

# TYRONE TOWNSHIP ZONING BOARD OF APPEALS BYLAWS

The following rules of procedure are hereby adopted by the Tyrone Township Zoning Board of Appeals (ZBA) to facilitate the performance of its duties as set forth by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and by Article 28 of Tyrone Township Zoning Ordinance 36, as outlined in the following pages:

## **Section 1 - MEMBERSHIP, TENURE, REMOVAL, CONDUCT OF MEETINGS**

- A. **Membership.** The first ZBA member shall be a Township Planning Commission member who shall be appointed by the Planning Commission and shall serve during his/her tenure of office on the Planning Commission, or until such time another Planning Commission member is appointed to replace him/her. The remaining four members shall be selected and appointed by the Township Board for a term of three (3) years from among the electors residing in the Township.
  
- B. **Alternate Members.** The Township Board may appoint two alternate members for three (3) year terms. The alternate members may be called to sit as regular members of the ZBA in the absence of regular members. An alternate member may also be called on 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 as allowed by State Law. 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 ZBA.
  
- C. **Removal.** A member of the ZBA may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
  
- D. **Conduct of Meetings.** The ZBA shall not conduct business unless a majority of the regular members of the ZBA are present. A majority vote of the membership of the ZBA in attendance is required to affirm or deny any motion, or reverse a decision of an administrative body, or official. Parliamentary procedure during Planning Commission meetings shall be governed by Robert's Rules of Order, except when state statute or local ordinances direct otherwise. The ZBA may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.
  
- E. **Board Meeting Dates.** Regular Board meetings are held at the call of the chairperson and shall be regularly held the second Monday of the month at 7:00 p.m., at the Tyrone Township Hall. In the event a regular meeting falls on a legal holiday or the day preceding a presidential primary, primary, special, or general election, the ZBA shall select the following Monday or a suitable alternate date in the month. Special Board meetings may be held at the call of the chairperson.

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- F. **Meetings are Public.** All business the ZBA may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. The ZBA shall maintain a public record of its proceedings on file with the Township Clerk.
- G. **Public Notice.** Upon receipt of a written request seeking an interpretation of the zoning ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the interpretation not less than 15 days nor more than 60 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- H. **Order of Business - Agenda.** The ZBA recording secretary shall prepare an agenda for each meeting and the order of business shall be as follows:

## Approval of Minutes

## Unfinished Business

## New Business

## Miscellaneous Business

## Adjournment

- I. **Motions.** A motion shall be restated by the recording secretary or chairperson before a vote is taken. The name of the maker and supporter of a motion shall be recorded.
- J. **Voting.** Voting shall be by roll call, in random order, and shall be recorded by either a "yes" or a "no." All members of the ZBA are required to vote on appeals unless a conflict of interest has been declared. The concurring vote of a majority of the members of the ZBA is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the ZBA is required to pass under the zoning ordinance, or to grant a variance to the Township's Zoning Ordinance. In the event of a tie vote, the matter shall be postponed until the next regular meeting at which a five-member Board is present.
- K. **Conflicts of Interest.** ZBA members shall declare a conflict of interest and abstain from participating in any hearing, deliberations, discussion, or vote on a request when:

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1. A relative or other family member is involved in any request for which the ZBA is asked to make a decision;
2. The ZBA member is the applicant or has business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association;
3. The ZBA member owns or has financial interest in neighboring property. For the purposes of this section, a neighboring property shall include all property falling within the notification radius for the proposed development, as required by the Township's Zoning Ordinance or other applicable ordinance or state statute;
4. There is a reasonable appearance of a conflict of interest, as determined by the ZBA member declaring such conflict;
5. The majority of the members of the ZBA present vote in the affirmative that they believe a member has a conflict of interest in the matter before them.

For Section 1.K.4 above, the ZBA member declaring a potential conflict of interest shall state the nature of the conflict, and whether he/she believes he/she could impartially consider the request before the ZBA. He/she shall individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. The member declaring a conflict may ask the other ZBA members to decide if he/she should abstain. The member declaring a conflict may remove himself/herself from the table or the room in which the discussion takes place. The member declaring a conflict shall not make any presentations to the ZBA as a representative of the applicant.

## Section 2 - OFFICERS

- A. **Selection.** At the regular meeting in April of each year, the ZBA shall select from its membership a chairperson and a vice chairperson. If a member is also a member of the legislative body that member shall not serve as chairperson. All officers are eligible for reelection.
- B. **Tenure.** The chairperson and vice chairperson shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.
- C. **Duties.** The chairperson shall preside at all meetings and perform such other duties as may be ordered by the ZBA. The vice chairperson shall act in the capacity of chairperson in his/her absence. In the event the office of the chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term, and the ZBA shall select a successor to the office of the vice chairperson for the unexpired term.

