

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS AGENDA
JANUARY 8, 2019 AT 7:00 PM
VAN BUREN TOWNSHIP HALL
BOARD OF TRUSTEES ROOM
46425 TYLER ROAD**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

Chair David Senters	_____	Vice-Chair Robert McKenna	_____
Secretary Joe Barnabei	_____	Commissioner Amos Grisset	_____
PC Representative Bryon Kelley	_____	Commissioner Aaron Sellers	_____
Trustee Kevin Martin	_____	Director Ron Akers	_____
Recording Secretary Anna Halstead	_____	BZA Alternate Charles Larocque	_____

ACCEPTANCE OF AGENDA

APPROVAL OF MINUTES: Approval of minutes from December 11, 2018

CORRESPONDENCE

PUBLIC HEARING (for non-new business items)

UNFINISHED BUSINESS

NEW BUSINESS

1. 2019 Meeting Schedule

2. Election of Officers for 2019

3. Agenda Revisions

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

ADJOURNMENT

CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
Tuesday - December 11, 2018
DRAFT MINUTES

The Meeting was called to order at 7:00PM in the Board of Trustees room by Chairperson McKenna.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: McKenna, Martin, Kelley, Larocque

Absent Excused: Senters, Sellers, Barnabei, Grissett

Staff: Akers, Halstead

Audience: 11

ACCEPTANCE OF AGENDA:

Motion to accept agenda with item #2 to be tabled per the applicant Kelley, Seconded by Martin.
Motion Carried

APPROVAL OF MINUTES: Motion to approve minutes from June 12, 2018 Martin, Seconded by Kelley. Motion Carried

CORRESPONDENCE: None

PUBLIC COMMENT: None

UNFINISHED BUSINESS: None

NEW BUSINESS

- 1) **Southport Apartments**– The applicant is requesting a variance from the following sections of the Charter Township of Van Buren Zoning Ordinance.

Article 11, Section 11.108(A) Dimensional Regulations: The applicant is requesting front yard setback variance for the construction of a new sign on the property. The required front setback is 30' and the applicant has proposed a 1' setback (29' variance).

Motion to open Public Hearing at 7:12pm Kelley, Seconded by Martin. Motion Carried

Noah Birmelin, representative for Southport Apartments, presented the BZA with their variance request. The current sign is set 1' off the property line and does not meet any of the standards of the zoning ordinance. The new proposed sign will meet all the standards of the ordinance except the setback.

Grace Stamper, Intern for Planning and Economic Development, gave the staff review.

She gave the staff recommendation for approval based off of the staff report dated 12-4-18.

Motion to close Public Hearing at 7:28pm Kelley, Seconded by Martin. Motion Carried

McKenna Motioned, seconded by Kelley to approve the variance request for a 1' front yard setback for the construction of a new sign at 10830 Oak Lane, Parcel #83-055-99-0003-004 (Southport Apartments) based on the staff report dated December 4, 2018 and the following findings of fact:

1. Existing landscaping, which cannot be legally removed, would block passing motorist's view of a conforming sign.
2. A conforming sign cannot be seen by passing motorists at a distance from which they can safely slow and turn into the property.
3. Constructing a conforming sign would require the removal of trees and alteration of a berm which cannot be legally done.
4. Constructing a conform sign would obstruct passing motorist's view because they would have to visually search for the sign then take their eyes off the road to identify it.
5. The required sign setback combined with the existing landscaping would it impossible for passing motorists to see a sign from a safe distance. This creates a practical difficulty for the applicant to use the property for an effective sign.
6. That the applicant cannot meet both the landscape and setback requirements of the township and have a sign which can be seen by passing motorists.
7. Granting a variance to have the sign closer to the lot line would give substantial justice to the applicant by remedying the conflict between the landscape and setback requirements so that the sign can be seen by passing motorists.
8. The plight of the property owner is due to the existing landscaping and the property's location along the North I-94 Service Drive.
9. The practical difficulty is not self-created but created by the conflict of the landscape and setback requirements and the property's location on the North I-94 Service Drive.
10. The granting of the proposed variance is a valid exercise of the police power and purposes which are affected by the construction of the new sign.
11. The granting of the proposed variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in the public streets.
12. The granting of the proposed variance will not increase the hazard of fire or flood or endanger the public safety.
13. The granting of the proposed variance will not unreasonably diminish or impair established property values with in the surrounding area.
14. The granting of the proposed variance will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.
15. The granting of the proposed variance will not alter the essential character of the neighborhood.
16. The granting of the proposed variance is necessary to meet the intent and purpose of the zoning regulations; is related to the standards established in the Ordinance for the land use or activity under consideration and is necessary to ensure compliance with these standards.

(Letter Attached)

Motion carried. Variance approved.

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION: Ron Akers will be looking into the agenda layout and revise it.

