

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS AGENDA
JANUARY 16, 2018 7:00 PM
VAN BUREN TOWNSHIP HALL
Board of Trustees Room
46425 Tyler Road**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

Chair Robert McKenna	_____	Vice-Chair Amos Grissett	_____
Secretary Joe Barnabei	_____	Vacant	_____
PC Representative Bryon Kelley	_____	David Senters	_____
Trustee Kevin Martin	_____	Director Ron Akers	_____
Alternate Aaron Sellers	_____	Deputy Director Matthew R. Best	_____
Recording Secretary Anna Halsted	_____		

ACCEPTANCE OF AGENDA

MINUTES: Approval of minutes from July 11, 2017

CORRESPONDENCE

PUBLIC COMMENT

UNFINISHED BUSINESS

NEW BUSINESS

- 1. Election of Officers for 2018**
- 2. 2018 Meeting Schedule**
- 3. BZA Orientation Packets**

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

- 1. Training**

ADJOURNMENT

CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
Tuesday - July 11, 2017
DRAFT MINUTES

The Meeting was called to order at 7:01pm in the Board of Trustees room by Chairperson McKenna.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: McKenna, Barnabei, Martin, Boynton, Senters

Absent Excused: Kelley, Grissett, Miller

Staff: Best, Halstead

Audience: 3

ACCEPTANCE OF AGENDA:

Motion to accept agenda as presented Boynton, Seconded by Barnabei.

Motion Carried

APPROVAL OF MINUTES: Motion to approve minutes from February 14, 2017 Boynton, Seconded by Martin. Motion Carried

CORRESPONDENCE: None

PUBLIC COMMENT: None

UNFINISHED BUSINESS: None

NEW BUSINESS

1.) MEIJER INC.

Case # BZA 17-002

Location: Parcel Number V-125-83-058-99-0006-705 (9701 Belleville.) The site is located on the east side of Belleville Road between Tyler Road to the north and I-94 to the south.

The applicant is requesting a variance from the following sections of the Charter Township of Van Buren Zoning Ordinance:

- **Article 8, Section 8.105(c): Height.** The height of light fixtures shall be measured from the finished grade to the top of the fixture. All lighting fixtures in non-industrial districts shall not exceed twenty-five (25) feet in height. In industrial districts and the OT, Office Technology District, the Planning Commission may approve lighting fixtures up to a maximum height of thirty-five (35) feet if the proposed lighting over twenty-five (25) feet in height has no adverse impacts on

the surrounding land uses and on the natural environment. The proposed height of the lighting fixtures will be 32.5 feet.

Best gave the staff recommendation for approval of the requested variances by Meijer Inc.

Representative, Matt Levitt, from Meijer Inc. gave a presentation of their request for variances. Also, stating this is a continued effort to update all their store's appearance and function. The LED lighting they are looking to use would improve the safety of the parking lot in increasing visibility.

Motion to open Public Hearing Boynton, Seconded by Senters. Motion Carried. Public hearing opened at 7:27.

Question from audience asking if the variances are approved at this meeting how soon would the project start and how long would it take to complete. Matt Levitt, Representative from Meijer, answered stating they had all the materials ready, assuming the variance were to be approved, and they expect the construction to be done within a month or two.

Motion to close Public Hearing Senters, Seconded by Boynton. Motion Carried. Public hearing closed at 7:30

Senters motioned, seconded by Boynton to approve the following...

Approve the requested variance from Section 8.105(c), **All Lighting fixtures in non-industrial districts shall not exceed twenty-five (25) feet in height**, to allow for the height of 32.5 feet which reduces the non-conformity, keeps safe lighting levels and reduces light pollution in the area.

Based on the information submitted, the following findings are pertinent to the motion:

1. The applicant has demonstrated practical difficulties or unique circumstances for the requested variance as summarized in the staff comments.
2. The granting of the requested variance would do substantial justice to other property owners in the district who will be required to comply with the Zoning Ordinance in the future.
3. The granting of the requested variance would decrease the existing legal non-conformity.
4. Granting of the requested variance would not reduce the supply of the light and air to the site and adjacent lots. In fact, it would maintain safe lighting levels and reduce light pollution off site.

Motion carried with five votes. Variances Approved.

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION: Deputy Director Best recognized audience member, Davis, and the work he is doing in the REAL program for Van Buren Twp.

Motion Grissett, seconded by Sellers to adjourn at 7:40 p.m.

