

City Of Marshalltown

Sidewalk Deferment Application Packet

24 N. Center Street, Marshalltown, IA 50158

Ph: 641-754-5756 Fax: 641-754-5742

www.ci.marshalltown.ia.us

Purpose: The Marshalltown Code of Ordinances include specific development standards for sidewalks. There are occasions, however, when the strict application of such standards may be inappropriate because of unique characteristics of the property. The deferment procedure is designed to permit adjustments to this requirement when there are unique or extraordinary circumstances applying to a parcel of land that prevent the practical installation of a sidewalk. The circumstances under which a deferment may be granted can be found in Section 26-45 of the Marshalltown Code of Ordinances.

Application Packet: Applications will not be accepted unless complete. All required items must be submitted with the application. Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

Submission Deadline: The Plan & Zoning Commission shall first review the proposal and make a recommendation to the Board of Adjustment. **Please refer to the attached deadline and meeting schedule. Attendance at all meetings is required.** The complete application with fee must be submitted by 5:00 p.m. on the deadline date to the Housing/Zoning Department Office, located on the first floor of City Hall, 24 N. Center St.

Board Meetings: The Board of Adjustment considers the facts presented by the applicant in the application and testimony given at the public hearing, and makes the final decision, based on the standards in the Ordinance. The Board meetings are held at 5:00 p.m. on the first and third Tuesday of each month in the City Council Chambers, second floor of City Hall, 24 N. Center St. Attendance at the meeting is required.

It is the burden of the property owner to provide sufficient facts with this application and at the Board of Adjustment meeting to support a finding that all the standards for approval have been met. The concurring vote of three (3) members of the Board is necessary to decide any issue before the board regardless of the number of members present at the meeting. The Board is a five (5)-member board. Appeals to the decision of the Board of Adjustment can be made in District Court.

All items listed must be submitted with this application:

Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

_____ **A site plan, drawn in ink and to scale, which clearly shows the variance being sought. This site plan shall not be larger than 11" X 17." And must include:**

- Dimensioned property lines indicating any easements;
- Location & identification of adjacent streets and alleys;
- Location and size of all existing and proposed buildings and structures (include distances to all property lines and distances between buildings and structures.);
- Dimensioned driveways and parking areas; and
- Any other pertinent information necessary to fully understand the need for a deferment.

_____ **Legal description of the property.** The property owner should have a copy of the legal description. If not, owners may obtain a copy of the recorded deed, which contains the legal description, from the Marshall County Recorder's Office for a fee.

_____ **Application fee.** A \$250 fee is required payable to "City of Marshalltown." The fee must be paid when the application is submitted to the Housing Department.

Date Submitted & Fee Paid: _____

Hearing Date: _____

Sidewalk Deferment Application Form

24 N. Center Street, Marshalltown, IA 50158 Ph: 641-754-5756 Fax: 641-754-5742
www.ci.marshalltown.ia.us

Please type or print legibly in ink.

Property Address:	
Owner or Agent:	
Mailing Address (owner or agent):	
Phone (owner or agent):	Fax (owner or agent):

1. Is the location of the proposed sidewalk adjacent to a street which has or will have curb and gutter;
 yes no

2. Does the location of the proposed sidewalk have grade and drainage problems which would significantly interfere with the construction of the sidewalk at that location (if yes, describe below or on additional paper).
 yes no

3. If the location of the proposed sidewalk is on non-residential or non-retail property, and neither 1 nor 2 above apply, answer the following:
 - a. Do pedestrian generators exist in this location (ex: School, park, church, retail center, etc.)?
 yes no

 - b. Do sidewalks or bike paths near the location allow for alternate pedestrian routes (if the proposed sidewalk is needed to connect area residential property to other sidewalks in the area the property is not eligible for a deferment)?
 yes no

Additional Comments and Information (attach additional as necessary):

Owner or Agent Signature:	Date:
---------------------------	-------

Marshalltown Board of Adjustment

Administrative Rules

In compliance with Section 414.9 of the Iowa Code and the City of Marshalltown zoning ordinance, which states the board of adjustment will adopt rules to carry out the provisions of the zoning ordinance, the following rules of procedure are hereby adopted by the City of Marshalltown Board of Adjustment.

Section 1.0 Officers and Staff.

The board of adjustment shall select from its membership a chairperson and vice chairperson who shall perform the usual duties pertaining to such offices.

1.1 Selection.

At the first regular meeting in January of each year, the board will select its officers from its membership. All officers are eligible for re-election.

1.2 Tenure.

The chairperson and vice chairperson shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.

1.3 Duties.

The chairperson shall preside at all meetings and hearings of the board, shall decide all points of order or procedure, and shall appoint any committees that may be found necessary. The vice chairperson shall assume the duties of the chairperson in the absence of the chairperson.

1.4 Secretary.

The secretary will be appointed by the City Council and shall be a city staff member or members. The secretary shall take the minutes at the board of adjustment meetings.

1.5 Zoning Administrator.

The zoning administrator shall conduct all official correspondence subject to these rules at the direction of the board, shall send out all notices required by these rules of procedure, keep on file the minutes of the board proceedings, and keep a file on each case that comes before the board. For all appeals and applicants, the zoning administrator shall issue the proper forms; compile information, maps and plats for the board's review; notify any property owner and other interested parties by mail of the time and place of the hearing; and any other duties as determined by the board.

Section 2.0 Meetings.

The annual meeting of the board will take place at the first regular meeting in January of each year. Regular meetings of the board of adjustment shall be at 5:00 p.m. on the first and third Tuesday of each month unless no cases are pending in which case no meeting shall be held. The zoning administrator shall give each member of the board 72 hours notice of such meeting by mail, fax or phone.