Motion Kelley, seconded by Martin to adjourn at 7:39 p.m.

Motion Carried

Respectfully submitted,

Anna Halstead, Recording Secretary



Memo

TO: Van Buren Township Board of Zoning Appeals

FROM: Grace Stamper
Planning and Economic Development Intern

RE: BZA 18-002- 10830 Oak Lane - Southport Apartments

DATE: December 4, 2018

Staff has reviewed the above referenced application submitted by the owners of the Southport Apartments to construct a new sign on their site. In order to construct the sign as proposed the applicant will be required to obtain a sign setback variance. The following is staff's review of the application based on the criteria in the Zoning Ordinance and the information provided:

STAFF REPORT

File Number: 18-002

Site Address: 10830 Oak Lane, Parcel ID# 83-055-99-0003-004

Parcel Size: ≈50.13 Acres

Applicant: Occidental Development, 38525 Woodward Avenue, PO Box 2012, Bloomfield Hills, MI, 48303

Property Owner: Same as applicant

Request: Dimensional variance

Project Description: Applicant is requesting a sign setback variance to construct a new sign on the same site as their existing sign.

Zoning and Existing Use: RM (Multiple Family Residential), Apartments located on property.

Other: Notice for the public hearing was published in the Belleville Independent on November 20, 2018 in accordance with the Michigan Zoning Enabling Act and notices were mailed to the owners of real property within 300' of the subject property on October 30, 2018.

Background: The subject site is located on the North I-94 Service Drive between Belleville and Haggerty Roads. There are multiple apartment buildings and a sign on the site. The current sign is within the 30 foot setback required by the zoning ordinance. The applicant is proposing to construct a new sign in the same location and with the same setback as the old sign, which is one foot from the lot line. Signs are permitted for multi-family housing developments in the RM district.

Variance Requests

Section 11.108(A) Dimensional Regulations: Minimum Setback: Required: 30'
Requested: 1'
Variance: 29'

Standards for Approval

The following are the standards of approval that are listed in the Zoning Ordinance for dimensional variances.

Section 11.116 Appeals. Any person aggrieved by any decision, ruling, or order from the Building Department, may make an appeal to the Board of Zoning Appeals (BZA) in accordance with Article 12, Chapter 4 of this Ordinance. In determining whether a variance is appropriate, the BZA shall also study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify a practical difficulty; however, the BZA may decline to grant a variance even if certain of the circumstances is present.

(A) Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions, which cannot be legally or practically removed.

(B) Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the BZA shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.

(C) Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.

(D) Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.

(E) Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.

Section 12.403 (C) Variances. The BZA shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations; such requirements as off-street parking and loading space requirements, sign regulations and other similar requirements as specified in the Ordinance, provided such modifications will not be inconsistent with the purpose and intent of such requirements. To obtain a variance, the applicant must show “practical difficulty” by demonstrating:

(1) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons;

(2) That a variance would do substantial justice to the applicant, as well as to other property owners in the district, (the BZA, however, may determine that a reduced relaxation would give substantial relief and be more consistent with just to others);

(3) That plight of the owner is due to the unique circumstances of the property; and

(4) That the problem is not self-created.

Section 12.403(D) Standards of approval. In consideration of all appeals and all proposed variances under this Ordinance, the BZA shall, before granting any appeals or variances in a specific case first determine the following:

(1) That the proposed appeal or variance is related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;

(2) The proposed appeal or variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets;

(3) Will not increase the hazard of fire or flood or endanger the public safety;

(4) Will not unreasonably diminish or impair established property values within the surrounding area;

(5) Will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township;

(6) Will not alter the essential character of the neighborhood; and

(7) Is necessary to meet the intent and purpose of the zoning regulations; is related to the standards established in the Ordinance for the land use or activity under consideration, and is necessary to ensure compliance with those standards.

Summary of Findings

Section 11.116 Appeals

(A) Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions, which cannot be legally or practically removed.

Response: The applicant has shown that the current landscaping on the sight prevents passing motorists from easily seeing the sign until 270' away while traveling westbound and 220' away while traveling eastbound. According to the United States Sign Council standards, a driver traveling 50mph needs more than 500' to safely react to a sign, so the landscaping prevents passing motorists from seeing the sign at a safe distance. The landscaping is part of the original site plan for the property and cannot be legally removed.

(B) Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the BZA shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.

Response: According to the United States Sign Council standards, a driver traveling 50mph (the speed on the North I-94 Service Drive) needs 8 seconds of reaction time to safely see and respond to a sign. This would require a driver to be able to see the sign from ~585 feet away. However, a conforming sign cannot be seen until a driver is between 220 and 270 feet away, which doesn't provide enough time to safely slow down and turn, especially without a left turn lane. The applicant has shown that a sign with the variance they are requesting can be seen by passing motorists from more than 650' away, providing more than the required 8 seconds of reaction time.