Motion Carried

Respectfully submitted,

Anna Halstead, Recording Secretary



Memo

TO: Board of Zoning Appeals

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

RE: Election of Officers

DATE: December 8, 2018

Per the BZA rules of procedure, the BZA is required to select from its membership at the first meeting in December of each year a Chairperson, Vice-Chairperson, and Corresponding Secretary. The 2017 Officers are as follows:

Chairperson – Robert McKenna
Vice-Chairperson – Amos Grissett
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**

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
SECTION	3.0	MEETINGS
SECTION	4.0	DISPOSITION OF APPEAL
SECTION	5.0	NON-PERFORMANCE AND MISCONDUCT
SECTION	6.0	REHEARING
SECTION	7.0	AMENDMENTS
SECTION	8.0	SEVERABILITY
SECTION	9.0	ADOPTION AND REPEAL
SECTION	10.0	CONTENTS

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



Memo

TO: Board of Zoning Appeals
FROM: Ron Akers, AICP
Director of Planning and Economic Development
RE: 2018 BZA Meeting Schedule
DATE: December 18, 2017

Per the Open Meetings Act the Board of Zoning Appeals will need to approve their 2018 schedule. 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.

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
MEETING SCHEDULE 2018**

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 16, 2018*

February 13, 2018

March 13, 2018

April 10, 2018

May 8, 2018

June 12, 2018

July 10, 2018

August 14, 2018

September 11, 2018

October 9, 2018

November 13, 2018

December 11, 2018

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

* - The regular meeting time conflicted with the Board of Trustees meeting and was moved to Jan 16, 2018



Memo

TO: Board of Zoning Appeals

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

RE: Training

DATE: December 12, 2017

I have attached two (2) sections of the Zoning Ordinance which we will go over that specifically applies to the Board of Zoning Appeals. Below is a discussion on motions.

Using The Standards of Approval for Motions

These standards are all required to be met in order for a variance to be granted. When I prepare staff reports I use these in my review process. Every dimensional variance application needs to be reviewed based on these guidelines.

When making motions it is important to include findings of fact. The findings of fact are included to support the decision that was made. The findings should relate to the ordinance standards, conditions of the property and surrounding area, and other relevant considerations that went into the decision. These are essential for the ZBA to make “defensible decisions.” The findings of fact tell the story of how and why the decision was made. Making the findings of fact as complete, concise and well organized is an issue that many ZBA’s and Planning Commission’s across the State face. There are a few simple rules that can be followed which can help with this issue:

- A. Always Reference the Standards for Approval in the Zoning Ordinance: If an application meets the criteria in the zoning ordinance, reference that specific section of the zoning ordinance. If an application does not meet the criteria in the zoning ordinance state specifically where it does not meet the criteria. Example:

I move to approve case#13-00, 5555 Greenway for a variance from height requirements in section 1.01.01 of the Genoa Township Zoning Ordinance to install a 60’ Ferris wheel on a residential property based on the following findings and conclusions:

1. The variance request meets the required criteria in section 23.05.03 of the zoning ordinance.

I move to deny case#13-00, 5555 Greenway for a variance from height requirements in section 1.01.01 of the Genoa Township Zoning Ordinance to install a 60’ Ferris wheel on a residential property based on the following findings and conclusions:

1. The variance request does not meet the required criteria in section 23.05.03, specifically sections (a), (b), (c) and (d).

B. List What Aspect of the Property , Area or Project that Demonstrates Why Variance Does or Does Not Meet Those Criteria:

I move to deny case#13-00, 5555 Greenway for a variance from height requirements in section 1.01.01 of the Genoa Township Zoning Ordinance to install a 60' Ferris wheel on a residential property based on the following findings and conclusions:

1. Strict application of the 35' height requirement would not prevent the applicant from placing a Ferris wheel on the property that could meet the requirements of the zoning ordinance. (23.05.03 (a))
2. The property is of similar size, shape and physical characteristics of other properties within the LRR zoning district. (23.05.03(b))
3. The need for the variance is self-created by the applicant because the need for a larger Ferris wheel is not required by any condition of the property. (23.05.03(b))
4. Granting this variance will endanger the public safety because the Fire Department does not have the proper equipment and vehicles to combat fires above 35'. (23.05.03 (c))
5. A 60' Ferris wheel would have a negative impact on adjacent properties and the surrounding neighborhood by creating excessive light and noise. (23.05.03(d))
6. The variance request does not meet the required criteria in section 23.05.03, specifically sections (a), (b), (c) and (d).

C. List the Findings of Fact Numerically

The purpose of this is to ensure that they are organized and concise.

D. Take the Time and Formulate the Motion and Findings of Fact Correctly

It is more important to take additional time to get the decision right than to make an incorrect or incomplete decision.

E. Prepare Motions and Findings of Fact Ahead of Time

It is ok to organize your thoughts ahead of time. This helps you prepare for the meeting and formulate questions for the applicant. Just because it is written down in your notes prior to the meeting does not mean that is the decision that has to be made. These decisions can and do change.

