

ZONING BOARD OF APPEALS PACKAGE

- *Township Policy for Applications*
- *ZBA Variance Standards*
- *Article 15 of Zoning Ordinance*
- *Application requirements*
- *Application*
- *Fee Schedule for Planning Commission*



Oregon Township

Lapeer County Michigan

2525 Marathon Road~Lapeer MI 48446

Phone~(810) 664-5971

Fax~ (810) 664-0014

POLICY FOR APPLICATIONS MADE UNDER THE OREGON TOWNSHIP ZONING ORDINANCES

All applications for matters to be decided by the Oregon Township Planning Commission or the Oregon Township Zoning Board of Appeals (rezoning, special land use, site plans and variances) shall be submitted to the Township office no later than **thirty (30)** days prior to the next meeting of the Planning Commission or the Zoning Board of Appeals. The **thirty-day** (30) filing requirement shall apply to the completed application, which shall include the application form, any required plans or drawings; any required supporting documentation and full payment of fees.

Additional supporting information may be submitted by the applicant at any time.

Upon compliance with all Township requirements, the application will be scheduled for hearing before the Planning Commission or Zoning Board of Appeals.

Motion #043-23

Adopted – April 11, 2023

ZONING BOARD OF APPEALS

VARIANCE STANDARDS

In order to justify granting a variance, Michigan statute provides that the ZBA must determine that an **unnecessary hardship** or **practical difficulty** exists. Court decisions have indicated that the following factors must exist to make such a determination:

1. That the situation was not self-created.
2. That the circumstances are unique to the property.
3. That the character of the neighborhood would not be altered by granting the variance.
4. That the land cannot be reasonably built upon in conformance with the zoning ordinance.

Michigan statute also obligates the ZBA to make its variance decisions so that the **spirit of the ordinance is observed, public safety secured, and substantial justice done.**

The ZBA decision must also conform to any specific standards, which may be contained in the local zoning ordinance.

ARTICLE 15
Zoning Board of Appeals



Section 15.01. PURPOSE STATEMENT.

The establishment and power for the Zoning Board of Appeals (ZBA) is established by the Michigan Zoning Enabling Act PA 110 of 2006 as amended. The intent of this Article is to establish the ZBA, outline duties and responsibilities, provide procedures for processing applications, and standards for approval of applications. Additionally, the ZBA will ensure the spirit of this Article is observed, public safety is secured, and substantial justice is done for the residents of the Township.

Section 15.02. MEMBERSHIP.

- A. There is hereby established a Zoning Board of Appeals. The ZBA shall consist of five (5) members appointed by the Township Board.
- B. One (1) member may be a member of the Township Board. One (1) member shall be a member of the Planning Commission. The remaining members shall be electors who are not employees or contractors of the Township.
- C. Each member shall be appointed for a term of three (3) years, except that the term of office of the members who are also members of the Township Board or Planning Commission shall terminate if their membership on the Township Board or Planning Commission terminates before the end of the three (3) -year term. These members have the opportunity to be reappointed to another vacancy of the ZBA.
- D. The Township Board may also appoint two (2) alternate members to three (3) -year terms to serve whenever a regular member is unable to participate. Alternative members shall have the same powers as a regular member when participating in the meeting.
- E. The ZBA shall elect a Chairperson, Vice-Chairperson, and Secretary. A Township Board member may not serve as Chairperson.

Section 15.03. DUTIES AND RESPONSIBILITIES.

The duties and responsibilities of the ZBA include:

- A. Processing administrative or Planning Commission appeals.
- B. Processing non-use variances
- C. Interpretation of the Zoning Ordinance and Zoning Map.

Section 15.04. APPEALS.