(C) Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.

Response: There are no existing signs on nearby parcels that affect visibility of a conforming sign on the property.

(D) Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.

Response: Constructing a conforming sign would require the removal of existing trees and altering a berm on the property. These are part of the original site plan and cannot be legally removed.

(E) Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.

Response: A conforming sign would not be visible to passing motorists until they are 270' away while traveling westbound and 220' away while traveling eastbound. Motorists' view of the road would be obstructed while they search for the sign from distances greater than 220' and 270'. Once the sign is visible, it would still be out of the driver's normal line of sight, so they would have to take their eyes off the road to see it.

Section 12.403 (C) Variances

(1) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons;

Response: Signs are a permitted use on multi-family residential complexes within the RM district. Due to existing landscaping, strict compliance with the setback requirements would prevent the owner from installing a sign which can be seen from a distance by passing motorists. A sign that meets the setback requirements would not fulfill its purpose of alerting passing motorists of the site in enough time for them to safely slow and turn into the property. A variance is necessary to ensure passing motorists can see the sign from a reasonable distance.

(2) That a variance would do substantial justice to the applicant, as well as to other property owners in the district, (the BZA, however, may determine that a reduced relaxation would give substantial relief and be more consistent with just to others);

Response: A variance would do substantial justice because the existing landscaping was put in place before the current sign setback requirement. When the new setback requirement was adopted, it became impossible for the applicant to keep the landscaping to satisfy landscaping requirements and have a sign with the proper setback that could still be seen from a distance from passing motorists. Granting the variance would remedy this situation and allow the site to have a functional sign.

(3) That plight of the owner is due to the unique circumstances of the property; and

Response: The property has existing landscaping and is located along the North I-94 Service Drive. These two factors create a unique circumstance in which the landscaping would block a sign that meets the setback requirement until passing motorists, who are driving 50mph, are too close to the driveway to safely slow down and turn.

(4) That the problem is not self-created.

Response: The problem with meeting the setback requirement is that existing landscaping would block the view of the sign. The landscaping was required by the Township, thereby creating a situation in which it is difficult and impractical for the applicant to meet the setback requirement while also meeting the landscaping requirement.

Section 12.403 (D) Standards of approval.

(1) That the proposed appeal or variance is related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;

Response: Zoning is a valid exercise of the police power bestowed by the State of Michigan in the Michigan Zoning Enabling Act (PA 110 of 2006). The Zoning Enabling Act specifically gives local municipalities the authority to have a Board of Zoning Appeals and to grant dimensional variances when practical difficulty is demonstrated.

(2) The proposed appeal or variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets;

Response: The proposed location of the sign is sufficient distance from adjacent properties and buildings, so it will not impair an adequate supply of light and air to adjacent properties. Its location on private property and not in any roadways will not increase congestion in the public streets.

(3) Will not increase the hazard of fire or flood or endanger the public safety;

Response: The sign will be required to meet the standards of the Ordinance and will therefore not increase the hazard of fire or flood. It will also not endanger the public safety as the purpose of the variance is to allow the sign to be placed where passing motorists can see it in enough time to safely slow and turn into the property.

(4) Will not unreasonably diminish or impair established property values with in the surrounding area;

Response: The proposed variance would allow a new sign to be built in the same location as the current sign. Replacing an old sign with a new, nicer-looking sign is not anticipated to negatively impact property values.

(5) Will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township;

Response: The variance request will not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township. The applicant has shown that granting the variance will promote the safety of passing motorists.

(6) Will not alter the essential character of the neighborhood; and

Response: The property is located on the North I-94 Service Drive near other commercial properties and an apartment complex. Signs are common in commercial areas and at apartment complexes. A sign already exists on the property, and replacing it will not alter the essential character of the neighborhood.

(7) Is necessary to meet the intent and purpose of the zoning regulations; is related to the standards established in the Ordinance for the land use or activity under consideration, and is necessary to ensure compliance with those standards.

Response: Section 11.101(A) of the Ordinance states that the intent of the sign section is “to promote the free flow of motorized and non-motorized traffic and protect motorists, passengers, and pedestrians from injury and property damaged caused by, or which may be fully or partially attributable to, cluttered, distracting, or illegible signage that results in confusion and hindrance of vision.” Based on this the intent of the sign section in the Ordinance is to ensure that signs do not create traffic hazards. The applicant has shown that the variance is required to give passing motorists enough time to see the sign and safely turn into the property. Granting the variance would meet the intent of the Ordinance.

Recommendation

Based on the above analysis, staff recommends that the Board of Zoning Appeals approve the request for a sign setback variance of 29’ based on the December 4 staff report and the following findings of fact:

1. Existing landscaping, which cannot be legally removed, would block passing motorist’s view of a conforming sign.
2. A conforming sign cannot be seen by passing motorists at a distance from which they can safely slow and turn into the property.
3. Constructing a conforming sign would require the removal of trees and alteration of a berm which cannot be legally done.

