of the Board. A member having a conflict as determined by the Board shall refrain from any deliberation on the matter and leave the Board designated seating area during such deliberation and vote. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a direct or indirect financial interest in the outcome.

#### **D. Discussion of Board Cases**

Board members shall refrain from discussing upcoming matters of business with any parties, including other Board members, prior to the meeting at which such items are to be publicly discussed; provided however, that members may receive and/or seek general technical information pertaining to the case from the Secretary or Zoning Administrator prior to the Board meeting at which the case is to be heard.

### **IV. Meetings**

#### **A. Regular Meetings**

Meetings of the Board shall be held at the Village of Marvin Village Hall as meetings warrant provided that meetings may be held at any other conveniently located place in the Marvin area as directed by the Chair in advance of the meeting. The Secretary shall notify each member (including the alternate members) of each meeting.

#### **B. Special Meetings**

Special meetings of the Board may be called at any time by the Chair, Vice Chair, or two (2) Board Members provided that at least forty-eight (48) hours written notice of the time and place of a special meeting be given, by the Secretary, to each member of the Board including the alternate members.

**C. Voting**

A four-fifths vote of the members shall be required to grant a variance; otherwise, a simple majority of the Board membership shall be required to affirm, reverse or modify any written order, decision, or interpretation of the Village administrative official; to decide in favor of the applicant on a matter [other than variances] upon which the Board is required to pass. Vacant positions on the Board and members who are disqualified from voting on a matter before the Board shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. No Board member shall vote on any matter deciding an application or appeal unless he/she shall have attended the public hearing on that application.

**D. Order of Business**

All meetings shall be open to the public. The order of business at meetings shall be as follows:

1. Call to Order
2. Adoption of the Agenda
2. Adoption of the Previous Minutes
3. Hearing of Cases
4. Other Business
5. Adjournment

**E. Continuation of Meetings**

Meetings may be continued from one date to another provided that the reconvened meeting is held in a conveniently located meeting site in the Marvin area.

**V. Appeals, Variances, Public Hearings**

**A. Types of Appeals; Variances**

The Board shall hear and decide all appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. The Board shall hear and decide petitions for variances from the MDO and other such ordinances as provided in the MDO.

**B. Procedure for Filing Appeals and Variance Applications**

Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision to the Board. The Board shall hear no appeal unless a completed application for an appeal is filed within thirty (30) days after the interested party or parties received written notice of the order, requirement, decision, or determination by the Zoning Administrator. Applications for variances and appeals shall be heard no less than fourteen (14) days after the completed application is filed with the Zoning Administrator. Provided, however, that the Board shall hear the case within thirty-six (36) days from the date of submittal of the complete application. All applications shall be made upon the form furnished by the Village for that purpose, and all information required thereon shall be complete before an application shall be considered as having been filed.

**C. Fees**

A fee, in accordance with a fee schedule adopted by the Village Council, shall accompany an application for an appeal or variance. No application shall be considered complete unless accompanied by the fee as herein prescribed.

**D. Public Hearing Mandate**

A public hearing conducted by the Board shall be required to decide all appeals and interpretations and to grant any variances to the terms of the Ordinance.

**E. Conduct of Hearing**

Any Board public hearing shall be conducted in a quasi-judicial manner. Any party may appear in person or by agent or by attorney at the hearing. The Chair shall place all persons presenting evidence before the Board under oath and the opposing party may cross-examine them. Unless otherwise determined by the Chair, the order of business for public hearings shall be as follows:

1. The Chair or such person as he/she shall direct, shall give a preliminary statement of the case.
2. Persons giving testimony shall be asked to be sworn in.
3. Village staff shall present background information and evidence.
4. The applicant shall present the argument in support of his application.
5. Persons opposed to granting the application shall present the argument against the application.
6. Other persons in favor of granting the application shall present the argument for the application.
7. Both sides will be permitted to present rebuttals to opposing testimony.
8. The Chair, or his designee, shall summarize the evidence that has been presented, giving parties the opportunity to make objections or corrections.
9. The Chair shall close the period for public discussion. The Board shall publicly discuss the case without further input from the public. Board members, however, may seek input, clarification, etc. from persons eligible to give evidence who are seated in the audience on any piece of evidence heretofore presented. Cross examinations and rebuttals may be made only on any such new evidence presented. Opinion testimony from lay witnesses shall not be considered competent evidence for matters requiring expert testimony, such as property value impacts or complex traffic engineering,
10. The Board shall render a decision on the matter or, if it chooses, continue the public hearing to a publicly stated date, time, and location at least forty-eight (48) hours thereafter. A final decision on a case shall be made no later than thirty (30) days after the public hearing was opened or at the next regularly scheduled meeting of the Board of Adjustment following the hearing, whichever occurs later.

