

## **CHAPTER 32**

### **ZONING BOARD OF APPEALS**

**SECTION 32.01 CREATION.** There is hereby created, under the Zoning Act, a Township Zoning Board of Appeals, referred to in this Ordinance as the “Board of Appeals”. The Zoning Board of Appeals shall be constituted and appointed as provided in the Zoning Act. The Board of Appeals shall consist of five (5) members. The first member shall be a member of the Planning Commission and the second member may be from the Township Board. The Township Board shall appoint two (2) alternate members to serve in the absence of a regular member if the regular member is unable to attend one or more meetings.

**SECTION 32.02 JURISDICTION AND POWERS.** The Board of Appeals shall have all powers and jurisdiction granted by the Zoning Act, all powers and jurisdiction prescribed in other chapters of the Ordinance, and the following specific powers and jurisdiction:

- (a) The jurisdiction and power to hear and decide appeals from, and review any order, requirement, decision or determination made by, the Zoning Administrator. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in it’s opinion ought to be done, and, to that end, it (1) shall have all the powers of the Zoning Inspector; and (2) may issue or direct the issuance of a permit.
- (b) The jurisdiction and power to act upon all questions as they may arise in the administration and enforcement of this Ordinance, including interpretation of the Zoning map.
- (c) The jurisdiction and power to authorize, upon appeal, a dimension variance, or modification of this Ordinance where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done. Use variances shall not be allowed.
- (d) The Zoning Board of appeals shall be without jurisdictions with regards to any requirements, decisions or determinations made with regards to Special Land Uses and Planned Unit Developments.

**SECTION 32.03 ADOPTION OF RULES OF PROCEDURE.** The Board of Appeals shall fix rules and regulation governing it’s procedures sitting as the Board of Appeals. Said rules and regulations shall be made available to the public and shall be in conformance with the terms of this Ordinance and the Zoning Act.

**SECTION 32.04 CONDITIONS.** In granting a variance, the Board of Appeals may impose and attach such conditions, restrictions and requirements as it shall determine are necessary and/or appropriate. Such conditions, restrictions and requirements may impose greater or more restrictive conditions, restrictions and requirements than are included in this Ordinance. Violation of such conditions, restrictions and requirements shall be deemed a violation of this

Ordinance. Such conditions, restrictions and requirements may include the provision of financial security to guarantee performance.

**SECTION 32.05 VARIANCES.** No variance in the provisions or requirements of this Ordinance shall be authorized by the Zoning Board of Appeals unless the Board makes findings, based upon competent material and substantial evidence on the whole record, as to each of the following matters.

- (a) That the enforcement of the literal requirements of this Ordinance would cause practical difficulties.
- (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.
- (e) That the special circumstances or conditions referred to in subsection (b) do not result from the actions of the applicant.

**SECTION 32.06 EXPIRATION OF VARIANCES.** Each variance granted under the provisions of this chapter shall automatically expire one year from the date granted unless:

- (a) The construction authorized by such variance or permit has been commenced within one year after the granting of the variance and is progressing toward completing.
- (b) The creation or occupancy of land, premises or buildings authorized by the variance has taken place within one year after the variance was granted.

**SECTION 32.07 APPLICATIONS AND PETITIONS.**

- (a) All application and petitions made to the Zoning Board of Appeals shall, at a minimum, contain the following information, as applicable:
  - (1) The applicant's or petitioner's name, address and phone number.
  - (2) Proof that the applicant or petitioner is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement.
  - (3) The name, address and phone number of the owner(s) of record if different than - the applicant or petitioner
  - (4) The address and/or parcel number of the property.
  - (5) A legal description of subject property or properties.
  - (6) A land survey or other accurate and scaled drawing. The drawing shall depict the matter or structures subject of the appeal or variance including but not limited to the location, dimensions and area of all structures, fences, retaining walls,

driveways and parking areas and utilities on the site; scale, north arrow, and date of drawing. Recent aerial photos may be used to supplement but shall not replace the required drawings.

**SECTION 32.08 HEARINGS.** When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the secretary or designee of the secretary shall immediately place such request for appeal on the calendar for hearing and shall cause notice to be provided in the manner specified in Section 31.01 of the zoning ordinance. The Zoning Board of Appeals may recess such hearing from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice thereof shall be required.