4. Constructing a conforming sign would obstruct passing motorist's view because they would have to visually search for the sign then take their eyes off the road to identify it.
5. The required sign setback combined with the existing landscaping would it impossible for passing motorists to see a sign from a safe distance. This creates a practical difficulty for the applicant to use the property for an effective sign.
6. That the applicant cannot meet both the landscape and setback requirements of the township and have a sign which can be seen by passing motorists.
7. Granting a variance to have the sign closer to the lot line would give substantial justice to the applicant by remedying the conflict between the landscape and setback requirements so that the sign can be seen by passing motorists.
8. The plight of the property owner is due to the existing landscaping and the property's location along the North I-94 Service Drive.
9. The practical difficulty is not self-created but created by the conflict of the landscape and setback requirements and the property's location on the North I-94 Service Drive.
10. The granting of the proposed variance is a valid exercise of the police power and purposes which are affected by the construction of the new sign.
11. The granting of the proposed variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in the public streets.
12. The granting of the proposed variance will not increase the hazard of fire or flood or endanger the public safety.
13. The granting of the proposed variance will not unreasonably diminish or impair established property values with in the surrounding area.
14. The granting of the proposed variance will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.
15. The granting of the proposed variance will not alter the essential character of the neighborhood.
16. The granting of the proposed variance is necessary to meet the intent and purpose of the zoning regulations; is related to the standards established in the Ordinance for the land use or activity under consideration and is necessary to ensure compliance with these standards.

Respectfully submitted,

Grace Stamper
Planning and Economic Development Intern
Charter Township of Van Buren

1-2-19

MR. AIKERS:

We would like to withdraw our request for a variance of our property at this time.

I understand that we may request a variance in the future if we choose.

Thank you for your help.

Beverly NIELSEN -
Lawrence ROSE



Memo

TO: Board of Zoning Appeals

FROM: Ron Akers, AICP
Director of Planning and Economic Development

RE: 2019 Meeting Schedule

DATE: January 4, 2019

Please find attached the meeting schedule for 2019. Please be advised that the only deviation from the normal “second Tuesday of the month” is the January meeting date, due to the holiday. The BZA will need to make a motion to approve the meeting schedule. I look forward to the Board’s discussion on this item.

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
MEETING SCHEDULE 2019**

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 8, 2019

February 12, 2019

March 12, 2019

April 9, 2019

May 14, 2019

June 11, 2019

July 9, 2019

August 13, 2019

September 10, 2019

October 8, 2019

November 12, 2019

December 10, 2019

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



Memo

TO: Board of Zoning Appeals

FROM: Ron Akers, AICP
Director of Planning and Economic Development

RE: Election of Officers

DATE: January 4, 2019

Per the BZA rules of procedure, the BZA is required to select from its membership at the first meeting of the calendar year a Chairperson, Vice-Chairperson, and Secretary. The 2018 Officers are as follows:

Chairperson – David Senters
Vice-Chairperson – Robert McKenna
Secretary - Joseph Barnabei

Typically the process for electing officers requires a nomination, a support of that nomination, and a vote on the nomination. I have attached the rules of procedure for your review. Please feel free to contact me with any additional questions.

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

Effective: June 5, 2018

ARTICLE 1: AUTHORITY

These rules of procedure are adopted by the Charter Township of Van Buren Board of Zoning Appeals (hereinafter referred to as the "BZA"), to facilitate the duties of the BZA as outlined in Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et. seq.) and the Charter Township of Van Buren Zoning Ordinance.

ARTICLE 2: MEMBERSHIP

Section 1. The BZA shall consist of seven (7) regular members and two (2) alternate members appointed by the Charter Township of Van Buren Board of Trustees as follows:

- A. Planning Commission Liaison.** One (1) member shall be a member of the Township Planning Commission.
- B. Township Board Liaison.** One (1) member of the Township Board may be a regular member or alternate member of the BZA, but shall not be the chairperson of the BZA.
- C. Other Members.** The remaining members shall be electors of the Township selected and appointed by the Township Board from among the electors, residing in the unincorporated area of the Township, who shall be representative of the population distribution and of the various interests present in the Township. No employee or contractor of the Township Board may serve simultaneously as a member or employee of the BZA.
- D. Alternates.** The Township Board shall appoint two (2) alternate members to the BZA who shall have authority to vote on appeals that come before the BZA. The alternate members shall only be allowed to sit in place of a regular member of the BZA. The alternate members shall only be allowed to sit as members of the BZA and/or vote when a regular member of the BZA is absent. Alternates shall be expected to attend all BZA meetings regardless as to whether they are sitting as members or not.
- E. Terms.** Terms of members and alternates of the BZA shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively, and the period stated in the resolution appointing them. When members and alternates are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- F. Removal.** Appointed members may be removed for misfeasance, malfeasance, or nonfeasance in office by the Township Board only after misconduct of written charges and a public hearing by the Township Board, pursuant to Public Act 110 of 2006 as amended. Failure of a member to disqualify him/herself from a vote in which he has a conflict of interest shall constitute malfeasance in office.

G. Resignation. A member may resign from the BZA by sending a letter of resignation to the Township Supervisor or the Township Board.

Section 2. Members of the BZA shall be subject to the following membership requirements.

A. Attendance. If any member of the BZA is absent from three (3) consecutive meetings, whether excused or unexcused, then that member shall be considered delinquent. Delinquency can be grounds for the Township Board to remove a member of the BZA for nonperformance of duty or misconduct after holding a public hearing on the matter.

B. Training. Each member shall have attended at least four (4) hours of training per year in planning and zoning during the member's current term of office. Failure to meet the training requirements may result in the member not being reappointed to the BZA. Training can be provided from a variety of sources which may include the Michigan Association of Planning, Michigan State University Extension, Michigan Township Association, Michigan Municipal League, or any other applicable organization.

C. Staff Support. Township staff will have the ability to participate in discussion with the BZA and nothing else. Township staff cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements in these rules of procedure. Township staff includes employees, agents and consultants of Charter Township of Van Buren. Other individuals may be allowed to participate in discussion at the discretion of the chairperson.

ARTICLE 3: OFFICERS

Section 1. The BZA shall elect a Chairperson, a Vice Chairperson and a Secretary from its members and may create and fill such other officers or committees as it may deem advisable. The BZA may appoint advisory committees outside of its membership. The terms of all officers shall be for one (1) year.

- A. Duties of the Chairperson.** The Chairperson retains his or her ability to discuss, make motions, and vote on issues before the Appeals Board. The Chairperson shall:
1. Preside at all meetings with all powers under parliamentary procedure;
 2. Shall sign all decisions of the BZA pursuant to M.C.L. 125.3606(3);
 3. Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the BZA;
 4. Restate all motions or request the Recording Secretary to restate all motions prior to voting on said motions;
 5. Appoint committees;
 6. May call special meetings pursuant to Section 5.3 of these Rules of Procedure;
 7. Review with staff, prior to an BZA meeting, the items to be on the agenda if he or she chooses to do so;
 8. Acts as the BZA's chief spokesman to represent the BZA at local, regional, and state government levels;
 9. Represent the BZA, along with the Township Board BZA member before the Township Board;

10. Represent the BZA along with the Planning Commission member, before the Planning Commission; and
11. Perform such other duties as may be ordered by the BZA.

- B. Duties of the Vice-Chairperson.** The Vice-Chairperson shall:
1. Act in the capacity of Chairperson, with all the responsibilities, powers, and duties outlined in these Rules of Procedure, in the Chairperson's absence; and
 2. Perform such other duties as may be ordered by the BZA.
- C. Duties of the Secretary.** The Secretary shall:
1. Preside at meetings in the absence of the Chairperson and the Vice-Chairperson; and
 2. Perform such other duties as may be ordered by the BZA.
- D. Absence of Elected Officers.** Should neither the Chairperson, Vice-chairperson, nor the Secretary be present at a meeting, a temporary chairperson shall be elected by a majority vote of the members present under the following process:
1. Any member of the BZA may call the meeting to order.
 2. The first order of business after calling the roll will be to appoint a temporary chairperson for that evenings meeting. The temporary chairperson will be appointed by a simple majority of the members present.
 3. The temporary chairperson shall assume the position immediately following their appointment.

Section 2. The election of officers shall be carried out in the following manner.

- A. Elections.** At the first meeting of the calendar year, the BZA shall select from its membership a Chairperson, a Vice-chairperson, and a Secretary who shall serve for a twelve-month (12) period and who shall be eligible for re-election. A candidate receiving a majority vote of the membership present shall be declared elected. Newly elected officers will assume their office at the next meeting.
- B. Vacancies.** Vacancies in office shall be filled by regular election procedure and shall only serve the remainder of the term.

ARTICLE 4: ADMINISTRATIVE DUTIES

Section 1. Duties of Township Staff. Township Staff is responsible for the execution of documents in the name of the BZA and shall perform the duties hereinafter listed below, and other such duties as the BZA may determine.

- A. Records.** Township staff shall keep, or cause to be kept, a record of BZA meetings, which shall at a minimum include an indication of the following:
1. A copy of the meeting posting as required in Section 6.D, 6.E, 6.F, 6.G of these Rules of Procedure.
 2. A copy of the minutes of the meeting.
 3. A signed statement indicating that notices, as required in Section 6.D, 6.E, 6.F, 6.G of these Rules of Procedure, were sent out, with a list of to whom, and an indication of by whom, and a copy of a newspaper notice, if one was published.

4. A copy of the Application for Appeal, including any maps, drawings, site plans, etc.
5. The records of any action on a case by the zoning administrator.
6. The records of all past records regarding the property involved in a case (previous permit, special use permit, variances, appeals).
7. Any relevant maps, drawings, photographs, presented as evidence at a hearing.
8. Copies of any correspondence received or sent out in regard to a case.
9. A copy of relevant sections, or a list of citations of sections of the zoning ordinance.
10. A copy of any follow-up correspondence to or from the petitioner regarding the decision.

B. Minutes. BZA minutes shall be prepared by the Recording Secretary. The minutes shall contain the following:

1. Time and place the meeting was called to order.
2. Attendance.
3. Indication of others present (listing names if others choose to sign in and/or a count of those present).
4. Summary or text of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting and who gave the report and in what capacity. An alternative is to attach a copy of the report if offered in writing.
5. Summary of all points made in public participation or at a hearing by the applicant, officials, and guests and an indication of who made the comments. An alternative is to attach a copy of the public's statement, petition, or letter, if it is provided in written form.
6. Full text of all motions introduced, whether seconded or not, who made the motion, and who seconded the motion. For each motion, the following should be included:
 - a. Who testified and a summary of what was said.
 - b. A statement of what is being approved (e.g. special use permit, variance, conditional use permit, subdivision, land division, etc.)
 - c. The location of the property involved (tax parcel number and description, legal description is best).
 - d. What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes).
 - e. What evidence was considered (summary of discussion by members at the meeting).
 - f. The administrative body's findings of fact.
 - g. Reasons for the decision made. (If the action is to deny, then each reason should refer to a section of an ordinance which would be violated or with which not complied.)
 - h. The decision (e.g. approve, deny, approve with modification).
 - i. A list of all required improvements (and if they are to be built up-front or name the type of performance security to be used), if any.
 - j. List of all changes to the map/drawing/site plan that was submitted. (Sometimes it is easier to use a black flair felt pen and draw the changes on the map of what was applied for, rather than listing the changes. Do not use different colors. The map will most likely be photo copied. Then colors on the copy will not show at all or will just be black.)
 - k. Make the map/drawing/site plan part of the motion (e.g. "...attached to the original copy of these minutes as appendix 'A', and made a part of these minutes...").
7. A summary of all points made by members and staff in debate or discussion on the motion or issue.
8. Who called the question.
9. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "the motion passed/failed after a voice vote."

10. That a person making a motion withdrew it from consideration.
11. All the Chairperson's rulings.
12. All challenges, discussion, and vote/outcome on a Chairperson's ruling.
13. All parliamentary inquiries or points of order.
14. When a voting member enters or leaves the meeting.
15. When a voting member or staff has a conflict of interest and when the voting member ceases or resumes participating in discussion, voting, and deliberations at a meeting.
16. All calls for an attendance count, the attendance, and the ruling if a quorum exists or not.
17. The start and end of each recess.
18. All chair's rulings of discussion being out of order.
19. Full text of any resolutions offered.
20. Summary of announcements.
21. Summary of informal actions, or agreement on consensus.
22. Time of adjournment.

- C. Correspondence.** Township Staff shall be responsible for the issuance of formal written correspondence with other groups or persons, as directed by the BZA.
- D. Attendance & Training.** Township Staff shall be responsible for maintaining an attendance & training record for each member of the BZA.
- E. Notices/Agenda.** Township Staff shall issue such notices and prepare the agendas for all meetings.
- F. Retention.** The record of each meeting shall be permanently kept on file with a copy filed with the Township Clerk. All pertinent documents and minutes for each case shall be maintained by the Planning & Economic Development office.

ARTICLE 5: MEETINGS

Section 1. Regular Meetings. Regular meetings of the BZA shall be scheduled the second Tuesday of every month. The dates and times shall be posted at the Township Hall in accordance with the Open Meetings Act. Any changes in the date or time of the regular meetings shall be posted in the same manner as originally established. When a regular meeting falls on or near a legal holiday, suitable alternate dates in the same month shall be selected in accordance with the Open Meetings Act.

Section 2. Meeting Notices. All meetings shall be posted at the Township Hall according to the Open Meetings Act. The notice shall include the date, time and place of the meeting.

Section 3. Special Meetings. A special meeting may be called by three members of the BZA upon written request to the chairperson or by the chairperson himself/herself. The business which the BZA may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. Public notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meetings Act, and Township Staff shall send notice of a special meeting to BZA members.

Section 4. Open Meetings. All meetings of the BZA shall be opened to the public and held in a place available to the general public. A person shall be permitted to address the BZA during public comment or during the public hearing on a specific item before the BZA. A person shall not be excluded from a meeting of the BZA except for breach of the peace, committed at the meeting. The Chairperson may limit the amount of time allowed for each person wishing to make public comment at a BZA meeting.

The Chairperson may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the BZA meeting with an extended time limit.

Section 5. Public Record. All meetings, minutes, records, documents, correspondence, and other materials of the BZA shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

Section 6. Quorum. In order for the BZA to conduct business or take any official action, a quorum consisting of the majority of the voting members of the BZA shall be present. When a quorum is not present, no official action, except for closing of the meeting shall occur. The members of the BZA may discuss matters of interest, but can take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next available regular meeting.

Section 7. Voting. Any decision made by the BZA shall require a majority vote of the membership of the BZA. Voting shall ordinarily be voice vote; provided however that a roll call vote shall be required if requested by any BZA member or directed by the chairperson. All BZA members shall vote on every motion placed on the floor unless there is an impermissible conflict of interest, as established in ARTICLE 6 or is otherwise prohibited.

Any member of the BZA shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:

- A. When the appeal is of an administrative or other decision by the Planning Commission, and the member of the BZA sits both on the Planning Commission and BZA.
- B. When the appeal is of an administrative or other decision by the Township Board, and the member of the BZA sits both on the Township Board and BZA.
- C. When the appeal is of an administrative or other decision by any committee of the Planning Commission, Township Board, other committee, and the member of the BZA sits both on that committee and the BZA.

Any member abstaining from a vote shall indicate their intention to abstain prior to any discussion on that item and shall not participate in the discussion of that item.

Section 8. Agenda. A written agenda for all regular meetings shall be prepared as follows: The required agenda items for all regular meetings shall be:

- A. Call to Order, Pledge of Allegiance, and Roll Call
- B. Approval of Agenda and Minutes
- C. Correspondence
- D. Public Comment
- E. Unfinished Business
- F. New Business
- G. Announcements, Comments, and Open Discussion
- H. Adjournment

Section 9. Rules of Order. All meetings of the BZA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by “Robert’s Rules of Order” as modified by the BZA.

Section 10. Public Hearings. Hearings shall be scheduled and due notice given in accordance with the Charter Township of Van Buren Zoning Ordinance and the Michigan Zoning Enabling Act. Public hearings conducted by the BZA shall be run in an orderly and timely fashion. This shall be accomplished by the established hearing procedures as follows.

- A. Announce Subject.** The chairperson announces each agenda item and describes the subject to be considered.
- B. Open Public Hearing.** The chairperson summarizes the hearing rules and then opens the hearing to the floor.
- C. Close Public Hearing.** The chairperson should give ample opportunity for comment, including a “last call” for comments. The chairperson will then close the hearing.
- D. Deliberation.** Any action of the BZA must be supported by reasonable findings and conclusions, which will become part of the record through minutes, resolutions, staff reports, etc. All motions shall summarize these findings, or provide reasons for the suggested action. If a matter is tabled to a specific meeting date, it is not necessary to re-advertise the hearing so long as the public hearing was opened and closed and proper notice as specified in the zoning ordinance and Zoning Enabling Act was given.
- E. Action.** After deliberation, the BZA may take any of the following actions:
 - 1. In the event of a variance request, the BZA may table the request, approve the request, deny the request or approve the request with conditions.
 - 2. In the event of an administrative appeal, the BZA may decide in favor of the Zoning Administrator or may reverse any order, requirements, decision, or determination of the Zoning Administrator.
 - 3. In the event of a request to make an interpretation of the zoning ordinance, the BZA may take action explaining the interpretation.

Section 11. Postponement of a Decision on a Variance Request. The BZA may postpone a decision on a variance request until the next regular meeting provided that the date and time of the meeting is provided in the motion. The BZA shall not authorize more than two (2) requests to postpone a variance decision. If additional time is needed by the applicant that would require a decision to be postponed more than twice, the BZA may, after written request from the applicant, remove the item from the agenda and allow the applicant to reapply at a later date. If the applicant reapplies then the variance request shall be treated as a new request with a new case number, a new public hearing notice as required by the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et. seq.), and a new application fee shall be paid.

ARTICLE 6: CONFLICT OF INTEREST

Section 1. Declaration of Conflict. No BZA member shall participate in any matter where they have an impermissible conflict of interest. BZA members shall declare a conflict of interest when any one (1) or more of the following occur:

- A.** The BZA member has a 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.
- B.** A relative or other family member of a BZA member has a 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.
- C.** Where an action made by the BZA will result in a monetary benefit to the BZA member.
- D.** The employer or an employee of the BZA member is an applicant, agent for an applicant, or has a direct interest in the outcome.
- E.** The BZA member or a relative or other family member of a BZA member owns or has a financial interest in neighboring property. For purposes of this Section, a neighboring property shall include any property falling within the three hundred (300) foot notification radius for the request, as required by the Zoning Ordinance and Michigan Zoning Enabling Act.
- F.** There is a reasonable appearance of a conflict of interest, as determined by the BZA member declaring such conflict.