The Chair shall have the authority to put fair and reasonable time limits on persons speaking at the public hearing to facilitate discussion and to have the meeting conducted in a time-efficient manner. Only persons with standing as defined pursuant to N.C.G.S. § 160D-1402(c) shall have the right to participate as a party at the hearing.

**F. Decisions**

Written notice of the decision in a case shall be sent by certified mail or hand-delivered to the applicant and to every aggrieved party who has filed a written request for such notice with the Secretary or the Chair when the hearing is held by the Secretary, within five (5) working days after the case is decided. The final decision of the Board shall be filed in the Village Clerk's Office. The final decision shown in the record of the case shall be entered in the minutes of the Board. Such record shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made by the Board.

**G. Appeal**

Any person or persons, jointly or severally, aggrieved by any decision of the Board, may, within thirty (30) days after the Board's decision has been filed or after a written copy thereof is delivered to every

aggrieved party who has filed a written request for such copy with the Secretary or Chair at the time of its hearing of the case, whichever is later, present to a court of competent jurisdiction a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality, whereupon such decision of said Board shall be subject to review by the Superior Court by proceedings in the nature of certiorari as provided by law.

## **VI. Amendments**

The Board may vote to amend these rules at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meetings stated purposes. Any amendment to these rules must not violate any relevant statues, MDO, or other generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the Board's members and approved by a majority of Village Council.

### **Adoption and Amendment History**

*Adopted September 21, 2000.*

*Amended January 16, 2007.*

*Amended February 23, 2010.*

*Amended April 21, 2026.*

**APPENDIX A  
RULES OF PROCEDURE  
FOR ELECTRONIC MEETINGS OF MARVIN VILLAGE COUNCIL**

The Village Council of the Village of Marvin, North Carolina, recognizes that Article 33C of Chapter 143 of the North Carolina General Statutes contemplates that official meetings of public bodies, such as the Marvin Village Council, may take place by electronic means. In fact, §143-318.10(d) of the North Carolina General Statutes states that an official meeting can, “mean[s] a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body.” The Rules of Procedure for Electronic Meetings are a guide for how Council will conduct meetings featuring electronic participation.

**1. Meetings to Which These Rules Apply**

These Rules of Procedure for Electronic Meetings (“Electronic Rules”) shall apply to meetings of the Marvin Village Council and to any other public bodies existing under the authority of the Village of Marvin (as such bodies follow Village Council’s rules). The Electronic Rules are supplemental to the Rules of Procedure approved by the Village Council for its meetings. /Electronic Meetings can take place for any regular, special, or emergency meeting of the Marvin Village Council, subject to the conditions governing the use of Electronic Meetings.

**2. Conditions Necessary for Electronic Meetings**

The Village Council agrees that electronic meetings will only be permitted when any of the following entities declare that a state of emergency or a disaster exists in an area including the Village of Marvin: the federal government of the United States of America; the Government of the State of North Carolina through the Governor of the State of North Carolina or other method permitted by Chapter 166A of the North Carolina General Statutes; Union County, North Carolina; or the Village of Marvin, through the Mayor or other methods permitted by Chapter 33 of the Marvin Village Code. The state of emergency declaration or disaster declaration must be related to a distinct event that reasonable persons can agree directly affects the Village of Marvin (for example, a determination that an emergency exists under the National Emergencies Act related to piracy conducted by Somali pirates would not reasonably be related to the Village of Marvin and cannot support use of electronic meetings). If no state of emergency or disaster exists, then the Electronic Rules may not be used.

**3. Definition of an Electronic Meeting**

An Electronic Meeting is any meeting where one or more members of the Village Council participates through telephonic communication, or a telecommunications application which allows simultaneous communication by multiple parties, or other similar means that allows the members of the Village Council to hold a meeting without all members being physically present in the same room.

**4. Notice of Electronic Meeting**

If an Electronic Meeting is necessary, a public notice of the electronic meeting shall be sent as part of any notice required by North Carolina General Statutes §143-318.12. The public notice, in addition to the information required by North Carolina General Statutes §143-318.12, shall provide:

- (a) The location of the physical meeting (which is where any Councilmembers and Staff able to attend the meeting in person shall gather); and

- (b) The location of where a member of the public, member of the media, or others, may listen to the Electronic Meeting in accordance with § 143-318.13 of the North Carolina General Statutes.

The notice shall be provided in the manner required by Article 33C of Chapter 143 of the North Carolina General Statutes. If the Electronic Meeting is being used for any part of a regular meeting that is on the meeting schedule adopted by the Village Council, then the information required above shall be provided in a separate notice to be provided in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes. Any notice provided may also be posted on the Village of Marvin's bulletin board, website and social media accounts, if possible.

