

**Chapter 1 ARTICLE XXII**

**ZONING BOARD OF APPEALS**

**Sec. 20-2200 Composition.**

There is hereby established a Township Zoning Board of Appeals to be composed of five (5) members. One (1) of these members shall be a member of the Township Planning Commission, and the remaining members shall be selected from the electors of the township residing outside of the incorporated cities and villages. It shall be representative of the population distribution and of the various interest present in the township. One (1) member may be a member of the Township Board, but an elected officer of the township shall not serve as chairperson. An employee or contractor of the Township Board may not serve as a member or an employee of the Township Zoning Board of Appeals.

**Sec. 20-2201 Removal.**

Members of the Zoning Board of Appeals may be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

**Sec. 20-2202 Disqualification.**

A member of the Zoning Board of Appeals shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

**Sec. 20-2203 Terms of Office.**

The terms of members of the Zoning Board of Appeals shall be for three (3) years except for members serving because of the membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively, and the period stated in the resolution appointing them. Successors shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

**Sec. 20-2204 Quorum.**

The Township Zoning Board of Appeals shall not conduct business unless a majority of the members are present.

**Sec. 20-2205 Meetings.**

Meeting of the Township Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the board may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the township clerk and shall be a public record.

**Sec. 20-2206 Duties.**

(a) The Township Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of the zoning maps. It shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of an ordinance adopted pursuant to the township rural zoning act (MCL 125-271 et seq., MSA 5.2963(1) et seq.). It shall hear and decide all matters referred to it or upon which it is required to pass under this chapter.

(b) A concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to constitute board action.

(c) The Zoning Board of Appeals shall state the grounds of each determination.

**Sec. 20-2207 Decisions.**

Decisions of the Zoning Board of Appeals rendered in accordance with the provisions of this chapter shall be final. The person having an interest affected by this chapter may appeal to the circuit court.

**Sec. 20-2208 Variance Review Procedures.**

**(a) Procedures.**

- (1) An application for the approval of a variance shall be made, by an owner of an interest in the lot, to the township clerk accompanied by the necessary fees as provided by ordinance, or resolution and documents as provided by this chapter. The ZBA may only consider non-use variances, and may not grant use variances. (Adopted by Amendment December 14, 2006, Sec. 20-2208, (a), (1))
- (2) The application shall be accompanied by a plot plan drawn to the scale of one (1) inch equals twenty (20) feet, and containing the following information:
  - a. Dimensional elements for which a variance is request.
  - b. Dimensional relationships of the subject lot to the structures of all adjacent lots.
- (3) The application shall be accompanied by an affidavit by the applicant explaining:
  - a. How the strict enforcement of the provisions of the township zoning ordinance would unreasonably prevent the owner form using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
  - b. The need for the variance is due to unique circumstances of the property
  - c. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
  - d. Why the requested variance would do substantial justice to the applicant as well as other property owners in the district, and lesser relaxation would not provide substantial relief and be more consistent with justice to others
  - e. Why the requested variance will not be contrary to the spirit and intent of this zoning district and public safety.
- (4) Not less than fifteen (15) days before the meeting the township clerk shall provide notice as required in Section 20-1801 of this ordinance. (Amended by Adoption December 14, 2006)
- (5) The board shall consider the application for variance at its next regular meeting, which provides sufficient time for notice, as required therefore, or within not more

than thirty-five (35) days after receipt of the application by the township clerk, and hear and question any witness appearing before the board.

- (6) The board shall approve, with or without conditions, or disapprove the application and shall communicate its action, in writing, to the applicant, the Township Board, the building inspector, Zoning Administrator, and the Township Planning Commission within thirty-five (35) days from the time of the meeting at which it considered the application. In cases of unusual complexity, or where it is otherwise deemed necessary, this time limit may be extended by the board.
  - a. The board shall act on an application for a variance where it is found positively that:
    1. The applicant has shown practical difficulty by demonstrating that
      - i. The strict enforcement of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome
      - ii. The need for the variance is due to unique circumstances of the property
      - iii. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provision alleged to adversely affect such property.
      - iv. The requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
      - v. Granting of the variance will insure that the spirit of the ordinance is observed, public safety secured and substantial justice done.
- (7) The board may impose conditions upon the granting of a variance, which when granted, shall meet all of the following conditions:
  - a. Be designed to protect the natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land, use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
  - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

- (8) The building inspector shall, upon receipt of the notice of approval and upon application by the applicant, accompanied by a receipt attesting to the payment of all required fees, issue a building permit or such other approval permitting the variance, subject to all conditions imposed by such approval.

**Sec. 20-2209 Appeals Procedures.**

- (a) **Intent** These appeals procedures are instituted to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of the township zoning ordinance, except the issuance of a variance which shall follow the procedures of Section 20-2208. In addition, these procedures are instituted to appeal Planning Commission decisions on Special Land Use permits and site plans
- (b) **Procedures** An appeal shall be filed by applying with the officer or body from whom the appeal is taken and with the board of zoning appeals within thirty (30) days or receipt of written confirmation of the decision specifying the grounds for the appeal.
  - (1) The officer or body from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the appeal is taken.
  - (2) 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 board after the notice of appeal 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 restraining order, which may be granted by the board, or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken, and on due cause shown.
  - (3) Such appeal may be taken by any person aggrieved or by any officer, department, board of bureau of the township, county or state.
  - (4) The board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. In appeals dealing with specific parcels of land including Planning Commission decisions on Special Use Permits and Site Plans, the notice requirements of Sec. 20-1801 shall be used. Upon the hearing, any party may appear in person or by agent or by attorney. The board may 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 power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. (Amended by Adoption, December 14, 2006, Sec.2-2209, (b) (4))
  - (5) At the meeting where such an appeal is considered, the board shall consider whether the decision of the administrative official or body was appropriate based on the provisions of this ordinance and the record provided to the board. The board may take additional testimony necessary to complete the record and make a proper determination.
  - (6) In making a determination on an appeal, the board shall have all of the powers of the administrative official or body the appeal is taken from, including, if

applicable, the authority to impose conditions on approval, with the same restrictions on that authority that is imposed on the administrative official or body.

- (7) The decision of the board shall be final, but any person having an interest affected by any such ordinance shall have the right to appeal to the circuit court.
- (8) The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirements, decision, or determination of any such administrative official.
- (9) Any grounds for any determination by the board shall be stated in writing.