Section 2. Requirements. When a conflict of interest exists, the member of the BZA shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

- A.** Prior to the meeting in which they have a conflict, the BZA member shall contact either Township staff or the Chairperson to make them aware of the conflict. Township staff and/or the Chairperson shall then contact the alternate(s) to ensure there are a sufficient number of members present and without conflict to conduct business at the meeting;
- B.** Declare a conflict exists at the meeting;
- C.** Cease to participate at the BZA meetings, or in any other manner, or represent one's self before the BZA, its staff, or others; and
- D.** During the deliberation of the agenda item before the BZA, the member declaring a conflict of interest shall leave the meeting room until that agenda item is concluded.

ARTICLE 7: POWERS OF THE BZA

Section 1. Powers and Duties. The BZA shall have the following powers/duties as granted by the Michigan Zoning Enabling Act and the Charter Township of Van Buren Zoning Ordinance:

- A. Administrative Review.** To hear and decide appeals where it is alleged by the appellant and there is an error in any order, requirement, permit, decision or refusal made by the building official or any other administrative official or body in carrying out, enforcing, any provision of the Zoning Ordinance.
- B. Interpretation.** To hear and decide in accordance with the provisions of the Township’s Zoning Ordinance.
 - 1. Appeals for the interpretation of the provisions of the Zoning Ordinance.
 - 2. Requests to determine the precise location of the boundary lines between zoning districts as they are displayed on the zoning map.
- C. Variances.** The BZA shall have the power to authorized, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations; such requirements as off-street parking and loading space, requirements, sign regulations and other similar requirements as specified in the Ordinance, provided such modifications will not be inconsistent with the purpose and intent of such requirements. To obtain a variance the applicant must show practical difficulty by meeting the specified criteria in the Zoning Ordinance.
- D. Belleville Lake Shoreline District Special Exceptions.** The BZA may interpret the Belleville Lake Shoreline District (Section 3.120) section of the Zoning Ordinance if questions arise and may approve modifications to particular provisions of this Section, and grant special exceptions for a given case in accordance with the standards for special exceptions (Section 3.120(F)(7)(c)). In exercising its powers, the BZA shall have the primary goal of reaching an equitable conclusion and allocation of use of the Township Lake property for the purposes stated in [Section 3.120\(A\)](#) of the Zoning Ordinance.

Section 2. Prohibited Variances. The BZA is prohibited from granting the following variances:

- A. Special Approval Uses.** No variance shall be made in connection with a condition attached to a special approval use approved by the Township Board.
- B. Use Variance.** No variance shall be made in the use of land, and the BZA shall not consider use variance requests.

ARTICLE 8: OTHER DUTIES

Section 1. Duties. The following are duties which are expected of the individual members of the ZBA.

- A. Ex Parte Contact.** Ex parte contact occurs when a party to a case or someone involved with a party, talks or writes to or otherwise communicates directly with a BZA member about the issues in a case without the other BZA members or party’s knowledge. Members shall avoid Ex Parte contact, whenever possible. Sometimes it is not possible to avoid Ex Parte contact. When this occurs the member should take detailed notes about what was discussed and report it to the BZA at a public meeting so that every member and other interested party is made aware of what was said.
- B. Site Inspections.** Members may perform site inspections, however, no more than one (1) member may perform a site inspection at the same time. Members should avoid discussing the merits of the request with the applicant, family member of the applicant or agent of the applicant.

- C. Accepting Gifts.** Per the Township’s Ethics Policy, no BZA member shall solicit, accept, or receive, directly or indirectly, any gift, compensation, or anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality or any other form, or a promise of any of these things for an agreement that the vote or decision of the BZA member would be influenced thereby.
- D. Conduct.** Each member of the BZA, upon appointment, shall comply with all applicable Township policies and ordinances.
- E. Policy.** The BZA may also formulate and provide advice and may advise policy to the Planning Commission, Township Board, or any committee thereof, on issues dealing with administration, text, map, and enforcement of the Zoning Ordinance.

ARTICLE 9: ADOPTION, REPEAL, AND AMENDMENTS

Section 1. Adoption. Upon adoption of these Rules of Procedure, they shall become effective and all previous rules of procedure, as amended, shall be repealed.

Section 2. Amendments. These Rules of Procedure 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 3. Temporary Suspension of the Rules of Procedure. Any Rule of Procedure may be temporarily suspended by a majority vote of the total members of the BZA, so long as such temporary suspension does not result in a conflict with state law, zoning ordinance, or court decision.