

**Section 14.01 Authorization**

In order that the objectives of this Ordinance may be more fully and equitably achieved; and that there shall be provided a means of competent interpretation of this Ordinance; and that adequate but controlled flexibility be provided in the application of this Ordinance; and that the health, safety, and welfare of the public be secured, and that justice be done, there is hereby established a Zoning Board of Appeals.

**Section 14.02 Membership - Terms of Office**

- A. The Zoning Board of Appeals shall consist of five (5) members.
1. The first member of such Board of Appeals shall be a member of the Township Planning Commission; the second member shall be a member of the Township Board; the additional members shall be selected from the electors residing in the Township.
  2. All members shall be appointed by the Township Board. The additional members shall not be elected officers of the Township.
  3. The additional members shall be appointed for three (3) year terms; the Planning Commission and Township Board representatives, who shall not be the same member, shall only serve while holding membership on those respective bodies.
- B. The Township Board may appoint up to two (2) alternate members for the same terms as the regular members.
1. An alternate may be called to serve as a regular member in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days.
  2. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on the case in which the regular member has abstained for reasons of conflict of interest.
  3. The alternate member shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member

**Section 14.03 Duties and Powers**

The Zoning Board of Appeals shall have the following specified duties and powers:

- A. Appeals: The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Township in the administration of this Ordinance.
- B. Interpretation: The Zoning Board of Appeals shall have the power to:
1. Hear and decide upon request for the interpretation of the provisions of this

2. Determine the precise location of boundary lines between zoning districts upon appeal from a decision by the Zoning Administrator upon said subject.

C. Variances: The Zoning Board of Appeals shall have the power to authorize specific variances from the requirements of this Ordinance.

D. The Zoning Board of Appeals shall not have the authority to approve any sign type within any zoning district which is not permitted by this Ordinance.

**Section 14.04 Meetings**

Meetings shall be open to the public, and shall be held at the call of the Chairman and at such other times as the Zoning Board of Appeals shall specify in its rules of procedure.

**Section 14.05 Applications and Hearings**

A. An application to the Zoning Board of Appeals shall consist of a completed application form, provided by the Township, a fee as established by the Township Board, which shall be paid to the Township Clerk at the time of filing, and a scaled drawing with sufficient detail to indicate the nature and necessity of the request. The Zoning Board of Appeals may request additional detail on the drawing or other information which they deem necessary to make a decision on the application.

B. Upon the receipt of a complete application the Secretary shall cause notice of the hearing as follows:(amended 2011)

1. The notice shall state the time, place and subject of the hearing, where comments can be sent, and where the application and associated paperwork may be seen and shall be served personally or by mail addressed to:

a. The parties submitting the application;

b. Those persons listed in the last assessment roll as owning property within 300 feet of the property which is the subject of the application.

c. The newspaper of general circulation in the township.

d. The notices shall be sent more than fifteen (15) days prior to the date of the scheduled hearing.

C. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required.

**Section 14.06 Decisions**

A. The concurring vote of a majority of the membership (three (3) votes) of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator; to decide in favor of any application on any matter upon which the Board is required to pass under this Ordinance; and to effect any

variance in this Ordinance.

B. The Zoning Board of Appeals shall return a decision upon each case within a reasonable time after the scheduled hearing has been held, unless an extension of time is agreed upon by the applicant and the Board.

C. Any decision of the Board shall not become final until minutes of the meeting at which final action on the request was taken are officially approved and adopted by the Zoning Board of Appeals, unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

D. The decisions of the Zoning Board of Appeals shall be final. However, any person having an interest affected by any such decision shall have the right of appeal to the Circuit Court on questions of law and fact.

E. Each decision entered under the provisions of this Chapter shall become null and void unless the construction or other action authorized by such decision has been started within one (1) year after the decision was made and is being carried forward to completion or occupancy of land, premises, or buildings.

F. No application which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first ordered by the board.

**Section 14.07**

**Appeals**

A. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the Township. Applications for appeals shall be filed within twenty-one (21) days after the date of the decision which is the basis of the appeal. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Zoning Bboard of Appeals all the papers constituting the record upon which the action appealed from was taken.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after the notice of the appeal shall have been filed with them that, for reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or, on application, by the Circuit Court when due cause can be shown. Notwithstanding the preceding, the Township may pursue appropriate lawsuits, enforcement proceedings, and similar matters despite the stay provision mentioned above.

C. The Zoning Board of Appeals shall base its decision upon the record submitted to the person or body responsible for making the decision which is being appealed. No additional information or evidence shall be submitted by the appellant which was not otherwise available to the person or body making the decision from which the appeal

**Section 14.08**

**Review Standards for Variances (Amended 2011)**

A. Non-Use Variance: A non-use or dimensional variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that ALL of the following conditions are met:

1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed.
2. Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.
3. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable.
4. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
  - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter;
  - b. Exceptional topographic conditions;
  - c. By reason of the use or development of the property immediately adjoining the property in question; or
  - d. Any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary.