

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS AGENDA
December 8th, 2015 - 7:00 PM
VAN BUREN TOWNSHIP HALL
Board of Trustees Room
46425 Tyler Road**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ACCEPTANCE OF AGENDA

MINUTES: Approval of minutes from September 8th, 2015 meeting

CORRESPONDENCE

UNFINISHED BUSINESS

NEW BUSINESS

- 1. Election of Officers**
- 2. Adoption of 2016 Meeting Schedule**
- 3. BZA Training Session**

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

ADJOURNMENT

CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
Minutes-Tuesday September 8, 2015
Van Buren Township Hall
46425 Tyler Road

The Meeting was called to order at 7:00p.m. in the Board of Trustees room by Vice Chairperson Miller. Members Present: Vice Chairperson Miller, Commissioner Atchinson, Planning Commission Representative McKenna, Commissioner Barnabi, Trustee Jahr; Absent-Excused Chairperson Commissioner Grissett. Others present, Director Ron Akers, Deputy Director Matthew Best, Patrick Sloan of McKenna and Associates, Secretary Smith, petitioner Diana Snider and 4 others.

APPROVAL OF AGENDA:

Motion to approve the agenda as presented Commissioner McKenna; Second Commissioner Atchinson Motion Carried.

APPROVAL OF THE MINUTES:

Motion to approve the minutes of the June 9, 2015 meeting commissioner McKenna; Second Trustee Jahr, Motion Carried.

CORRESPONDENCE:

None

UNFINISHED BUSINESS:

None

NEW BUSINESS:

1. Diana Snider- 10965 Van Buren Street- Case # BZA 15-016 Parcel # V125-83-056-01-0262-000

Prior to presentation Trustee Jahr reminded the petitioner that they must get a majority vote of full body not of members present to get a variance passed and asked if they still wanted to move forward or post pone until full board was present. The petitioner opted to move forward.

The petitioner is requesting three variances, Article 17 Section 17.02 Side yard setback District-R1-C , 2 ft. variance, Article 17 Section 17.02 Side Yard Setback –R1-C District 2.2 ft. variance, Article 4, Accessory Buildings, Structures and Uses Dimensional Regulations: setback from principal building, 7 foot variance. Patrick Sloan of McKenna and Associates presented a review of the case submitted, outlined in a letter dated September 2, 2015. BZA may grant a variance based on practical difficulty and the 9 factors outlined in the Van Buren Township Zoning Ordinance to determine practical difficulty.

The petitioner's builder presented signed letters from the neighbors all stating they are ok with the project as designed with the requested variances. The builder stated he could build a fire wall on both sides if that would help to pass the request.

The board discussed the standards of review required by the Zoning Ordinance listened to the case presented by the petitioner and the petitioner's builder, and asked questions regarding the

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matter to the petitioner, the builder, Mr. Sloan, Director Akers and one another in an effort to fully understand all sides of the matter.

MOTION Commissioner McKenna to deny variance based on it not meeting the 9 criteria to prove practical difficulty; as outlined in the letter from McKenna Associates Dated September 2, 2015 Second Trustee Jahr (with discretion) yeas: Miller, Jahr, McKenna, Nays: Atchinson, Barnabi. Motion neither passed nor failed as there must be at least four votes to pass a ruling. Variance request will be reheard at the next regular meeting of the BZA scheduled for October 13, 2015.

ANNOUNCEMENTS, COMMENTS AND OPEN DISCUSSION:

The board discussed a need for alternates and to fill position that was recently vacated. Director Akers indicated he would get with the Supervisor for any applicants that may be on file and Commissioner McKenna suggested if members knew people that would be an asset to let them know of the need to fill positions.

ADJOURNMENT:

Motion to Adjourn Trustee Jahr, second Commissioner Atchinson Meeting adjourned at 8:40 p.m.

Respectfully Submitted by Karen E Smith

Vice Chairperson Ed Miller

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

The following rules of procedure are hereby adopted by the Charter Township of Van Buren Board of Zoning Appeals (hereinafter known as BZA) to facilitate the performance of its duties as outlined in the Charter Township of Van Buren Zoning Ordinance.

SECTION 1.0 OFFICERS.

- 1.1 SELECTION.** At the first regular meeting in December of each year, the BZA shall select from its membership a Chairperson, Vice-Chairperson, and Corresponding Secretary. An elected officer of the Township shall not serve as the Chairperson. All officers are eligible for re-election. No officer shall hold the same office for more than two (2) consecutive terms.
- 1.2 TENURE.** The Chairperson, Vice-Chairperson and Corresponding Secretary shall take office immediately following their selection and shall hold office for a term of one year. The BZA may create and fill such other offices or committees as it may deem advisable. It may appoint advisory committees outside of its membership.
- 1.3 DUTIES.** The Chairperson shall preside at all meetings, and perform such other duties as may be ordered by the BZA. The Chairperson, or in his/her absence, the Vice-Chairperson, shall have the power to require the attendance of witnesses, administer oaths, and compel testimony. The Vice-Chairperson shall act in the capacity of Chairperson in his/her absence, and in the event the office of the Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term, and the BZA shall select a successor to the office of Vice-Chairperson for the unexpired term. The senior member, who is not the Planning Commission or Township Board member, should act in the capacity of Chairperson in the absence of the Chairperson, and the Vice-Chairperson. The Corresponding Secretary shall perform all duties normally devolving around such office. A Recording Secretary, whose position shall be a non-voting one in order to record accurate minutes of the proceedings, shall be provided by the Township for all regular and special Board of Zoning Appeals meetings.

