

Chapter 17 Zoning Board of Appeals

Section 17.01 Membership

- A. Continuation of Present Zoning Board of Appeals - The Zoning Board of Appeals existing at the time of adoption of this Ordinance shall perform its duties and exercise its powers as provided in Section 20 of the Township Rural Zoning Act.
- B. Composition and Terms - The Zoning Board of Appeals shall consist of three (3) members appointed by the Township Board for a three (3) year term. One (1) member shall be from the Planning Commission. The Chairman of the Zoning Board of Appeals shall not be an elected official.
- C. Alternate Members - Up to two (2) alternate members may be appointed by the Township Board for three (3) year terms. If two (2) alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. An alternate member shall only serve to discuss or vote upon a case in the absence of a regular member or upon the conflict of interest of a regular member.
- D. Vacancies - Any vacancies in the Zoning Board of Appeals shall be filled by appointment by the Township Board.
- E. Officers - The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman and Secretary.

Section 17.02 Meetings

- A. Meetings - All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Zoning Board of Appeals may determine. All hearings conducted by the Zoning Board of Appeals shall be open to the public. The Secretary to the Board or their representative, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Two (2) members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

- B. Hearings - The Zoning Board of Appeals shall make no decision regarding a variance except after a hearing is conducted by the Zoning Board of Appeals. Due notice shall be given to all parties to the appeal stating the time and place of such hearing.

Section 17.03 Jurisdiction

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Chapter and the laws of the State of Michigan. The Zoning Board of Appeals shall have the authority to hear appeals from a decision made in respect to a rezoning, and in respect to a special land use request. The powers of the Zoning Board of Appeals include:

- A. Hearing of Appeals - To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Ordinance Administrator or any other administrative official in carrying out or enforcing the provisions of this Ordinance.
- B. Granting of Variances - A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Chapter.
- C. Zoning Ordinance Interpretation - The Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provision is uncertain.
- D. Granting of Temporary Uses and Buildings. Such temporary permits for uses and buildings may only be issued as outlined in this Subsection.
 - 1. Permits.
 - a. Each permit shall specify the location and use for such temporary dwelling or structure, and shall be valid for up to twelve (12) calendar months, unless otherwise provided for herein.
 - b. Upon applying for a temporary dwelling or structure permit, the applicant shall pay a fee as determined by the Township Board, to the Township Clerk. A fee shall also be collected by the Township, for any extensions requested by the applicant.
 - c. Permits may be renewed by the Zoning Board of Appeals for one (1) additional successive period of six (6) calendar months, or less, at the same location and for the same purpose.
 - d. Each application for a temporary dwelling or structure shall include the information required as outlined in Section 14.01, for Site Plan Review,

except for those requirements that may be waived by the Zoning Board of Appeals.

2. Types of dwellings or structures allowed by this section.
 - a. Temporary construction office building, storage building, or storage yard for construction materials and equipment during construction of a permanent building may be permitted, under the following conditions:
 - i. The requirements of Section 17.03, D, 1, have been met.
 - ii. Extensions shall only be granted if such building or yard is still incidental and necessary to construction at the site where it is located.
 - b. Temporary sales office or model home that is both incidental and necessary for the sale or rental of real property in a new subdivision, condominium project, or other housing project may be permitted, under the following conditions:
 - i. The requirements of Section 17.03, D, 1, have been met.
 - ii. Extensions may only be granted if the Zoning Board of Appeals determines that such office or model home is still incidental and necessary for the sale or rental of real property in said residential project.
 - c. Temporary dwellings in any Residential District may be permitted for a period of not more than eight (8) calendar months, however, permits may be renewed by the Zoning Board of Appeals for one (1) additional successive period of two (2) calendar months, or less, at the same location and for the same purpose only after the Board of Appeals finds the following conditions outlined below to be true:
 - i. The temporary dwelling is a manufactured home meeting the United States Department of Housing and Urban Development regulations entitled, "Mobile Home Construction and Safety Standards" effective June 15, 1976, as amended.
 - ii. The temporary dwelling is for the use and occupancy of the property owner, and his or her family while they are constructing a permanent residence at the same location.
 - iii. A building permit has been issued for the construction of a permanent residence to the individual applying for the temporary dwelling permit.
 - iv. The temporary dwelling meets the water and sewer requirements of the Public Health Department, and all other applicable Township and County ordinances.

