

ARTICLE XXIV

ZONING BOARD OF APPEALS

SECTION 24.01 ESTABLISHMENT OF ZONING BOARD OF APPEALS (ZBA)

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by Section 18 (MCL 125.-288-125.293), P.A. 184 of 1943, as amended, "Township Zoning Act" and as provided in this Ordinance in such a way that the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done. *[editor's note: P.A.184 rescinded and replaced by P.A. 110 of 2006]*

SECTION 24.02 MEMBERSHIP AND TERMS OF OFFICE

The Zoning Board of appeals shall consist of three (3) members. The first member of such Board of Appeals shall be a member of the Township Planning Commission, to be appointed by the Township Board, for the terms of his office; the second member shall be a member of the Township Board, elected by the Township Board for the term of his office; and the other one (1) member shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township for a term of three (3) years, provided that no elected officer of the Township, nor any employee of the Township Board may serve simultaneously as the elector member or as an employee of the Zoning Board of Appeals. The Chairman of the Zoning Board of Appeals shall be elected from among any of its members each year at the first regular meeting held at the beginning of each calendar year. The Township Board member appointed to the Zoning Board of Appeals shall not serve as Chairman.

SECTION 24.03 RULES OF PROCEDURE, MAJORITY VOTE

The Board shall adopt its own bylaws of rules and procedures as may be necessary to properly conduct its meetings and activities. The concurring vote of a majority of the full membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance due to unnecessary hardship or practical difficulties.

SECTION 24.04 MEETINGS

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as the Board in its bylaws may specify.

SECTION 24.05 PUBLIC MEETINGS AND MINUTES

All meetings of the Zoning Board of Appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the record of the vote of each member by name of the Board and the final disposition of each case. The grounds of every determination shall be stated, in writing, and recorded as part of the official minutes and record of the Board. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall be filed in the office of the Township Clerk and the Planning Commission and shall be sent promptly to the applicant or appellant and to the Zoning Administrator. The Township Clerk shall act as the depository for all official files of the Board.

SECTION 24.06 POWERS AND DUTIES

The Zoning Board of Appeals shall have powers to interpret the provisions of this Ordinance, to grant variances from the strict application of any provisions of this Ordinance, except as otherwise provided in this Ordinance.

- A. The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by the Planning Commission or Zoning Administrator in the administration of this Ordinance as hereinafter provided, and shall have power to interpret the provisions of this Ordinance; to grant variances from the strict application of any of the provisions of this Ordinance
1. To decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with regard thereto.
 2. To grant variances from any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties or unnecessary hardships in the way of such strict application. No variance shall be granted to permit the establishment within a district of any use which is not specifically permitted, excluded or for which a special use permit is required.
 3. To permit the erection and use of a building, or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or larger area than the requirements herein established; and permit the location in any district of a public utility building, structure or use, if the Commission shall find use, height, area, building or structure reasonably necessary for the public convenience and service; and provided such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan for such district.

SECTION 24.07 VARIANCES

A variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

- A. A written application for a variance is submitted, demonstrating:
 - 1. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same Zoning District so as to present such a unique situation that a precedent will not be established for other properties in the District to also ask the same or similar change through the Zoning Appeal procedure.
 - 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same Zoning District under the provisions of this Ordinance.
 - 3. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this Ordinance to other lands, structures, or buildings in the same Zoning District.
 - 4. That no nonconforming use of other lands, structures, or buildings in the same zoning district, and not a permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the issuance of a variance.
- B. The Zoning Board of Appeals shall make findings that the requirements of this Ordinance have been met in the Zoning District in which it is located by the applicant for the variance requested.
- C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.
- D. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious or otherwise detrimental to the public welfare of the zoning district in which it is to be located.
- E. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order for the variance to be in conformance with this Ordinance as much as reasonably possible. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Section 23.06 of this Ordinance.

- F. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district in which the variance is to be located.

SECTION 24.08 VOIDING OF AND REAPPLICATION FOR VARIANCES

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the use and construction authorized by such variance or permit has been commenced within one (1) year after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Board of Appeals to be valid.

SECTION 24.09 PROCEDURE FOR APPEALING TO THE ZONING BOARD OF APPEALS

- A. **APPEALS, HOW TAKEN:** Appeals from the ruling of the Township Zoning Administrator may be made to the Zoning Board of Appeals in the following manner:
 - 1. The person, firm or agent thereof making the appeal, shall file in writing to the Township Clerk a letter stating what the specific appeal is and the reasons for said appeal.
 - 2. The Township Clerk submits the written appeal, along with all papers constituting the record from which the action appealed was taken, to the Zoning Board of Appeals.
- B. **WHO MAY APPEAL:** Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency or bureau of the Township, County, State, Federal or other legally constituted form of government.
- C. **FEE FOR APPEAL:** A fee prescribed by the Township Board shall be submitted to the Township Clerk at the time of filing the letter of appeals. The appeals fee shall immediately be placed in the Township General Fund.
- D. **EFFECT OF APPEAL:** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Zoning Board of Appeals, after the Notice or Appeal shall have been filed with him, that by reasons of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

- E. HEARING BY THE ZONING BOARD OF APPEALS: REQUEST, NOTICE, HEARING *[editor's note: P.A. 110 of 2006, now requires 15 days notice. See Section 25.04 of this ordinance for requirements]*

When a request for appeals has been filed in proper form with the Zoning Board of Appeals, the Chairman shall immediately place the said request for appeal upon the calendar for hearing, and cause notice, stating the time, place and object of the hearing to be served personally or by mail at least ten (10) days prior to the date of such hearing, upon the party or parties making the request for appeal. Notices shall be sent to all property owners and occupants of properties located within 300' of the parcel for which the variance is being requested at least 10 days prior to the date of the hearing.

- F. REPRESENTATION AT HEARING: During a hearing, any party or parties may appear in person or by agent or by attorney.
- G. DECISIONS ON APPEALS BY ZBA: The Zoning Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as, in its opinion, ought to be made in the premise and to that end shall have all the powers of the Zoning Administrator, Township Board and Planning Commission from whom the appeal is taken. The Zoning Board of Appeals' decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Zoning Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court on questions of law and fact.