SECTION 2.0 MINUTES AND RETENTION.

- 2.1 MINUTES.** Every meeting's proceedings shall be recorded by the Recording Secretary, who will have the minutes available for public review within 8 business days after the meeting, and for approval at the next meeting of the BZA. Approved copies must be available within 5 business days after approval.
- 2.2 RETENTION.** The record of each meeting shall be permanently kept on file with the Township Clerk. All the pertinent documents and minutes for each case before the BZA shall be copied and filed with the Zoning Administrator's office.

SECTION 3.0 MEETINGS.

- 3.1 REGULAR MEETINGS.** The Appeals Board shall meet on the second Tuesday of each month at 7:00 p.m. in the Township Hall at 46425 Tyler Road, Belleville, MI, except in absence of an agenda. The Township Board of Trustees may from time-to-time amend by resolution the meeting time and place of the BZA. Any other meetings of the BZA shall be called as needed in response to receipt of a Notice of Appeal, so long as the meeting is scheduled within 20 days of the Notice of Appeal. The meeting can be called by the Zoning Administrator of the Charter Township of Van Buren. When the regular hearing day falls on a legal holiday or holiday eve, the Chairperson may select a suitable alternate day in the same month. Publication of all meetings shall comply with the Open Meetings Act as amended.
- 3.2 SPECIAL MEETINGS.** Special Meetings may be called by the Chairperson, on the written request to two (2) BZA members, or someone seeking an interpretation of the Zoning Ordinance text or map. A prior notice of not less than 72 hours must be given to each member of the BZA and to the interested parties. Notice of Special meeting must also comply with the "Open Meetings Act" which requires 18 hours posted notice at the principal office of the Township and any other places deemed appropriate. Special Meetings can be called if the applicant is requesting a variance, then the requirements of the Township Zoning Ordinance and the Township Rural Zoning Act, Act 184 of 1942, as amended shall be followed and appropriate fees paid.
- 3.3 PUBLIC.** All regular and special hearing, meetings, records and

accounts shall be open to the public.

3.4 QUORUM. A Township Board of Zoning Appeals shall not conduct business unless a majority of the members of the board is present. If the Board of Zoning Appeals consists of 7 members, then four (4) members present would constitute a quorum.

3.5 ALTERNATES. Alternates shall fill in for regularly appointed BZA members when a conflict of interest arises or when a regular member is absent from or unable to attend a meeting.

A regular member of the BZA will be considered absent if he/she is not present when the meeting is called to order.

3.6 ORDER OF BUSINESS. The order of business at the BZA meetings shall be as follows:

1. Call the Meeting to Order
2. Pledge of Allegiance (Include on the Agenda)
3. Roll Call
4. Acceptance of Agenda
5. Minutes of the previous meeting, approved or corrected.
6. Correspondence
7. Unfinished Business
8. New Business
9. Announcements, comments, and open discussion.
10. Adjournment

3.7 HEARING PROCEDURE. The order of procedure of hearings shall be:

1. Applicant's presentation.
2. Township representatives' presentation.
3. Interested parties statements and presentations.

3.8 MOTIONS. Motions shall be restated upon request before a vote is taken. The name of the maker and supporter of a motion shall be recorded.

3.9 VOTING. All proceedings of the Board of Zoning Appeals shall be initiated by motion, and voted upon by all board members present and shall be recorded by yeas and nays. In the event one or more of the board members abstains from voting on a particular matter, that

abstention shall not be counted as a vote either in favor of or opposed to the issue to be decided. Permission for such abstention must be granted by a majority of the other board members present. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office. Roll call votes will be recorded when: (1) dealing with requests for variances; (2) administrative and enforcement actions are requested; (3) deciding zoning district boundaries when they are not clear; and (4) interpreting the text of the ordinance when the ordinance does not address an issue precisely or clearly. The concurring vote of a majority of the TOTAL membership of the BZA shall be necessary to reverse any order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance.

- 3.10 BZA ACTION.** The BZA will act upon all questions regarding the Zoning Ordinance and any other matters permitted by law. Reasons for each determination must be stated. The BZA's jurisdiction is defined in the Township Rural Zoning Act, 184 PA 1943, as amended.
- 3.11 PARLIAMENTARY PROCEDURE.** BZA meetings shall be conducted in a formal manner, and parliamentary procedure shall be governed by Roberts Rules of Order, Newly Revised Edition, if not specifically dealt with in these rules of procedure.
- 3.12 COMMENTS OUT OF ORDER.** The Chairperson shall rule out of order any irrelevant remarks; remarks which are personal, about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or any other remarks which are not about land use.

