

## **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 in the Michigan Zoning Enabling Act, Act 110 of 2006, as may be amended, in such a way that the objective of this ordinance shall be enforced, the public health and safety secured and substantial justice done.

#### **SECTION 3.02 MEMBERSHIP, TERMS OF OFFICE**

The Board of Appeals shall consist of three members, appointed by the Board. The first member of such Board of Appeals may be a member of the Township Planning Commission, for the term of his/her office; the second member shall be a member of the Township Board, appointed by the Township Board for the term of his/her office; and the third, or second and third member(s) shall be selected and appointed by the Township Board from among the electors residing in 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 third member of or as an employee of the Township Board of Appeals. The member of the Township Planning Commission may act as chair of the Township Board of Appeals, unless such appointed member serves as chair of the Township Planning Commission. The Township Board shall appoint at least one person, meeting the above qualifications, to serve as an alternative member of the Township Zoning Board of Appeals.

#### **SECTION 3.03 RULE OF PROCEDURE, MAJORITY VOTE**

The Board shall adopt its own rules of procedures 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 zoning administrator or to decide in favor of the applicant for any matter upon which they are required to pass under this ordinance or to effect any variation from the requirements of this ordinance.

#### **SECTION 3.04 MEETINGS**

Meetings of the Board of Appeals shall be held at the call of the chair and at such other times as the Board in its rules of procedure specify.

#### **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 that shall contain evidence and data relevant to every 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 person 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 applicant and the zoning administrator, following formal approval of the minutes. 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**

The Board of Appeals shall have the powers to hear appeals related to a decision by the zoning administrator, interpret the provision of this ordinance and to grant dimensional or numerical variances from the strict application of any provision of this ordinance.

### **SECTION 3.07      VARIANCE**

- A. A written application for a variance shall be submitted, demonstrating one or more of the following:
  - 1. That special conditions and circumstances exist which are peculiar to the 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 the non-conforming use of neighboring lands, structures or buildings in the same district, and the permitted use of lands, structures or buildings in other districts shall not be considered grounds for the issuance of a variance.
  
- B. The Board of Appeals may allow a variance in cases involving practical difficulties when the board makes the following affirmative findings:

1. That the alleged practical difficulties are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the township.
  2. That the alleged practical difficulties are substantially more than an inconvenience or inability to attain a higher financial return.
  3. That allowing the variance will result in substantial justice being done for the applicant's property and other properties will not be affected by the allowance of the variance.
  4. That the conditions and circumstances on which the variance request is based shall not be a self-imposed hardship or practical difficulty.
- C. The 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 to the neighborhood, or otherwise detrimental to the public welfare.
- D. 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 possible the reasonable use of the land, building or structure.
- E. 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.
- F. 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 the construction authorized by such variance or permit has been commenced within six months after the granting of such variance and pursued diligently to completion.

- B. 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 AND APPEALS TO THE ZONING BOARD OF APPEALS**

- A. Appeals how taken: Appeals from the ruling of the township zoning administrator 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 zoning administrator, a letter stating what the specific appeal is and the reasons for said appeal.
  - 2. The zoning administrator 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 Board of Appeals may be taken from any person aggrieved or by an officer, department, board, agency or bureau of the township.
- C. Fee for appeal: A fee prescribed by the Township Board shall be submitted to the zoning administrator at the time of filing the letter of appeal. The appeal fee shall immediately be placed in the township general fund.
- D. Hearings of the Board of Appeals: When a request for appeals has been filed in proper form with the zoning administrator, the Board of Appeals' secretary or township clerk shall immediately place the said request for the appeal upon the calendar for hearing, and cause notice stating the time, place and object of the hearing subject to the notice requirements under the Michigan Zoning Enabling Act, Act 110 of 2006, as may be amended. Due notice of the scheduled meeting shall be given to all persons who reside in or own property within three hundred (300) feet of the premises in question; such notice shall be delivered personally or by mail to the respective owners and/or occupants at the address in the last assessment roll.
- E. Representation at hearing: Upon the hearing, any party or parties may appear in person or by agent or by attorney.
- F. The Board of Appeals shall decide upon all appeals within a reasonable time and shall have all the powers of the zoning administrator from whom

the appeal is taken. The Board of Appeals' decision on 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 as provided for by law.