

CHAPTER 34

BOARD OF ZONING APPEALS

SECTION 34.1 CREATION AND MEMBERSHIP. A Board of Zoning Appeals of 5 members is hereby established as provided in and having the powers given by Act 184 of the Public Acts of Michigan of 1943, as amended, and by this Ordinance. Each member shall receive such sum for his services in attending each regular or special meeting of the Board as the Township Board may from time to time establish in accordance with said Act 184.

SECTION 34.2 RULES OF PROCEDURE. The Board may adopt rules and regulations, copies of which shall be made available to the public at the office of the board.

1. Meetings of the Board shall be held within a reasonable time following the presentation of matters to the Board for its consideration and at such other times as the Board may determine. The time and place of meetings shall be specified by the Board in its rules and regulations.
2. The presence of 3 members shall constitute a quorum. The Board shall act by resolution and the concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance, or to grant variations from the requirements of this Ordinance.
3. The Board shall keep minutes of its proceedings showing the action of the Board and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of any other official action, all of which shall be filed promptly in the office of the Township Clerk and shall be a public record.
4. The Board may call on any other officers or Boards of the Township for assistance in the performance of its duties.
5. For a period of 90 days following a decision by the Board, no reconsideration of that decision shall be given unless the Board, in its sole discretion, determines that there has been a material change in applicable facts and circumstances.

SECTION 34.3 JURISDICTION. The Board of Appeals, in conformity with the provisions of this Ordinance and of Act 184 of the Public Acts of 1943, as amended, may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The Board of Appeals shall have no jurisdiction or authority over or with regard to any aspect or part of a request for approval of a special land use or planned unit development and shall have no jurisdiction or authority to hear an appeal from any aspect

or part of a determination or decision made with regard to a special land use or planned unit development.

SECTION 34.4 GENERAL. Except as otherwise specifically provided by this Ordinance, the Board may grant a variance from the provisions or requirements of this Ordinance only if the Board finds from reasonable evidence that all of the following facts and conditions exist:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
2. 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.
3. That authorizing 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.
4. That the condition or situation of the piece of property or the intended use of said property, for which the variance is sought, makes impracticable the formulation of a general regulation for such condition or situation.

SECTION 34.5 SPECIAL EXCEPTIONS. The Board of Appeals, after public hearing, shall have the power, if it finds from the evidence presented that the erection or conversion of a building or structure or the use of property for one of the special exceptions herein authorized will not be of substantial detriment to adjacent property, but without making the findings set forth in Section 34.4 which are applicable to variances, to grant the special exceptions heretofore authorized in this Ordinance and, in addition, may authorize the following additional special exceptions provided the specific conditions herein set forth in relation to a special exception are met and complied with and, provided further, that there is compliance with any conditions of approval attached by the Board of Appeals as authorized by Section 34.6.

1. The vertical extension of a building existing at the time of enactment of this Ordinance to such height as the original drawings of said building indicated, provided such building was actually designed and constructed to carry the additional stories necessary for said height limit.
2. The erection or structural alteration, in a district where such use is permitted, of a water tank, or other utility structure, excluding wireless communications facilities, to a height over the limit specified for such district.
3. The enclosure of an existing open front porch where said enclosure is in character with the adjoining neighborhood.

4. The erection of a two-family dwelling or the conversion of an existing dwelling into a two-family dwelling provided that at least the following minimum conditions are met;
 - a. The minimum lot area shall be not less than 150% of the minimum number of square feet required for a single family residence in the district involved;
 - b. The minimum lot width at the building line shall be equal to at least 150% of the minimum lot width required for a single family residence in the district involved; and
 - c. The minimum floor area in each dwelling unit shall be not less than the minimum floor area required for the same type of building if used for single family residential purposes in the district involved.

This subsection shall not apply to accessory dwellings as defined and regulated under the procedures and standards of Chapter 24.

5. Authorization for any part of any building or structure declared to be unsafe by the Building Inspector to be strengthened or restored to a safe condition.
6. The occupant of a one-family dwelling to furnish lodging or meals and lodging for compensation for not more than two persons who regularly live in such dwelling, other than members of the family.

SECTION 34.6 CONDITIONS OF APPROVAL, REVOCATION OF APPROVAL AND TIME LIMITS. In authorizing a variance or exception, the Board may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other conditions regarding the location, character, landscaping or treatment of the buildings or premises or such other matters as are reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

Approved variances shall be null and void if conditions of approval are not adhered to . Approved variances shall also be null and void if not significantly and material acted upon with all conditions of approval met within one year of the date of approval.

SECTION 34.7 PROCEDURE. The following procedure shall be required for a variance or a special exception:

1. An appeal from any ruling of the Zoning Administrator, Building Inspector or other administrative officer, commission or committee administering any portion of this Ordinance may be taken by any person or any governmental department affected or aggrieved.
2. An application for a variance or a special exception authorized by this Ordinance may be taken by any person or governmental department having any legal interest in the property concerned.
3. The Board of Appeals shall not consider any application or appeal without the payment by the applicant or appellant to the Township Treasurer of a

fee as determined by Resolution of the Township Board. 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.

4. When an application or appeal has been filed in proper form and with the required data, the Secretary of the Board shall immediately place the application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served. Such notices shall be served personally or by mail at least 7 days prior to the day of such hearing, upon the applicant or the appellant, the Building Inspector and the owners of property within 300 feet of the premises in question as shown by the tax rolls, which notices, if by mail, shall be addressed to the respective property owners of record at the address shown on the last tax assessment roll. Any interested party may appear at such hearings in person or by agent or by attorney.
5. Upon the day for hearing any application or appeal, the Board 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.

SECTION 34.8 DECISION OF THE BOARD. The Board shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Building Inspector. Such decision shall be binding upon the Building Inspector and be observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board.

SECTION 34.9 STAY OF PROCEEDINGS. An appeal taken to the Board 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 the facts 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 34.10 ALTERNATE MEMBERS. Pursuant to Act 184 of the Public Acts of Michigan of 1943, as amended, the Township Board shall appoint two alternate members to the Board of Zoning Appeals ("Board"). The Township Supervisor ("Supervisor") shall call one or both of the alternate members to serve on the Board by such method or in such manner as the Supervisor deems appropriate, whenever the Supervisor is informed that one or more regular members of the Board will be unavailable for service for a period in excess of 30 days or will abstain for reason of conflict of interest in a particular matter before the Board.

Whenever a regular member is not available for a period in excess of 30 days or will abstain for reason of conflict of interest in a particular matter and is replaced by an

alternate member, the regular member shall not be included for purposes of determining a quorum or majority of the members of the Board, but the alternate member shall be included. Whenever an alternate member is called to serve because a regular member will abstain for reason of conflict of interest, the alternate member shall serve only to hear and decide the matter giving rise to the conflict of interest and shall not hear or decide any other matters before the Board. For service on the Board for all or part of any regular or special meeting, an alternate member shall receive the same sum as is paid to regular members for attending a regular or special meeting of the Board.