SECTION 4.0 DISPOSITION OF APPEAL.

- 4.1 FINAL DECISION.** The final decision shall be in writing and provided to the applicant by the Clerk's Office after the meeting minutes have been approved by the BZA. The final decision shall include a general statement or resolution citing the conditions, facts and findings of the BZA; reasons for each determination will be stated.

- 4.2 TABLED ITEMS.** Items tabled to be brought back from the table at the request of the petitioner must adhere to the same notification deadlines that are required of new applicants.
- 4.3 WITHDRAWAL.** Any applicant may withdraw his/her application at any time prior to an official decision of the BZA.
- 4.4 APPLICANT'S FURTHER APPEAL.** The decision of the BZA shall be final. However, a person having an interest affected by the Zoning Ordinance may appeal to Circuit Court. Upon appeal, the court shall review the record and decision of the BZA to insure that the decision complies with the constitution and laws of the state, is based upon proper procedure, is supported by competent material and substantial evidence on the record, and represents the reasonable exercise of discretion granted by law to the BZA. As a result of this review required by this section, the court may affirm, reverse, or modify the decision of the BZA.
- 4.5 VALIDITY OF FAVORABLE DECISION.** In addition to the approval periods as prescribed by the Zoning Ordinance, any decision of the BZA favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct, and the conditions upon which the resolution was based are maintained.

SECTION 5.0 NON-PERFORMANCE AND MISCONDUCT

- 5.1** Members of the Board of Appeals shall be removable by the Township Board of Trustees for non-performance of duty or misconduct in office upon written charges and a public hearing.
- 5.2 NON-PERFORMANCE**
- A.** If any member of the BZA is absent from more than one meeting in a row, then that member shall be considered delinquent. Delinquency shall be grounds for the Township Board to remove any member for non-performance of duty upon public hearing from the Township Board. The Recording Secretary shall keep attendance records and shall notify the Township Supervisor whenever any member of the BZA is absent from more than one meeting in a row, so the Township Board can consider further action allowed under law. When a BZA Member needs to be excused he/she must call as soon as possible to the Township Zoning Secretary or the Zoning

Administrator and request an excused absence. This allows the Secretary enough time to call an alternate.

B. When a petitioner fails to appear at a properly scheduled meeting of the BZA, The Chairperson may entertain a motion from the Board to dismiss the case for want of prosecution. In the absence of a motion by the Board, the Chairperson shall rule. In cases which are dismissed for want of prosecution, the petitioner will be furnished written notice of the action by the Recording Secretary of the BZA. The applicant shall have seven (7) days from the date of notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Recording Secretary for reinstatement. Reinstatement shall be at the discretion of the Chairperson for good cause shown, and upon payment of a fee set from time to time by the Township Board. In all cases reinstated in the above described manner, the case will be docketed and readvertised in the usual manner prescribed for new cases.

SECTION 6.0 REHEARING

6.1 REHEARING. The BZA is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances which actuated the decision have so changed as to invalidate or materially affect the reason which produced and supported it, and no vested rights have intervened.

SECTION 7.0 AMENDMENTS

7.1 SUSPENSION OF RULES OF PROCEDURE. A resolution supported by a majority of the total members may temporarily suspend any rule of procedure.

7.2 AMENDMENTS. These rules may be amended at any regular or special meeting by a majority vote of the total members of the BZA, so long as such amendment does not result in a conflict with state law, zoning ordinance, or court decision.

SECTION 8.0 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of these rules of procedure is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 9.0 ADOPTION AND REPEAL.

Upon adoption of these rules of procedure August 14, 1990, they shall become effective and all previous rules of procedure, as amended, shall be repealed.

SECTION 10.0 CONTENTS.

SECTION 1.0	OFFICERS
SECTION 2.0	MINUTES & RETENTION
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I HEREBY CERTIFY that the foregoing is a true and correct copy of the Rules of Procedure adopted at the Charter Township of Van Buren Board of Zoning Appeals, at a Regular Meeting held August 14, 1990.

Cheryl D. Fain

Cheryl D. Fain, Clerk
Charter Township of Van Buren



BOARD OF ZONING APPEALS

2016 Meeting Schedule

The Board of Zoning Appeals Meetings are held on the 2nd Tuesday of the month at 7:00 p.m. in the Board of Trustees Room at Township Hall, 46425 Tyler Road, Van Buren Township, MI 48111.

January 12, 2016

February 9, 2016

*March 8, 2016-Canceled

April 12, 2016

May 10, 2016

June 14, 2016

July 12, 2016

August 9, 2016

September 13, 2016

October 11, 2016

**November 8, 2016 - Canceled

December 13, 2016

*March 8, 2016 meeting is canceled due to the Presidential Primary Election.

**November 8, 2016 meeting is canceled due to the General Election.

In compliance with the Americans with Disabilities Act, reasonable accommodations will be made available with advance notice.

For more information, please call the Developmental Services Office at (734) 699.8913.