

ARTICLE 11**ZONING BOARD OF APPEALS****Section 11.1. Creation and Purpose.**

There is hereby established a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided in Sections 8 through 23, inclusive of Act 184 of the Public Acts of 1943, as amended, in such a way that the objectives of this Ordinance shall be observed, public safety secured and substantial justice done.

The Board of Zoning Appeals, as herein created, is a body of limited powers. The Board of Zoning Appeals shall have the following specific powers and duties:

- 11.1.1. **PURPOSE.** To hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance, and to hear and decide appeals where there are practical difficulties or unnecessary hardships to the property in the way of carrying out the strict letter of this Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured, and substantial justice done.
- 11.1.2. **MEMBERSHIP AND TERMS OF OFFICE.** The Board of Zoning Appeals shall consist of five (5) members and serve for appointed terms as follows:
 - A. The first member shall be any member of the Township Planning Commission, other than the Township Board member.
 - B. The second member shall be a member of the Township Board, appointed by the Township Board, for a period of his term of office. This member cannot serve as Chairman to the Board of Zoning Appeals.
 - C. The remaining members shall be selected and appointed by the Township Board from among the electors, residing in the unincorporated area of the Township for a period of three (3) years except that when first appointed terms may be for less than three years to allow for staggered terms. No elected officer of the Township, nor any employee or any person having a contractual relationship with the Township Board may serve simultaneously as a member so appointed, or as an employee of the Board of Zoning Appeals.
 - D. Members of the Board of Zoning Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after public hearing.
 - E. Any vacancy shall be filled by appointing authority for the unexpired term.
 - F. The first two (2) members shall be appointed for their term of office. The remaining members shall be appointed to terms of office for three (3) .
- 11.1.3. **MEETINGS.** All meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such times as such Board of Zoning Appeals may determine. All meetings of the Board of Zoning Appeals shall be open to the public.
 - A. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings, and other official actions all of which shall be immediately filed in the office of the Township Clerk and shall be public record.
 - B. The Board of Zoning 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.

- 11.1.4. **AUTHORITY.** In hearing and deciding appeals, the Board of Zoning Appeals shall have the authority to grant such variances as may be in harmony with the general purpose and intent of this Ordinance, so that public health, safety and welfare are secured, and substantial justice done, including the following:
- A. Interpret the provisions of the Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning Map fixing the use districts accompanying this Ordinance, where street layout actually on the ground varies from the street layout as shown on the map aforesaid. In case of any question as to location of any boundary line between zoning districts, the Board of Zoning Appeals shall interpret the zoning map after recommendation from the Township Planning Commission. The power of authority to alter or change the Zoning Ordinance or Zoning Map is reserved to the Township Board, as is provided by Law.
 - B. The Board of Zoning Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes, in any permitted district to a greater height or of larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.
 - C. May permit the modification of the off-street motor vehicle parking space or loading space requirements where, in the particular instance, such modifications will not be inconsistent with the purpose and intent of such requirements.
 - D. Permit such modification of the height, lot area, yard setbacks, floor area and lot width regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or size, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification, provided that modification of lot area regulations shall be permitted only in instances where the nature of the soil and drainage is such that there is sufficient area for safe water supply and sanitary disposal of waste (unless central water distribution and/or sanitary sewage are provided). Whenever the Board of Zoning Appeals determines that the same are necessary in order to render a decision, it may require the applicant to submit a topographical survey or the results of percolation test certified by a registered engineer or land surveyor.
 - E. Permit temporary buildings and uses for period not to exceed ninety (90) days.
 - F. In granting a variance the Board of Zoning Appeals may impose such conditions or limitations as it may deem necessary to comply with the spirit and purposes of this Ordinance.
- 11.1.5. **CONDITIONS.** The Board of Zoning Appeals, by majority vote, may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

Section 11.2. Procedure.

An appeal may be taken to the Board of Zoning Appeals by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Zoning Administrator.

- 11.2.1. **APPLICATION.** An application shall be submitted and taken as prescribed by general rule, by filing with the Zoning Administrator and with the Board of Zoning Appeals, specifying the grounds of the request. The Board of Zoning Appeals may require the appellant or applicant to submit all necessary surveys, plans or other information necessary for the Board of Zoning Appeals to thoroughly investigate the matter before it.

- A. The Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all of the papers constituting the record upon which the action appealed from was taken.
 - B. A fee shall be paid to the Township Clerk at the time notice of appeal is filed; said fees shall be set by resolution of the Township Board.
- 11.2.2. **STAY OF APPEAL.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals, after 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 the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by the Circuit Court, on application, on notice to the Zoning Administrator and on due cause shown.
- 11.2.3. **PUBLIC HEARINGS.** All meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such times as such Board of Zoning Appeals may determine. All meetings of the Board of Zoning Appeals shall be open to the public.
- A. The Board of Zoning 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. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings, and other official actions all of which shall be immediately filed in the office of the Township Clerk and shall be public record.
- 11.2.4. **NOTICE.** The board of Zoning Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal and testify at the hearing, either in person or by duly authorized agent or attorney.
- A. Notice of the hearing of the appeal shall be given to all owners of record or property within a radius of three hundred (300') feet of the premises involved, such notice to be delivered personally or by mail addressed to the respective owners at the addresses given in the latest assessment roll. Such notice shall be served at least seven (7) days prior to the date of the hearing.
 - B. The Township Board and Township Planning Commission shall be notified of any such hearing and be invited to attend
- 11.2.5. **APPROVAL PERIOD.** No order of the Board of Zoning Appeals permitting the erection or alteration of a building or use shall be valid for a period longer than one (1) year, unless:
- A. A building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
 - B. Such use is established within such period; provided, however, that such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with such permit.

Section 11.3. Standards.

In consideration of all appeals for variances the Board of Zoning Appeals shall review each case individually as to its applicability to each of the following standards so that the proposed variance or new land use:

- 11.3.1. Will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and applicable regulations of the zoning district in which it is to be located
- 11.3.2. Will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contacts in residential districts;
- 11.3.3. Will be designed as to location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating there from which might be noxious to the occupants of any other nearby uses, whether by reason of dust, noise, fumes, vibrations, smoke or lights;
- 11.3.4. Will be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value;
- 11.3.5. Will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township;
- 11.3.6. Is necessary for the public convenience at that location;
- 11.3.7. Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- 11.3.8. Will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.