

**Chapter 16**  
**ZONING BOARD OF APPEALS**

**SECTION 16.1 MEMBERSHIP AND MEETINGS**

- A. Composition and Terms – The Zoning Board of Appeals shall consist of three members appointed by the Township Board. No more than one member shall be a member of the Planning Commission and one may be a member of the Township Board. Members shall be Township property owners and qualified electors. Members shall be appointed for three-year staggered terms.
- B. Alternate Members
  - 1. Up to two alternate members may be appointed by the Township Board for three-year terms. If two 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 that may exceed 30 consecutive days. 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.
  - 2. The alternate member having been appointed shall serve on 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.
- C. Any vacancies on the Zoning Board of Appeals shall be filled by appointment by the Township Board. The appointed member shall serve out the term of the vacated position.
- D. The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman and Secretary. A member of the Township Board who is also a member of the Zoning Board of Appeals shall not serve as Chairman of said Zoning Board of Appeals.
- E. Meetings
  - 1. The Zoning Board of Appeals shall meet once each month at dates determined unless no business is pending for the scheduled meeting. Special meetings may be held at the call of and at such time as the Chairman may determine. The full costs of all special meetings shall be borne by the applicant(s).
  - 2. The Secretary or the Zoning Administrator or his representative shall keep minutes of the 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 hearings and other official actions.
  - 3. Two members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business.
  - 4. 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.

- F. Public Hearings
  - 1. The Zoning Board of Appeals shall make no decision regarding any application until after a public hearing is conducted.
  - 2. Notification of public hearings shall be made to persons to whom real property is assessed within 300 feet of the premises which is the subject of the application and to the appellant.
  - 3. Notifications shall be sent not less than 10 days prior to the scheduled date for the public hearing.

## **SECTION 16.2 JURISDICTION AND POWERS**

- A. 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 Section and the laws of the State of Michigan.
- B. The powers of the Zoning Board of Appeals include:
  - 1. 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 Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance.
  - 2. Variances – A variance from the strict requirements of the Zoning Ordinance may be granted by the Zoning Board of Appeals in accordance with the standards, requirements and procedures of this Chapter.
  - 3. 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 provisions is uncertain.
  - 4. Any other matters referred to them or upon which they are required to consider under the terms of this Ordinance.
- C. The Zoning Board of Appeals shall not be permitted to consider any requests for variances from the approvals, requirements or conditions of Planned Unit Developments.

- D. Variances to the Specific Requirements of Special Land Uses
1. The Zoning Board of Appeals may grant a variance from the requirements set forth for the Specific Standards for Special Land Uses of this Ordinance provided the Zoning Board of Appeals finds that the request meets all of the standards noted in Section 15.4.
  2. The Zoning Board of Appeals shall not be empowered to hear appeals from the final decision made by the Planning Commission with respect to the Special Land Use.
  3. Decisions by the Zoning Board of Appeals on requests for variances from the Specific Standards for Special Land Uses shall be made prior to the Planning Commission's consideration of the Special Land Use.

### **SECTION 16.3 APPLICATION AND REVIEW PROCEDURES**

- A. Applications
1. An application for an appeal may be submitted by a person aggrieved or by an officer, department or board of the Township. Such application shall be submitted within 10 days of the action being appealed. The application shall be filed with the Zoning Board of Appeals and shall specify the grounds for the appeal.
  2. Variances and other actions requiring a decision by the Zoning Board of Appeals shall be submitted to the Township on a form provided for that purpose and shall include a fee as may be determined by the Township Board from time to time.
  3. Applications shall immediately be transmitted to the Zoning Board of Appeals along with all the papers constituting the record upon which the action appealed was taken, and a hearing shall be scheduled in accordance with the procedures of this Chapter.
  4. Applications shall not be accepted unless all of the following information is submitted:
    - a. A completed application form (provided by the Township);
    - b. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The Zoning Administrator shall determine the completeness of such plans.
    - c. An application fee as may be determined by the Township Board from time to time.
    - d. A written explanation from the applicant indicating why the application meets the standards of Section 16.4.
- B. An application for an appeal or variance or any other action requiring Board approval shall stay all proceedings in furtherance of the matter to which the application applies unless the Zoning Administrator certifies to the Zoning Board of Appeals, after the application of appeal is filed, that by reason of facts

present a would stay, in the opinion of the Zoning Administrator, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court upon application and with due cause shown.

- C. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within 60 days after the hearing thereon, and in any event, within 90 days after the date of filing of the appeal or application unless the applicant and Board of Appeals mutually agree to an extension.
- D. The concurring vote of a majority of the entire membership of the Zoning Board of Appeals (two votes) shall be necessary to decide in favor of the applicant.
- E. All decisions of the Zoning Board of Appeals shall become final five days after the date of entry of an order unless the Zoning Board of Appeals 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.
- F. No request which has been denied by the Zoning Board of Appeals shall be submitted for reconsideration within a six-month period from the date of the original application unless the Zoning Board of Appeals or the Zoning Administrator finds that at least one of the following conditions exist:
  - 1. The conditions involving all of the reasons for the original denial have been significantly altered; or
  - 2. New conditions or circumstances exist that change the nature of the original request.
- G. For each decision of the Zoning Board of Appeals, a record shall be prepared. Such records shall include, at a minimum, the following items:
  - 1. Description of the applicant's request;
  - 2. The Zoning Board of Appeals' motion and vote, including written justification for the decision in accordance with each of the standards of Section 15.4;
  - 3. A summary or transcription of all competent material and evidence presented at the hearing; and
  - 4. Any conditions attached to an affirmative decision.
- H. 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 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.

## **SECTION 16.4 VARIANCE REVIEW STANDARDS**

- A. The Zoning Board of Appeals, after a 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 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. Non-Use Variance: 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. 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. Exceptional or extraordinary circumstances or conditions include:
    - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter; or
    - b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
    - c. By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties.
  - 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.
  - 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. The immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
- C. Period of Validity: No variance granted by the Zoning Board of Appeals shall be valid for a period longer than 24 months from the date of its issuance unless the construction and/or use associated with said variance is completed or has been started with completion being diligently pursued. However, the applicant may, upon application, request at no cost up to one six-month extension of

said variance from the Zoning Board of Appeals. The Zoning Board of Appeals may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.

#### **SECTION 16.5      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 imposed shall be those necessary to ensure that the decision meets the standards of Section 16.4 and therefore, shall be directly related to those standards. Conditions shall also meet the requirements of the Zoning Act.

#### **SECTION 16.6      FEES**

The Township Board may prescribe and amend by Resolution a reasonable schedule of fees to be charged to applications for applications to the Zoning Board of Appeals. The fee shall be paid to the Township at the time the application is filed and no actions regarding the application shall be undertaken until such fee is submitted.