

**ARTICLE XXI
BOARD OF APPEALS**

Sec. 2100. Creation and Membership:

There is hereby established a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided in Section 601 of Act 110 of Public Acts of 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The Board shall consist of the following five (5) members.

- A. The first member shall be a member of the Township Zoning Board for the terms of his office.
- B. And, remaining members must be selected from the electors of the Township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One member may be a member of the Township Board.
- C. An elected officer of the township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member or an employee of the Board of Appeals.
- D. The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend 2 or more consecutive meetings of the Zoning Board of Appeals or for a period of more than 30 consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

Sec. 2101. Meetings:

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules or procedure. All hearings conducted by said Board shall be open to the public. The Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, and shall be a public record. 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 Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.

Sec. 2102. Appeal:

An appeal from the ruling of the Township Zoning Administrator concerning the enforcement of the provisions of this Ordinance may be taken to the Board of Appeals within such time as shall be prescribed by said Board of Appeals by a general rule. Such appeal may be taken by any person, firm or corporation, or by any Officer, Department, Board or Bureau of the Township. The appellant shall file with the Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds thereof.

The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.

Sec. 2103. Stay:

An appeal 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 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 Appeals or by the Circuit Court, on application, on notice of the Zoning Administrator and on due course shown.

Sec. 2104. Fees for Appeal:

The Township Board shall, from time to time, determine by resolution the fee which shall be paid to the Zoning Administrator at the time the notice of appeal is filed, which the Zoning Administrator shall forthwith pay over to the Township Treasurer to the credit of the General Fund of the Township.

Sec. 2105. Jurisdiction:

The Board of Appeals shall have the following powers and it shall be its duty:

- A. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
- B. In hearing and deciding appeals, the Board of Appeals shall have the authority to grant such variances as may be in harmony with their general purpose and intent so that the function of this Ordinance be observed, public safety and welfare secured, and substantial justice done, including the following:
 - 1. 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 and made part of this Ordinance, where street layout actually on the ground varies from the street layout as shown on the

- map aforesaid.
2. Permit the erection and use of a building or use of premises for public utility purposes and make exceptions to the height and bulk district requirements herein established which said Board considers necessary for the public convenience or welfare.
 3. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
 4. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to the surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification.
 5. Permit temporary buildings and uses for periods not to exceed two (2) years in the R-1 District in the Township, but may be renewed upon request for not more than one (1) additional one (1) year period each, in other Districts.
- C. Where, owing to special conditions, a literal enforcement of the use provisions, of this Ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this Ordinance, the Board shall have power upon appeal in specific cases to authorize such variations or modifications of the use provisions of this Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the use provisions of this Ordinance shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:
1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
 4. That the granting of such variance will not adversely affect the purpose or objectives of the Zoning Plan of the Township.
- D. In consideration of all appeals and all proposed variations to this Ordinance the Board of Appeals shall, before making any variations from the Ordinance in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.

Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change the Zoning Ordinance or the Zoning Map, such power and authority being reserved to the Township Board of the Township in the manner hereinafter provided by law.

Sec. 2106. Exercising Powers:

In exercising the above powers, the Board of Appeals 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.

Sec. 2107. Notice of Hearing:

The Board of Appeals shall make no recommendations except in a specific case and after a public hearing conducted by said Board. A notice of the time and place of such hearing shall be published in a paper of general circulation in the Township not less than fifteen (15) days previous to the hearing. Such notice shall contain the address, if available, and location of the property for which the variation or other ruling by the Board of Appeals is sought, as well as a brief description of the nature of the appeal.

Sec. 2108. Miscellaneous:

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless 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.

No order of the Board of Appeals permitting the use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period of erection or alteration is started and proceeds to completion in accordance with the terms of such permit.