- v. The temporary dwelling is sufficiently secured to the ground to prevent overturning through the actions of high winds or other natural conditions.
- vi. The applicant has signed an agreement of understanding of the requirements for removal of temporary dwellings as outlined below.
 - (a) The temporary dwelling shall be removed upon expiration of the temporary permit, and any extensions thereto, or upon completion of the permanent residence, whichever occurs first.
 - (b) The temporary dwelling may be removed by the Township upon expiration of the temporary permit, and any extensions thereto, or upon completion of the permanent residence, and any costs incurred by the Township in carrying out this provision shall be charged to the property owner. If the property owner does not pay the charges within six (6) months of the first billing notice, said charges shall become a lien on the property, and recorded as provided for by law.
- d. Temporary structures for hunting and recreation camps are permitted within the A-1 and R-3 Zoning Districts, provided that:
 - i. The structure shall be:
 - (a) A wheeled vehicle, licensed and registered;
 - (b) Such vehicle shall be in compliance with the Michigan Motor Vehicle Code; have properly inflated tires; and have working turn signals and brake lights.
 - ii. The structure shall be designed for sleeping and camping, and shall contain, at a minimum, portable sanitary facilities.
 - iii. The structure shall not be occupied for a period more than forty-five (45) consecutive days in any one (1) year. Occupation for longer periods constitutes a temporary dwelling and the standards in Subsection 17.03, D, 2, c, shall be met.
 - iv. The structure shall not be located in the required front or side yard.
 - v. Where possible, access to the parcel where the structure is located shall be limited to one (1) driveway.
- e. Temporary Accessory Dwelling for Family Member. In the A-1, R-3, and R-2 Zoning Districts, a temporary accessory dwelling may be permitted on a lot with a principle structure, for one (1) calender, and up to two (2)

additional and successive one (1) year permits may be issued to the same property for the same purpose, if the following conditions are met:

- i. The temporary dwelling is:
 - (a) A wheeled vehicle, licensed and registered;
 - (b) In compliance with the Michigan Motor Vehicle Code;
 - (c) Have properly inflated tires; and
 - (d) Have working turn signals and brake lights.
 - ii. The occupant of the temporary dwelling is a blood relative of the property owner on which the temporary dwelling is to be located.
 - iii. The minimum yard and area standards, excepting the lot area requirement shall be met for the temporary dwelling.
 - iv. The temporary dwelling shall meet the water and sewer requirements of the Public Health Department, and all other applicable Township ordinances.
 - v. A performance guarantee may be required for the removal of the temporary dwelling at the end of its useful purpose.
3. In considering authorization for any temporary dwelling or structure, the Zoning Board of Appeals shall consider the following standards:
- a. That there will be no unsanitary conditions or other detrimental effects upon the property, occupants, or adjacent properties;
 - b. That, in the case of occupancy during construction, the use or structure is reasonably necessary for the convenience and safety of the construction proposed;
 - c. That the structure does not impact the nature of the surrounding neighborhood;
 - d. That access to the use, area, or structure is located at the least offensive point on the property; and
 - e. That a hardship exists which necessitates the use of a temporary structure during construction of a permanent structure.
 - f. The granting of the temporary use or building shall in no way constitute a change in the basic uses permitted in the district, nor on the property where the temporary use is permitted.

