

CHAPTER XVI

ZONING BOARD OF APPEALS

SECTION 16.01 BOARD ESTABLISHED. A Zoning Board of Appeals, hereinafter referred to as the Board of Appeals, is hereby established in accordance with Act 184 of the Public Acts of 1943, as amended.

SECTION 16.02 MEMBERSHIP AND TERMS. The Board of Appeals shall consist of five (5) members appointed by the Township Board. The first member shall be a member of the Township Planning Commission and one member of the Board of Appeals shall be a member of the Township Board. The remaining members shall be selected from the electors of the Township residing in the unincorporated area of the Township. The members selected shall be representative of the population distribution and of the various interests present in the Township.

The term of office of each member shall be for three (3) years, except for members serving because of their 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. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for un-expired terms shall be filled for the remainder of the term.

A member shall abstain from voting on any question on which he/she has conflict of interest. Failure of a member to abstain in such cases shall constitute misconduct of office.

SECTION 16.03 GENERAL REGULATIONS FOR THE BOARD OF APPEALS.

- (a) Rules: The Board of Appeals shall adopt rules and regulations to govern its procedures. The Board of Appeals shall elect a Chair, Vice-Chair, and Secretary from its membership.
- (b) Votes: A concurring vote of a majority of the members of the Board of Appeals shall be necessary for any decision. The Board of Appeals shall not conduct business unless a majority of its members is present.
- (c) Representation: Any person(s) may appear on his/her behalf at a hearing or may be represented by an agent or attorney.
- (d) Time Limit: The Board of Appeals shall decide upon all matters within a reasonable time not to exceed ninety (90) days from the filing date. The decision of the Board of Appeals shall be in the form of a motion containing a full record of its findings and determinations in each case. The time limit may be extended by written agreement between the applicant or appellant and the Board of Appeals.
- (e) Meetings: Meetings of the Board of Appeals shall be held at the call of the chairman and at such times as the Board in its rules and regulations might specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions of approval, facts, and other relevant factors, and all its official actions. The vote of each member upon a question, or absence or abstention, shall be recorded into the minutes of the meeting. All meetings and records shall be open to the public. All minutes shall be filed in the office of the Township Clerk.

SECTION 16.04 POWERS AND DUTIES OF BOARD OF APPEALS. The Board of Appeals shall perform its duties and exercise its powers as provided in Act 184 of the Public Acts of 1943 as amended so that the objectives of this Ordinance shall be attained; the public health, safety, and welfare shall be secured; and substantial justice done. The Board of Appeals shall hear and decide, as provided herein, any appeal of any administrative decision of any official or body on any requirement of this Ordinance, any request for a variance which would relax or waive any provision of this Ordinance, or any request for an interpretation of the intent or meaning of this Ordinance. The Board of Appeals shall not change the zoning district classification of any property, or make any change in the terms of this Ordinance, and shall not take any action which would have, as a result, the making of legislative changes in this Ordinance.

SECTION 16.05 FEES. A schedule of fees of the Zoning Board of Appeals shall be established by resolution of the Salem Township Board.

SECTION 16.06 HEARINGS. The Board of Appeals shall hold a public hearing on each question submitted to it for decision. The Chair shall fix a reasonable time and date for the hearing; said date shall not to exceed forty-five (45) days from the filing date. The Board of Appeals shall also give notice of the hearing in accordance with Michigan Public Act 184 of 1943, as amended. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Board of Appeals prior to public meeting. Where the hearing, as determined by the Board of Appeals concerns matters of general applicability in Salem Township and does not concern only individual lots or parcels, the notice of the hearing need only be given in a newspaper of general circulation within Salem Township.

