

ARTICLE 17 – Zoning Board of Appeals

Section 17.1 Authority

There is hereby established a Zoning Board of Appeals, the membership, powers, duties of which are prescribed in Act 110, of the Public Acts of the State of Michigan for 2006, as amended. The Zoning Board of Appeals in addition to the general powers and duties conferred upon it, by said Act, in specific cases and subject to appropriate conditions and safeguards, shall interpret and determine the application of the regulations established under this Ordinance in harmony with their purposes and intent as hereinafter set forth.

Section 17.2 Composition

As provided by said Act 110, as amended, the Board of Appeals shall consist of five (5) members. One member of the Zoning Board of Appeals shall also be a member of the Planning Commission. The Township Board shall appoint all members. A minimum of at least three (3) members present shall constitute a quorum.

Section 17.3 Terms of Office

The term of each member shall be for three (3) years, in staggered terms, except for members also serving on the Planning Commission or Township Board shall be limited to the time that they are members of said body. The Board of Appeals as presently constituted shall continue in the manner and for the terms heretofore established.

Section 17.4 Required Hearings

It shall hear and decide all matters referred to it, or upon which it is required to act, under any ordinance adopted pursuant to said Act 110, as amended.

Section 17.5 Majority Vote

A majority vote of the Board of Appeals shall be necessary to decide in favor of the applicant on any matter upon which the Board of Appeals is required to pass under any such ordinance, or to effect any variation in such ordinance.

Section 17.6 Granting of Variances

Subject to the provisions of this Article, the Board of Appeals, after hearing shall have the power to decide applications for variances filed as hereafter provided.

- A. Where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Building Inspector or any other administrative office in the carrying out or enforcement of the provisions of this Ordinance.

- B. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties ; provided, that the Board of Appeals shall not grant a variance on a lot of less area than the requirements of its zone district, even though such lot existed at the time of passage of this Ordinance if the owner or members of his immediate family owned adjacent land which could without undue hardship be included as part of the lot.
- C. Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.
- D. The Zoning Board of Appeals shall not have the authority to grant a variance on the use of land, buildings or structures.

Section 17.7 General Standards

No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Appeals unless it is found from reasonable evidence that all the following facts and conditions exist:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use different than the other properties in the same zoning district.
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right and that the need for such variance was not created by the applicant. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- C. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purposes of this Ordinance or the public interest.
- D. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or of a recurrent nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

Section 17.8 Conditions of Approval

In authorizing a variance or exception, the Board of Appeals may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other reasonable conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest. Such conditions shall comply with the stipulations of Act 110, as amended.

Section 17.9 Procedure

The following procedure shall be required:

- A. An appeal for variance from any ruling of the Building Inspector or any other administrative official ministering any portion of this Ordinance may be taken by any person or any governmental department aggrieved.

- B. The Board of Appeals shall not consider any application or appeal without the payment by the applicant or, appellant to the Township Treasurer of the fee which shall be set by resolution of the Township Board from time to time. Such application or appeal shall be filed with the Building Inspector, who shall transmit the same, together with all plans, specifications and other papers pertaining to the application or appeal, to the Board of Appeals. The payment of this fee shall not be required from any Florence Township governmental departments or personnel, acting in his official capacity.

- C. When an application or appeal has been filed in proper form and with the required data, the Board of Appeals shall place or cause to place the said application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be made in accordance with the provisions of Act 110 of 2006, as amended and Section 13.2.B of this Ordinance. Such notice shall be mailed at least fifteen (15) days prior to the day of such hearing to the applicant or appellant, the Building Inspector and to all owners of real property within three hundred (300) feet of the premises in question. Any party so notified may appear at such hearing in person or by agent or by attorney.

- D. Upon the day for hearing any application or appeal, the Board of Appeals may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides.

- E. If the Board of Appeals acts favorably and grants a variance to appellant, such variance shall be exercised within six (6) months from the date of such action, unless more time is specifically granted by the Board of Appeals.

Section 17.10 Decisions of the Board of Appeals

The Board of Appeals shall decide all applications and appeals within thirty (30) days after the final hearing thereon. A copy of the Board of Appeal's decision, and grounds for said decision, shall be transmitted to the applicant or appellant, and to the Building Inspector. Such decision shall be binding upon the Building Inspector and observed by him. The Building Inspector shall incorporate the terms and conditions of the decision in the permit to the applicant or appellant whenever a permit is authorized by the Board of Appeals. A decision of the Board shall not become final until the expiration of five (5)

days from the date such decision is made, unless the Board of Appeals shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

Section 17.11 Stay of Proceedings

An appeal to the Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals after notice of appeal shall have been filed with him that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Board of Appeals or by the Circuit Court on application, after notice to the Building Inspector.

Section 17.12 Final Action On Appeals

The decision of the Board of Appeals shall be final, however, any person having an interest affected by such decision shall have the right of appeal to the Circuit Court as provided by law.