- A. An appeal may be taken to the ZBA by any person wishing to appeal for a variance from any ordinance.
- B. All appeals must be applied for in writing on forms provided by the Township. An application shall be filed with the Zoning Administrator. An applicant has thirty (30) days from the date of the decision to file an appeal (written correspondence or meeting date).
- C. **PROCEDURE.** All appeals shall follow the public hearing notice procedures noted in Section 3.08. The ZBA shall hold the public hearing and make a decision.
- D. **ADMINISTRATIVE APPEALS.** An appeal may be taken to the ZBA by any person, firm, or corporation, or by any officer, department, board, or bureau affected by a decision of an official or body responsible for administering the Zoning Ordinance. The ZBA shall also interpret the Zoning Map and rule on nonconforming uses and structures whenever the determination of the Zoning Administrator is appealed.



- E. **PLANNING COMMISSION APPEALS.** A qualified application for an appeal of a Planning Commission decision is from property owners or occupants within the public notice area that are deemed to be impacted by the subject application. An appeal must be filed within thirty (30) days of the decision by the Planning Commission.
1. In the case of an appeal of a Planning Commission decision, the Planning Commission representative on the ZBA may not participate in a public hearing or vote on an appeal of a matter that they voted on as a member of the Planning Commission. They may consider and vote on other unrelated matters involving the same property.
- F. **STANDARDS FOR APPROVAL.** The standards for the basis of a decision of an appeals case shall be based on at least one (1) of the following standards to be found in support:
1. was the original decision arbitrary or capricious; or
 2. was the original decision based on an erroneous finding of a material fact; or
 3. did the original decision constitute an abuse of discretion; or
 4. was the original decision based on erroneous interpretation of the Zoning Ordinance or zoning law.

Section 15.05. AUTHORITY TO GRANT NON-USE VARIANCES.

- A. The Zoning Board of Appeals (ZBA) shall have the authority to grant only non-use variances. The application shall follow the public notice requirements in Section 3.08
- B. **STANDARDS.** In considering variance requests, the ZBA shall make the following findings:
1. That there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
 2. That a practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that does not generally apply to other property or uses in the same zoning district.
 3. That the hardship or special conditions or circumstances do not result from actions of the applicant.
 4. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district. If a lesser variance would give substantial relief and be more consistent with justice to others, it shall be so decided.
 5. That strict compliance with the provision as written would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
 6. That the variance requested is the minimum amount necessary to mitigate the hardship.
- C. **VALIDITY.** Any variance shall expire one (1) year from the date it is granted unless use of the property has begun or construction has been undertaken pursuant to the variance.



- D. RESUBMITTAL. Upon the ZBA making a decision, an applicant cannot resubmit an application on the same matter until one (1) year after the case was heard or a change in condition that would modify the basis of the decision that was made at the time.

Section 15.06. INTERPRETATION.

- A. The Zoning Board of Appeals (ZBA) shall have the authority to do the following types of interpretations:
1. Text Zoning Ordinance,
 2. Zoning Map (zoning district boundaries),
 3. Whether or not a specific use falls into a larger land use classification, or
 4. Classification of a use clearly not included in this Ordinance that is deemed to be a permitted use. In defining a use not clearly stated, the ZBA shall determine the appropriate definition of the use, parking, and additional requirements specific to the use as deemed necessary.
- B. STANDARDS. The following shall be the basis for an approval standard for an interpretation:
1. Consistent with intent/purpose of the zoning district.
 2. Consistent with goals and Future Land Use Plan in the Master Plan.
- C. Upon the decision by the ZBA, an interpretation shall be maintained by the Zoning Administrator and, if necessary, may initiate a text amendment procedure to modify this Ordinance to maintain consistency based on this ruling.

Section 15.07. DECISIONS.

- A. PROCEDURE. All Zoning Board of Appeals (ZBA) applications shall be submitted thirty (30) days prior to the ZBA meeting. The application shall include:
1. Complete and signed application.
 2. Ten (10) copies of the plot plan/written situation.
 3. The ZBA may require the applicant to provide such additional information as is necessary to make a decision.
- B. The ZBA shall state findings and the grounds for each decision. In making a decision, the ZBA may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance as noted in Section 15.01.

Section 15.08. VOTING.

- A. The ZBA decisions are based on a majority of the regular members. This would require at least three (3) members to vote in the same way to determine a valid decision.



ZONING BOARD OF APPEALS

The following requirements are needed to process your application. If the requirements are not met this would delay your meeting date. The application will have to be sent back to you for the lack of detailed information not submitted.

