

## ARTICLE 3

### ZONING BOARD OF APPEALS

#### SECTION 3.01. BOARD OF APPEALS ESTABLISHED.

There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided by Article VI of 2006 PA 110, as amended (MCL 125.3101, et seq.).

#### SECTION 3.02. MEMBERSHIP; TERMS OF OFFICE.

The Board of Appeals shall consist of three (3) members, the first member of such Board of Appeals shall be the chairman of the Township Planning Commission for the terms of his office; the second member shall be a member of the Township Board, appointed by the Township Board for the term of his/her office, provided such member shall not serve as chairperson of the Zoning Board of Appeals. The third member shall be selected and appointed by majority vote of the Township Board from among the electors residing in the unincorporated area of the Township. The terms of office for an appointed member of the Zoning Board of Appeals shall be three (3) years, except for a member serving because of his or her membership on the Planning Commission or legislative body, whose term shall be limited to the time he or she is a member of that body. No employee or contractor of the Township Board may serve as a member of the Township Board of Appeals. The chairman of the Township Planning Commission shall act as chairman of the Township Board of Appeals.

#### SECTION 3.03. RULES OF PROCEDURE; MAJORITY VOTE.

The Board shall adopt its own rules of procedure as may be necessary to properly conduct its meetings. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the administrative official or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to affect any variation in this Ordinance.

#### SECTION 3.04. MEETINGS.

Meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board in its rules or procedure may specify. The chairperson may administer oaths and compel the attendance of witnesses.

### SECTION 3.05. PUBLIC MEETINGS AND MINUTES.

All meetings of the Board of Appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to any case considered together with vote and signature of each member and the final disposition of each case. The grounds of every determination shall be stated in writing with reference to such determination for which the appeal is taken. 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 shall be sent promptly to the appellant or appellants and to the zoning administrator. The Township Clerk may act as secretary to the Zoning Board of Appeals. The Township attorney shall act as legal counsel for the Board and shall be present at all meetings upon the request of the Board. Other knowledgeable persons may also be utilized in an advisory capacity.

### SECTION 3.06. POWERS AND DUTIES.

- A. The 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.
- B. The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under this Zoning Ordinance, or to grant a variance under this Zoning Ordinance.

### SECTION 3.07. VARIANCE.

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

- A. A written application for a variance is submitted demonstrating practical difficulties relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in this Ordinance. For purposes of this Ordinance “practical difficulties” shall mean:
  - 1. That special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

4. That no non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Following receipt of a written request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request and give notice as follows:

1. The Township shall publish notice of the hearing in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the hearing.
2. Notice shall be given as provided under Subsection c. to the owners of property that is the subject of the request. Notice shall also be given as provided under Subsection c. to all persons to whom real property is assessed within three hundred (300) feet of the property that is the subject of the request and to the occupants of all structures within three hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
3. The notice under Subsection b. is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
4. A notice under this Section shall do all of the following:
  - a. Describe the nature of the request.
  - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - c. State when and where the request will be considered.
  - d. Indicate when and where written comments will be received concerning the request.

C. The Board of Appeals shall make findings that requirements of the ordinance have been met by the applicant for a variance.

- D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the welfare.
- E. The 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 the reasonable use of the land, building, or structure.
- F. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. 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 2.06 of this Ordinance.
- G. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in said district.

SECTION 3.08. VOIDING OF AND REAPPLICATION FOR VARIANCE.

The following provisions shall apply:

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless:
  - 1. The construction authorized by such variance or permit has been commenced within one hundred eighty (180) days after the granting of such variance and pursued diligently to completion.
  - 2. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed, conditions found by the Board of Appeals to be valid.

SECTION 3.09. PROCEDURE FOR APPEALING TO THE BOARD OF APPEALS.

The following provisions shall apply:

- A. **APPEALS; HOW TAKEN.** Appeals from the ruling of the Township Building Inspector or seeking an interpretation of the zoning ordinance may be made to the Board of Appeals in the following manner:
  - 1. The person, firm, or agent thereof making the appeal shall file in writing to the building inspector a letter stating what the specific appeal is and the reasons for said appeal.
  - 2. The building inspector 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. **HOW MAY APPEAL.** Appeals to the Board of Appeals may be taken by any person aggrieved for by an officer, department, board, agency, or bureau of the township, county, or state.

- C. **FEE FOR APPEAL.** Fee prescribed by the Township Board shall be submitted to the building inspector 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; RESTRAINING ORDER.** 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 Board of Appeals after the notice of appeals shall have been filed with him, that by reason 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 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 BOARD OF APPEALS.** When a request for appeals has been filed in proper form with the Board of Appeals, the secretary, or Township Clerk shall immediately place the said request for appeal upon the calendar for a public hearing and cause notice to be given as provided in Section 3.07.B, provided that if the request does not involve a specific parcel of property, notice need only be published as provided in 3.07.B.a. and given to the person making the request as provided in Subsection 3.07.B.d.
- F. **REPRESENTATION AT HEARING.** Upon the hearing, any party or parties may appear in person or agent or by attorney.
- G. **DECISION OF THE BOARD OF APPEALS AND APPEALS TO THE CIRCUIT COURT.** The 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 premises and to that end shall have all the powers of the building inspector from whom the appeal is taken. The 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 Board of Appeals in each particular case and the signatures of each member of the 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. An appeal from a decision of the Zoning Board of Appeals shall be filed within whichever of the following deadlines comes first:
1. Thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson.
  2. Twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision.