

CHAPTER 21
BOARD OF ZONING APPEALS

Section 21.01. Members, Appointment and Tenure. There is hereby created a Township Board of Zoning Appeals, consisting of three members. The first member of the Board of Appeals shall be a member of the Township Planning Commission. The second member may be a member of the Township Board. The remaining members of the Board shall be appointed from among the electors residing in the Township, provided that no elected officer of the Township nor any employee of the Township Board may serve simultaneously as a member, or as an employee of the Board of Appeals. The members selected from among the electors of the Township shall each serve a term of three years staggered in such a way that the term of at least one member expires each year.

Section 21.02. Officers. The Board shall elect from its membership a chairperson, vice chairperson and secretary.

Section 21.03. Meetings and Voting.

- (a) Meetings of the Board shall be held at such times as the Board may determine.
- (b) The presence of two members shall constitute a quorum. The concurring vote of two members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance, or to grant variances from the terms of this Ordinance.
- (c) The Board shall keep minutes of its proceedings, showing the actions of the Board.

Section 21.04. Jurisdiction. The Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning map. It shall hear and decide all appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other administrative officers charged with the enforcement of the provisions of this Ordinance. The Board of Appeals shall also 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 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 21.05. Powers of the Board. The Board of Appeals shall have the power to hear applications for relief as follows:

- (a) Where it is alleged that there is error or misinterpretation in any order, requirement, decision, or denial made by the Zoning Administrator or any other administrative official charged with the enforcement of the provisions of this Ordinance.
- (b) Where by reason of the exceptional narrowness, shallowness, or shape of a lot or parcel of land, by reason of exceptional topographic conditions or extraordinary

conditions of land, buildings or structures, there are practical difficulties or unnecessary hardship in carrying out the literal requirements of this Ordinance.

Section 21.06. Variances. No variance in the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board makes findings, based upon competent, material and substantial evidence on the whole record:

- (a) That the enforcement of the literal requirements of this Ordinance would involve practical difficulties or cause unnecessary hardship.
- (b) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- (d) That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this Ordinance.

Section 21.07. Conditions of Approval. 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 and requirements deemed reasonably necessary for the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

Section 21.08. Time Limitations on Variances. Any variance granted by the Board shall not be valid after a period of twelve months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board, provided that the owner, upon application filed prior to the expiration of the variance, may obtain an extension of the variance for an additional period of twelve months upon showing that the expiration of the variance will cause an undue hardship to the owner.

Section 21.09. Procedure. The following procedures shall be complied with:

- (a) An appeal for variance from any ruling of the Zoning Administrator or other administrative officer may be taken by any person aggrieved thereby. Any required fee shall be paid.
- (b) When an application or appeal has been filed in proper form and with the required data, the Secretary of the Board shall 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.
 - (1) Notices shall be served either personally or by mail upon the owners of the property for which the application is being considered and to all persons to whom real property is assessed within 300 feet of the boundary of the property in question.

- (2) Notices shall be mailed or served at least five days before the hearing. The Secretary of the Board shall file an affidavit of service of notice with the Board prior to the hearing. Each party may appear at the hearing in person or by agent or attorney.

Section 21.10. Decisions of the Board. The Board shall decide all applications and appeals within a reasonable time. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination being appealed from, and to that end, shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Such decision shall be binding upon the Zoning Administrator, and the Administrator shall incorporate the terms and conditions of the same in any permit issued to the applicant.

Section 21.11. Alternate Members. As provided by law, the Township Board may appoint two alternate members to the Board of Zoning Appeals. Whenever a regular member is not available or will abstain from participating by reason of conflict of interest and is replaced by an alternate member, the regular member shall not be included for purposes of determining a quorum, but the alternate member shall be included. Whenever an alternate member is called to serve because a regular member will abstain by reason of conflict of interest, the alternate member shall serve only to hear and decide the matter within which the conflict of interest arises, and shall not hear or decide any other matters, unless authorized to hear such other matters upon any of the other grounds stated in this section.