**5. Quorum**

Councilmembers present in person or electronically, shall be included in the calculation for determining if a quorum exists of the Village Council. If a Councilmember who participates electronically withdraws from the meeting, the rest of the meeting may be completed provided there is still a quorum of the Village Council present either in person or electronically. Any Councilmember withdrawing from the meeting shall no longer be included for purposes of the quorum calculation.

**6. Process of Opening Meeting**

Immediately prior to opening the meeting, the Mayor, Mayor Pro Tem, or other presiding officer shall communicate with the Councilmember(s) who is (are) participating electronically and ensure that he/she is prepared to go forward. From that time forward until the adjournment of the meeting, the communication line or application shall be kept open. At the start of the meeting, the Mayor, Mayor Pro Tem, or presiding official shall state which Councilmembers are participating electronically.

**7. Voting and Discussion**

Councilmembers present for the meeting through electronic means are eligible to vote for all items considered by the Village Council during the meeting. However, Councilmembers present for the meeting through electronic means will not be permitted to vote on any quasi-judicial matters coming before the Council. Also, a member voting must indicate verbally with a "yes," "no," "yea," "nay," "or abstain" (when that is permitted) such that the Village Clerk or her designee may record the vote. Prior to taking a vote on any issue, the Mayor, Mayor Pro Tem, or other presiding officer shall inquire of the Councilmembers participating electronically if he or she has been able to adequately monitor the discussion, including comments from the public, if any, and shall allow those Councilmembers to make any comments he or she desires, if they chose to not avail himself or herself of the opportunity to discuss the matter before the vote. However, it is the responsibility of the member to gain the attention of the Mayor or the presiding officer in order to be recognized for discussion. A Councilmember attending through electronic means that withdraws from the meeting without being excused from further attendance shall not be considered an affirmative vote on items before Council. If a Councilmember attending through electronic means becomes disconnected from the meeting, the Councilmember will not be counted as an affirmative or negative vote.

**8. Minutes**

The minutes of the meeting shall designate the name of each Councilmember who participated electronically, the nature of the electronic communication, and the duration of the Councilmember's participation.

*Adopted April 7, 2020, by the Marvin Village Council for all advisory boards.*

## **APPENDIX B MEDIA GUIDANCE**

**Purpose:** The purpose of this document is to provide recommendations for how the Village of Marvin engages with media outlets. This document is intended solely as guidance and should not be interpreted as formal policy or binding requirements. It is designed to suggest best practices for consistent, accurate, and effective communication while allowing flexibility in response to specific situations. This guidance is strongly encouraged but not mandatory.

**Definition of Media:** “Media” is hereby defined as any publication or broadcasting outlet that reports news on the Village of Marvin, including but not limited to newspapers, magazines, radio, television, and other digital or internet-based outlets or podcasts.

**Exemptions:** Social media content and press releases posted or issued by the Village of Marvin for official communications, public information, or community awareness purposes are exempt from this guidance.

**Media Inquiries and Designation of Official Spokespersons:** To ensure clear, accurate, and balanced communication with the media, the following guidance should be used when responding to media inquiries on behalf of the Village.

- **Initial Point of Contact:** All media inquiries should be promptly forwarded to the Village Manager upon receipt. For awareness, the Village Manager will notify all council members that an inquiry has been received.
- **Spokesperson Designation and Guidelines:** At the time of the inquiry, the Village Manager will determine the appropriate staff spokesperson based on the subject matter and nature of the request. When possible, the Manager should clarify the general topic or types of questions being asked.
  - For factual matters, operational matters, emergencies, emergency responses, personnel issues, and legal matters, the Manager may respond directly.
  - When the inquiry requires subject-matter expertise (such as planning/zoning, public works, or other technical areas), the Manager may designate the appropriate staff member to serve as spokesperson.
  - For inquiries with political, policy interpretation, or balance considerations, the Mayor or Mayor Pro Tempore (if Mayor cannot respond in a timely manner) should coordinate with council members to ensure messaging reflects appropriate balance and alignment.
- **Authorized Spokespersons:** The following individuals may speak in an official capacity on behalf of the Village:
  - Village Manager (primarily for factual/operational information) or his/her designated staff member.
  - Mayor or Mayor Pro Tempore (in Mayor’s absence) (primarily for policy setting or governance matters).
  - Council members are authorized to speak in their official capacity and should endeavor to do so in a manner that maintains balance and fairness.
  - Advisory board members are not recommended to serve as official spokespersons for the Village.
  - Only designated spokespersons should issue official statements, conduct interviews, or provide comments on behalf of the Village.
  - Village staff, Council members, and Advisory Board members may participate in media interviews in their personal capacity on matters of public concern, provided the discussion is outside the scope of their official authority or job responsibilities.

*Added by Village Staff, with consent of the Marvin Village Council on March 16, 2026, for all advisory boards.*