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## Section 3 - APPEALS

- A. **Application Submission:** Upon receipt of a completed and signed application of appeal, the ZBA shall establish a public hearing date and time to hear the appeal as set forth in Section 1.E and 1.G, and shall give due notice thereof, by mail or personal delivery, to the applicant or owner of the property that is the subject of the appeal or to the applicant or person requesting the interpretation or hearing. The Zoning Board of Appeals shall make no determination in any specific case until it shall have conducted a public hearing. Incomplete applications shall not be considered received until all sections are substantially completed and the application is resubmitted.
- B. **Criteria for Granting Variances for Dimensional (Non-Use) Requirements:** Variances and appeals from the Zoning Ordinance dimensional requirements shall be granted only in accordance with the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, and shall be based on findings of fact related to the criteria set forth in this section. Consistent with the decisions of courts of law in the State of Michigan, all of the criteria indicated below must be found by the ZBA to indicate a practical difficulty exists, thereby justifying a dimensional or non-use variance. A financial hardship of the land owner, developer, or other related party shall not be a consideration in determining if a practical difficulty exists or otherwise justify granting a variance.
1. **Unreasonable Burden:** Strict compliance with Zoning Ordinance requirements will be unreasonable or unnecessarily burdensome, preventing the use of the land for any and all permitted purposes. The demonstration of mere inconvenience is insufficient to justify a variance.
  2. **Substantial Justice:** Granting of a requested variance or appeal will provide substantial justice to the appellant as well as to other property owners in the vicinity. Resulting development permitted by a variance will relate harmoniously with adjacent land uses and will not alter the essential character of the neighborhood. In evaluating this criterion, consideration shall be given to prevailing traffic patterns, convenience of access, continuity of development, and the need for particular services and facilities in specific areas.
  3. **Minimum Variance Required:** The requested variance or appeal will be the minimum variance required to provide substantial justice and the variance can be granted in such fashion that the spirit of these regulations will be observed and public safety and welfare secured.
  4. **Extraordinary Circumstances:** There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the area. The described circumstances

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or conditions shall uniquely identify this request and any variance granted to satisfy the request. The circumstances shall not be self-created by the owner or a former owner of the land. Finally, the circumstance shall be related to the land and not to the property owner, developer or any other person. No precedent shall be established for general application in the Township when exceptional or extraordinary circumstances or conditions are delineated that clearly serve to identify the unique characteristics of each request.

5. **No Safety Hazard or Nuisance:** The granting of a variance or appeal will not increase the hazard of fire or otherwise endanger public safety or create a public nuisance.

**C. Criteria for Granting Variances for Land Use Requirements:**

As permitted by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and as set forth by Section 28.03.D of Tyrone Township Zoning Ordinance 36, variances and appeals from the Zoning Ordinance Land Use requirements shall be prohibited.

## **Section 4 - SITE VISITS**

- A. It is recommended that each Tyrone Township ZBA Member visit the subject site to become aware of site conditions.
- B. Site visits shall be limited to less than a quorum of the ZBA membership being present at any one time.
- C. It is recommended if a ZBA Member discusses the application with the applicant or related parties (builder, neighbor, surveyor, etc.), the ZBA Member shall disclose the conversation during the ZBA appeal.

## **Section 5 - DECISIONS**

- A. Zoning decisions run with the land and not with the property owner. Zoning decisions are permanent. An approval cannot be granted for a specified period of time or reviewed at a later date unless the variance being granted is for a regulation for which a specific time period is specified in the Zoning Ordinance. The reasons for any Board decision shall be stated in full and made a part of the meeting records. The ZBA decisions are final but may be appealed. Any appeal shall be filed within 30 days after the ZBA certifies its decision in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals. The decisions of the ZBA are not appealable to the Township Board or the Planning Commission.

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- B. The ZBA will not reconsider any appeal upon which a negative decision has been rendered within one (1) year from the date of the appeal or petition unless it can be shown by the appellant or petitioner that new facts affecting the appeal or petition, which were not presented to the ZBA at the previous hearing, are now available and could affect the original decision rendered.
- C. Appeals which are tabled shall have not less than 90 days to come before the ZBA for a final decision. If more than 90 days have passed since the appeal was first tabled, a final decision shall be rendered during the first meeting of the ZBA occurring after the 90<sup>th</sup> day. Thereafter, the full application fee shall again be required in order to reapply. If an appeal is tabled due to insufficient information, additional fees will be incurred for the republishing of the required public notice, copies for public mailings, and postage.

## **Section 6 – ZBA POWERS and PROCEDURES**

- A. The powers and procedures of the ZBA are set forth by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and by Article 28 of the Tyrone Township Zoning Ordinance. All questions of powers and procedures shall defer to those documents, and any conflicts with those documents found within these Bylaws shall defer to those documents.

## **Section 7 - AMENDMENTS**

- A. These Bylaws may be amended at any regular meeting of the ZBA by a two-thirds vote of the members present.

## **Section 8 - ADOPTION**

At a regular meeting of the Tyrone Township Zoning Board of Appeals held July 10, 2017, the following action was taken:

Commissioner LoVasco moved to adopt the Tyrone Township Zoning Board of Appeals Bylaws, as amended. (Commissioner Trollman seconded) The motion carried by voice vote.

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Greg Carnes, Chairman  
Tyrone Township Zoning Board of Appeals

## **Amendments Log**

July 10, 2017 – General Updates  
February 5, 2007 – Conflict of Interest Updates  
December 5, 2005 – General Updates

**Amended July 10, 2017**

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## CONFLICTS OF INTEREST

You probably have a conflict of interest if . . .

you are the applicant;

a close relative is the applicant;

a business associate, lender or renter is the applicant;

the applicant is a party with whom you have close ties;

the proposal could allow you, a relative, or a business associate, to receive a financial gain or benefit;

you are the Planning Commission representative and the matter to be heard is an appeal from a previous Planning Commission decision in which you participated;

or, **if you have to ask**, chances are others are asking as well. It is better to avoid the perception of a conflict, even though you may conclude that a conflict does not exist. Ultimately, the decision is a personal one. If you feel that you cannot honestly make an objective decision, and the presence of a conflict is not clear, take the action with which you are most comfortable.