

ARTICLE XIII
BOARD OF APPEALS

SECTION 13.10 INTENT AND PURPOSE:

The purpose of this Article is to insure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

SECTION 13.20 CREATION AND MEMBERSHIP:

A Board of Appeals is hereby established in accordance with Act 184 of the Public Acts of 1943, as amended.

SECTION 13.30 ORGANIZATION:

13.30.1. Rules of Procedure: The Board of Appeals may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Board of Appeals shall annually elect a chairperson, a vice-chairperson, and a secretary.

13.30.2. Meetings and Quorum: Meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as the board in its Rules of Procedure may specify. A majority of the total membership of the Board of Appeals shall comprise a quorum. All meetings shall be open to the public.

13.30.3. Oaths and Witnesses: The chairperson may administer oaths and compel the attendance of any witness in order to insure a fair and proper hearing.

13.30.4. Records: The minutes of all meetings shall contain the grounds for every determination made by the Board and the final ruling on each case. The Board of Appeals shall file its minutes in the office of the Township Clerk.

SECTION 13.40 JURISDICTION:

The Board of Appeals shall act upon questions as they arise in the administration of this Ordinance. The Board shall perform its duties and exercise its powers as provided in Act 184 of the Public Acts of 1943, as amended. The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters for which this Ordinance provides and administrative review, interpretation, variance, or temporary use permit. Within this capacity the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Township Building Inspector, Planning Commission or any official administering or enforcing the provisions of this Ordinance as set forth in Section 13.50.

SECTION 13.50 AUTHORIZED APPEALS

The Board of Appeals shall hear the following specified categories of appeals in accordance with the following standards:

13.50.1. Administrative Review: The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Township Building Inspector or by any other official in administering or enforcing the provisions of this Ordinance.

13.50.2. Interpretation of the Ordinance: The Board of Appeals shall hear and decide upon request to:

- a. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request the Board of Appeals shall insure that its interpretation is consistent with the intent and purpose of the Ordinance and the article in which the language in question is contained.
- b. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Township Building Inspector.
- c. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
- d. Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed by an analysis of the specific needs.

13.50.3. Variance: The Board of Appeals shall have the power to authorize specific variance from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements, of this ordinance, provided that all the required findings listed below are met:

- a. 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.
- b. That a genuine hardship exists because of unique circumstances or physical condition such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property uses in the same zoning district, and shall not be recurrent in nature.
- c. That the hardship or special conditions or circumstances do not result from actions of the applicant.
- d. 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.
- e. That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.

- f. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
- g. That the variance shall not permit the establishment, within a district, of any use which is not permitted by right within the zoning district, or any use for which a conditional permit or a temporary use permit is required.

In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and shall automatically invalidate the permit.

Each variance granted under the provisions of this Ordinance shall become null and void unless:

- i. The construction authorized by such variance or permit has commenced within six (6) months of granting of the variance.
- ii. The occupancy of land, premises or building has taken place within one (1) year after the granting of the variance. No application for the variance which has been denied, wholly or in part, by the Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on the ground of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.

SECTION 13.60 APPEAL PROCEDURES:

13.60.1. **Notice of Appeal:** Appeals to the Board of Appeals may be made by any person aggrieved, or by an officer or department of the Township, filing a written Notice of Appeal with the Township Clerk. Upon receipt of a Notice of Appeal, the Township Clerk shall promptly transmit the records concerning the appealed action to the chairperson of the Board of Appeals. Any appeal from the ruling of the Township Building Inspector concerning the enforcement of the provisions of this Ordinance shall be filed within ten (10) days after the date of the Township Building Inspector's decision.

13.60.2. **Hearing:** Upon receipt of a Notice of Appeal, the chairperson of the Board of Appeals shall fix a reasonable time and date for a Public Hearing, not to exceed thirty (30) days from the date of filing of the Notice of Appeal. Upon determination of the date and time of the Public Hearing, the Township Clerk shall notify the following, by first class mail or by personal service, not more than fifteen (15) or less than eight (8) days before the Public Hearing:

- The appellant
- The Township Building Inspector
- All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within thirty (30) feet
- The Township Supervisor

13.60.3. **Notice of Hearing:** Where the hearing, in the opinion of the Township Clerk, concerns matters of general applicability in the Township and does not concern only individual lots

or parcels, such notice shall be given in a newspaper of general circulation in the Township not more than fifteen (15) or less than eight (8) days before the public hearing.

- 13.60.4. Appearance: Upon the hearing, any party may appear in person or by agent or attorney. The Board of Appeals may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
- 13.60.5. Fee: A fee as established by the Township Board, shall be paid to the Township Clerk at the time the petitioner files an application with the Board of Appeals. The purpose of such fee is to cover the necessary advertisements, investigations, hearing records and other expense incurred by the Board of Appeals in connection with the appeal. No fee shall be charged if the Township or any official body of the Township is the moving party.
- 13.60.6. Decision: The Board of Appeals shall render its decision within thirty (30) days of filing of Notice of Appeal unless an extension of time is necessary to review new information pertinent to making the decision, and is agreed upon by the appellant and a majority of members of the Board of Appeals present. The vote of a majority of members of the Board of Appeals shall be necessary to take action on an appeal.
- 13.60.7. Bonding: In authorizing any variance, or in granting any conditional, temporary or special approval permits, the Board of Appeals may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Township covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the Township Clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Board of Appeals may not require the deposit of the performance guarantee before the date on which the permit is to be issued. The Board of Appeals shall establish procedures under which a rebate of any cash deposits in reasonable proportions to that ratio of work completed on the required improvements will be made as work progresses.

SECTION 13.70 ADMINISTRATIVE VARIANCE:

- 13.70.1. Procedure and Criteria: The Township Building Inspector is hereby authorized to grant an administrative variance to the provisions of this Ordinance in an amount not to exceed a five percent (5%) variation from the site development standards, parking and loading requirements, and the specific provisions and requirements contained in this Ordinance.

Upon receipt of a request for an administrative variance, the Township Building Inspector shall prepare a report of the situation and all factual data concerning the site in terms of the criteria stated in this Ordinance. Upon completion of the report, the Township Building Inspector shall determine whether or not the request meets the above stated criteria and shall approve or deny the request exclusively on that basis. Decisions rendered by the Township Building Inspector shall be in the form of a letter which states specifically the determination on each of the items contained in Section 13.05.3 of this Ordinance, with reference to the above mentioned report.

- 13.70.2. Appeals: The decision of the Township Building Inspector may be appealed to the Board of Appeals pursuant to Section 13.06 of this Ordinance.

SECTION 13.80 REVIEW BY CIRCUIT COURT:

Any party aggrieved by an order, determination or decision of any officer, agency, board, commission, Board of Appeals or legislative body of Raisin Charter Township which has acted pursuant to the provisions of Act 207 of the Michigan Public Acts of 1921 as amended may obtain a review thereof both on the facts and the law, in the Circuit Court of Lenawee County, provided that all other means of local appeal and review as provided in this Ordinance have first been exhausted. The Circuit Court shall review the record and decision of the Board of Appeals to insure that the decision:

- 13.80.1. Complies with the constitution and laws of the State.
- 13.80.2. Is based upon proper procedure.
- 13.80.3. Is supported by competent, material, and substantial evidence on the record.
- 13.80.4. Represents the reasonable exercise and discretion granted by the Board of Appeals.

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