(1) APPLICATION:

Must submit **nine (9)** copies of the application and site plan, if required.

(2) SITE DRAWING:

1. The site plan **MUST INCLUDE:** showing location, property line dimensions, and set back of **ALL** buildings, driveways existing on the subject property and specific uses on the site.
2. Indicate the size and location of any **PROPOSED** buildings and/or uses on the subject site.
3. Indicate **PROPOSED** setbacks to buildings on the subject site and to buildings on adjacent parcels along any common property lines.
4. Indicate such building or structural elevations, floor plans and hardships which may be important in determining particular building heights, use areas and/or site development needs.

(3) SEE ATTACHED FEE SCHEDULE

**APPLICATION FOR ZONING BOARD OF APPEALS
OREGON TOWNSHIP**

Applicant's Name: _____

Address: _____

Phone: () _____ Cell: () _____

Legal Owner: (if other than applicant) _____

Address: _____

Phone: () _____ Cell: () _____

Name of Proposed Development: (if applicable) _____

Parcel Identification Number: 44-017- _____ Zoning: _____

Attach complete Legal Description.

Explanation: Describe in detail the nature of the request, including the Section of the Ordinance being appealed. Identify your claimed unnecessary hardship or practical difficulty that will result if the variance is not granted and what unique circumstances are present that justify the request. *Financial hardship does not constitute a legal basis to support the granting of a variance;*

*Section of Ordinance asking variance from: _____ Article No. _____

I hereby attest that the information on this application form is, to the best of my knowledge, true and accurate. Board members have my permission to perform on-site reviews, as required, of my property.

Applicant's Signature Date
Date

Legal Owner's Signature Date
(Required if not Applicant)

This application will not be accepted if incomplete. Eight (8) copies of all required materials must be submitted no later than 30 calendar days prior to a Zoning Board of Appeals meeting.

**PLANNING COMMISSION FEES
AND
ZONING BOARD OF APPEALS FEES**

PLANNING COMMISSION FEES:

OUTDOOR ASSEMBLY APPLICATION:\$ 700.00
(\$200.00 of fee is refunded if the Assembly is conducted in compliance with Ordinance #4000 & 4001)

REZONE :

- Simple Rezone – no development (no escrow deposit required) \$ 500.00
- Complex Rezone – for current or future development

Section 19 of Zoning Ordinance (Amendments and Rezoning) \$1,400.00

- Site Plan Review Required (see additional fees below)
- Escrow Deposit Required for Engineering & Professional Fees... \$3,500.00
(due upon application) up to actual costs.

Section 20 of Zoning Ordinance (Voluntary Rezoning Agreement) \$1,400.00

- Site Plan Review Required (see additional fees below)
- Escrow Deposit Required for Engineering & Professional Fees.....\$3,500.00
(due upon application) up to actual costs.

SITE PLAN REVIEW:

- Performance BondSee Zoning Ordinance Section 16.05
- Residential (if required)\$ 500.00
- Commercial.....\$1,500.00
- Escrow Deposit Required for Engineering & Professional Fees.....\$3,500.00
(due upon application) up to actual costs.
- Moving lot lines in a platted sub **ONLY**.....\$ 350.00

SPECIAL LAND USE.....\$ 700.00

(Fee change per Motion #007-23, 1-10-23)

- If Site Plan Review required, see additional fees above

TENTATIVE / FINAL / PRELIMINARY PLAT.....(Origination fee) \$1,000.00*

*Plus actual costs, and all other costs and fees required by statute or required by law.

ZONING BOARD OF APPEALS APPLICATION FEES:

Variance request.....\$ 500.00*

*Plus actual costs, and all other costs and fees required by statute or required by law.

(Per Motion 013-22 dated 2-8-22)

SPECIAL MEETINGS Planning Commission or Zoning Board of Appeals (additional)\$ 500.00

(Special meeting requests require thirty (30) day notice to allow for necessary publication and mailing)

~All fees are non-refundable with the exception of undisbursed escrow deposit monies~