2.1 Special Meetings.

Special meetings may be called by the chairperson, or at the request of three members of the board of adjustment, or by the zoning administrator. Notice of the special meeting shall be given by the zoning administrator to the members of the board at least 24 hours prior to such meeting and shall state the purpose and time of the meeting.

2.2 Quorum.

A quorum of the board shall consist of three members.

2.3 Public.

All regular, special, and subcommittee meetings, public hearings records and accounts shall be open to the public.

2.4 Order of Business.

The zoning administrator shall prepare an agenda for each meeting. The order of business shall be as follows:

1. Roll call
2. Review of minutes of previous meeting
3. Communications
4. Report of committees
5. Unfinished business
6. New business
7. Adjournment

The board has the right to reorganize the agenda at the meeting as necessary.

2.5 Voting.

The concurring vote of three members of the board is required to reach a decision (no matter how many board members are present). Voting will be by roll call and will be recorded by yes and no. All members of the board, including the chairperson, are required to cast a vote for each motion. Minutes will show members absent for each vote. A member may abstain if he or she feels there is a conflict of interest, particularly if the conflict is of a financial nature. If a member elects to abstain from voting, he or she is required to state the reason for his or her abstention at the time of voting.

2.6 Unfinished Business.

When all appeals or applications cannot be disposed of on the day set (due to length of meeting or extenuating circumstances) the board may adjourn from day to day or until the next regular meeting as the board may decide.

2.7 Board Action.

The board may not vote on an appeal or application until all required information has been set forth on the forms and the hearing has been conducted.

2.8 Parliamentary Procedure.

Roberts Rules of Order, Revised will govern the board meetings.

Section 3.0 Cases to be Decided by the Board.

The following cases shall be made before the board of adjustment on forms provided:

1. **Appeals** when it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement of the zoning ordinance.
2. **Special exceptions** to the terms of the zoning ordinance upon which the board is required to act under the ordinance.
3. **Variance** to a zoning district requirement where there are unusual conditions and circumstances which cause a hardship when the provisions of zoning are strictly applied.

Section 4.0 Procedure for Hearing Cases.

The following rules will apply to all appeals or applications before the board.

4.1

Appeals to the board may be taken by any person, group, or by any officer or department of the city affected by any decision of the zoning administrator and by applicants for a special exception or variance.

4.2

The zoning administrator shall tell the applicant or interested party why the zoning or building permit was denied or why the application is necessary. He or she shall inform the applicant or interested party of the right to apply or appeal to the board and that it be made within 30 days. Such appeal shall be filed with the zoning administrator on the forms provided. The zoning administrator will transmit the completed appeal form along with all papers constituting the record upon which the board shall act.

4.3

The applicant shall complete the required forms, providing all information required by the form and any additional information as requested by the zoning administrator with proper payment of fees.

4.4

The zoning administrator shall reject any such application or appeal that is not filed within 30 days of the zoning administrator's decision. The zoning administrator shall reject any such application or appeal unless same are made on prescribed forms properly completed, with all required data attached.

4.5

An application or appeal filed according to the above procedure shall be added to the board's meeting schedule. New business will be assigned in the order in which it is received. The zoning administrator shall establish written deadlines for applications and attach to the necessary forms.

4.6 Notification.

The zoning administrator shall notify the parties of interest by mail of the time, place, and purpose of the public hearing and give at least ten (10) days public notice in a newspaper of general circulation. The City of Marshalltown will erect a sign at the property indicating a zoning request is pending as a courtesy to neighbors and the general public.

4.7 Meeting Location.

Hearings shall be held by the board of adjustment at the City Hall Municipal Building and are open to the public.

4.8 Appearance at Meeting.

At the time of the public hearing, the applicant may appear in his or her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the board will proceed to address the matter based on the forms and information provided.

4.9 Order of Hearings.

The order of the hearing shall be as follows:

1. The applicant's or appellant's side of the case
2. The zoning administrator's side of the case
3. Interested property owners' opinions
4. Public opinions
5. Applicant's rebuttal

4.10

After the hearing, the board shall deliberate the case. The board may ask its attorney for comments.

4.11

The applicant or appellant may withdraw his or her application or appeal at any time prior to the decision by the board of adjustment.

4.12

Final decision of any application or appeal shall be made in the form of a motion by any member of the board of adjustment. The motion may affirm, modify, or reverse the refusal of a permit by the decision of the zoning administrator. In the case of an application for variance or special exception, the motion shall set forth that the application is granted or denied and said motion shall specifically set forth what variances or special uses are permitted and what conditions, if any, must be met.

4.13

Without unreasonable delay, the board shall make its decision at a public meeting.

4.14 Rehearings.

A rehearing of any decision of the board of adjustment may be made if any of the following occur:

1. The motion to reconsider is made by a member of the board and carried by not less than three affirmative votes, or
2. New evidence is submitted that could not reasonably have been presented at the original meeting, or
3. The applicant initiates a new application in the case of a variance or special use.

Section 5.0 Records.

The zoning administrator shall keep records showing the status of all meetings, cases, and minutes as part of the records of the board of adjustment. The zoning administrator shall keep a file of all cases including forms and additional information as a part of the legal records. All records of the board shall be public information.

Section 6.0 Amendments.

In order to amend these administrative rules, a motion must be made by a member of the board and carried by not less than three affirmative votes. Such proposed amendments shall be presented in writing at any regular meeting of the board of adjustment.

Section 7.0 Informal Advice.

The board will not consider a request (informal or not) for advice on theoretical or actual situations that potentially may later come before the board as an appeal or application.

Chair, Board of Adjustment

Date Adopted