- g. The granting of the temporary use or building shall be issued in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
 - h. All setbacks, land coverage, off-street parking, lighting and other requirements shall be made at the discretion of the Zoning Board of Appeals.
 - i. The use or building shall be in harmony with the general character of the district.
 - j. No temporary permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as provided for in this Ordinance.
 - k. Prior to granting a temporary permit the Board may seek the review and recommendation of the Planning Commission.
- 4. A performance guarantee may be required as outlined in Section 18.04, to ensure the proper removal of the temporary dwelling or structure, following the expiration of the permit and any extensions, or upon completion of the permanent building or structure.
 - 5. The Zoning Board of Appeals may attach reasonable conditions to temporary dwellings or structures to ensure the standards of this Section are met.

Section 17.04 Decisions

- A. Procedure - An appeal may be taken by a person aggrieved, or by an officer, department, or board of the Township. Such appeal shall be taken within twenty-one (21) days, as prescribed by the rules of the Zoning Board of Appeals, by the filing with the officer or body from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal.
- B. Filing - The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan, including the following, unless determined to be inapplicable to the request and specifically waived by the Zoning Board of Appeals:
 - 1. Project Information, including:
 - a. the applicant's name;
 - b. the preparer's name;

- c. north arrow;
- d. complete and current legal description and size of property in acres; and
- e. small scale location sketch of sufficient size and scale.

2. Existing Features

- a. property lines and dimensions;
- b. zoning and current land use of applicant's property and all abutting properties and of properties across any public or private road from the site;
- c. lot lines and all structures on the property, the Zoning Board of Appeals may require buildings and structures within one hundred (100) feet of the site's property lines, also be shown;
- d. location of any access points on both sides of the street within one hundred (100) feet of the site along streets where access to the site is proposed; and

3. Proposed Construction

- a. building footprints, setbacks, floor plans and elevations showing height and materials for all proposed structures, including any residential units, with the acreage allotted to each use;
- b. location and dimensions of parking spaces;
- c. details of site circulation and access design, including:
 - i. indication of street right-of-way and pavement widths and pavement type;
 - ii. names of abutting public roads, proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths; and
 - iii. written verification of access easements or agreements, if applicable.
- d. the Zoning Board of Appeals may require a survey for projects involving dimensional variances.

G. Stay of Proceedings - An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

H. Decisions

1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance.
 2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within a reasonable time after the hearing.
 3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.
- I. Record of Actions - For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:
1. Description of the applicant's request.
 2. The Zoning Board of Appeal's motion and vote.
 3. A summary or transcription of all relevant material and evidence presented at hearing; and,
 4. Any conditions attached to an affirmative decision.
- J. Appeals to Circuit Court - The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Township or Township Zoning Act. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action.
- K. Resubmission - No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the Board finds that at least one of the following conditions exist:
1. That the conditions involving all of the reasons for the original denial have been significantly altered.
 2. That new conditions or circumstances exist which change the nature of the original request.

Section 17.05 Conditions of Approval

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions shall be imposed in a manner in accordance with the Township Zoning Act, and related to the standards by which the decision is reached.

Section 17.06 Variance Procedures

- A. Authority for Variances - The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

- B. Granting of Non-Use Variances - A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing, and that all of the following conditions are met:
 - 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;
 - 2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties;
 - 3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - 4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - 5. The variance will not impair the intent and purpose of this Ordinance.
 - 6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

- C. Granting of Use Variances - A use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:

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1. That the building, structure, or land cannot yield a reasonable return if required to be used for a use allowed in the zone district in which it is located;
2. That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is unique to that property and not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Such unique conditions or situations may include:
 - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter;
 - b. Exceptional topographic conditions or other extraordinary situation on the land, building or structure;
 - c. the use or development of the property immediately adjoining the property in question.
3. That the proposed use will not alter the essential character of the neighborhood or the intent of the Master Plan.
4. Prior to Zoning Board of Appeals decision on a request for a Use Variance, the Board of Appeals may request that the Planning Commission, upon presentation of the application by the applicant, consider such request and forward a report to the Board of Appeals. If requested by the Board of Appeals, such report shall be limited to the Planning Commission's review of the effect of the proposal on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the existing zoning classification.

Section 17.07 Fees

The Township Board may prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. The fee shall be paid to the Township Treasurer at the time the application for the appeal or variance is filed.