SECTION 16.07 APPEALS - GENERAL RULES. All questions concerning administrative decisions under this Ordinance shall first be presented to the applicable Township official or agency. Such questions shall be presented to the Board of Appeals only on appeal from the decisions of the applicable Township official or agency. Recourse from decisions of the Board of Appeals shall be to the courts as provided by law. The Zoning Board of Appeals is without jurisdiction with regards to decisions made by the Planning Commission on special land uses and without jurisdiction with regards to decisions of the Township Board on the zoning of land. (Amended 7/28/93)

SECTION 16.08 APPEALS - PROCEDURES

- (a) Appeals shall be filed within sixty (60) days of the decision in question. The appeal shall be filed with the Zoning Inspector and the Board of Appeals. The appellant shall submit a clear description of the order, requirement, decision, or determination for which the appeal is made and the grounds of the appeal. The appellant may be required by the Board of Appeals to submit additional information to clarify the appeal. The Zoning Inspector shall transmit to the Board of Appeals copies of all papers constituting the record upon which the action appealed from was taken, within seven (7) days of the filing date.
- (b) Appeals may be taken by the person aggrieved or by any officer, department, board, agency, or bureau of township, county, state, or federal governments.

- (c) The fee shall be paid to the Township Treasurer at the time of filing the appeal and shall be deposited in the Township's general fund.
- (d) An appeal stays all proceedings in the furtherance of the action appealed from unless the Zoning Inspector certifies to the Board of Appeals after the notice is filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken, and on due cause shown.
- (e) The Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made. To that end, the Board of Appeals shall have the powers of the public official from whom the appeal is taken.

SECTION 16.09 VARIANCES - GENERAL RULES. The Board of Appeals shall have the power and duty to waive or relax the provisions of this Ordinance in specific cases. To this end, the Board of Appeals may grant variances which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship or practical difficulty.

SECTION 16.10 VARIANCES - PROCEDURES.

- (a) **Filing:** An application for a variance shall be filed with the Township Clerk by the record owner of the property in question or by a person(s) authorized to act on the record owner's behalf. The application shall consist of a completed application form, fee, and the information required. The clerk shall transmit the application and information to each member of the Board of Appeals and to the Zoning Inspector within three (3) days of the filing date.
- (b) **Information Required:** An application for a variance shall contain the following information:
 - (1) Legal description, address, and tax parcel number of the subject property;
 - (2) An accurate, scaled drawing of the property, showing all property lines, dimensions, and bearings or angles correlated with the legal description; all existing and proposed structures and uses on the property; dimensions of structures and their dimensioned locations; lot area calculations necessary to show compliance with the regulations of this Ordinance;
 - (3) Name and address of the applicant, property owner(s), and the interest of the applicant in the property.
- (c) **Fee:** The fee shall be paid to the Township Treasurer at the time of the filing of the appeal and shall be deposited in the Township's general fund.
- (d) **Standards for Review:** A variance shall not be granted unless all the following standards are met:
 - (1) Special conditions and circumstances exist which are not economic in nature, but which are unique to the land, structures, or buildings involved, and are not applicable to other lands, structures, or buildings in the same district. (Amended 7/23/93)
 - (2) The special conditions and circumstances on which the variance request is based do not result from the actions of the applicant.

- (3) Literal interpretation of this Ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this Ordinance.
- (4) Granting the variance requested will not confer upon the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- (5) The existence of nonconforming uses of neighboring lands, structures, or buildings in the same district; permitted or nonconforming uses of land, structures or buildings in other districts; and nonconforming structures shall not be considered grounds for the issuance of a variance.
- (6) A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings, or structure.
 - (7) The variance granted shall be in harmony with the intent of this Ordinance and will not be injurious to the neighborhood, and otherwise detrimental to the public interest.
- (e) Variances - Reapplication: An application for a variance which has been denied wholly or in part by the Board of Appeals shall not be resubmitted for a period of three hundred sixty-five (365) days from the date of denial, except on grounds of new evidence of changed conditions found by the Board of Appeals to be valid.

SECTION 16.11 APPEALS TO COURTS. Any decision of the Board of Appeals may be appealed through the courts, as provided in Act 184, PA 1943, as amended.

SECTION 16.12 CONDITIONS OF APPROVAL. The Board of Appeals may attach conditions to any affirmative decision, provided such conditions are in accordance with the requirements of this Ordinance and Act 184, PA 1943, as amended. Such conditions shall be consistent with procedures, requirements, standards, and policies of the Township Board, the Township Planning Commission, and other Township agencies, where applicable. Violation of any condition imposed shall be deemed a violation of this Ordinance and punishable under Chapter XIX herein.