F. Again Always Reference the Standards for Approval in the Zoning Ordinance

Once again I cannot stress how important this is. Making a decision that references a specific section in 23.05.03 (when dealing with dimensional variances) describes in an effective way why that application was denied or approved. Using the Ferris wheel example, if I want to deny that application it can be denied based on the findings and conclusions that it does not meet the standards in 23.05.03(b), (c) and (d) of the zoning ordinance. This tells the applicant (as well as a judge if a lawsuit followed) that the reason the ZBA denied this variance request was because extraordinary circumstances were not present, there is the possibility that the project could have public safety and welfare concerns and it would have a negative impact on the surrounding community. Having additional findings and conclusions which explain why these standards were not met provides a more concise answer.

Chapter 4 Variances and Appeals

Section 12.401 Appeal and Notice Requirements

- (A) **Appeal of Planning Commission Decision.** An appeal from the Planning Commission shall be taken to the Board of Zoning Appeals, a written appeal shall be filed within thirty (30) days after the decision.
- (1) No appeal shall be taken to the BZA from a decision of the Planning Commission and/or the Township Board in connection with a special approval use.
 - (2) No appeal shall be taken to the BZA from a decision of the Planning Commission in connection with an approved and/or proposed site plan unless such appeal has first been reviewed by the Planning Commission and comments regarding the variance are provided in the minutes.
- (B) **Appeal of Administrative Decision.** An appeal may be taken to the BZA by any person, firm or corporation or by any officer, department, board or bureau aggrieved by a decision of the Township Building Official. Such appeal shall be taken within such time as shall be prescribed by the BZA by general rule, by filing with the building official and with the BZA a notice of appeal, specifying the grounds thereof. The building official shall forthwith transmit to the BZA, all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the building official certifies to the BZA, after notice of appeal has been filed with him or her, that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed, otherwise than by restraining order which may be granted by a court of record.
- (C) **Public Hearing Notice.** Notice of a public hearing by the BZA shall be given pursuant to [Article 12, Chapter 6](#).

Section 12.402 Jurisdiction

The BZA may reverse or affirm, wholly or partly or may modify the order, requirement decision or determination as in its opinion ought to be made in the promises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the BZA shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provision so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done. Nothing herein contained shall be construed to give or grant to the BZA the authority to make changes in the Zoning Ordinance or the zoning may, such power and authority being reserved to the Township Board of Trustees in the manner herein provided by law.

Section 12.403 Powers and Duties

The BZA shall have the following specified powers and duties:

Article 12: Administrative Procedures

Chapter 4: Variances and Appeals

- (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 in carrying out, enforcing, any provision in this Ordinance.
- (B) **Interpretation.** To hear and decide in accordance with the provisions of this Ordinance:
- (1) Appeals for the interpretation of the provisions of this Ordinance.
 - (2) Requests to determine the precise location of the boundary lines between the zoning districts as they are displayed on the zoning map, when there is dissatisfaction with the decision on such subject pursuant to [Section 3.103](#).
- (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 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.
- (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 with in 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.

Section 12.404 Prohibited Variances

- (A) No variance shall be made in connection with a condition attached to a special approval use approved by the Township Board.
- (B) No variance shall be made in the use of land, and the Board of Zoning Appeals shall not consider use variance requests.

Section 12.405 Attachment of Conditions

The BZA may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

- (A) Be designed to protect natural resources, the health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
- (B) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (C) Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
- (D) The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the land owner. The approving authority shall maintain a record of changes granted in conditions.

Section 12.406 Approval Period

No order of the Board permitting the erection of a building shall be valid for a period longer than six (6) months unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit within one (1) year of the date of the order of the BZA unless a six (6) month extension is granted by the

Article 12: Administrative Procedures

Chapter 4: Variances and Appeals

BZA to permit completion of any building or buildings. In instances where a building or alteration constructed in conformance with previously granted variance ceases to exist through damage or destruction, reconstruction shall be started and proceed to completion in accordance with the terms of a required building permit within two (2) years of the date of damage unless a six (6) month extension is granted by the BZA to permit completion.

Section 12.407 Fees

The Township Board of Trustees may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applications for BZA proceedings. At the time an application is filed, the fees shall be paid to the Township Treasurer.

Section 12.408 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 12.409 Final Decision and Appeals of Decisions

The decision of the BZA shall be final. An appeal of a decision of the Board of Zoning Appeals shall be taken to the Wayne County Circuit Court within a time period specified in the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) and by such persons permitted by State statute and common law. 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, or modify the decision of the BZA.

Section 13.103 Planning Commission

- (A) **Establishment.** The establishment of the Planning Commission is confirmed in Article V, Division 2 of the Charter Township of Van Buren Code of Ordinances.
- (B) **In General.** The Planning Commission is designated as the commission specified in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and shall perform the duties of such commission as provided in the statute and the Charter Township of Van Buren Code of Ordinances, as amended. The Planning Commission shall adopt bylaws for the transaction of business.
- (C) **Zoning Commission.** The Planning Commission is hereby designated as the succeeding body of the Zoning Commission specified in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and shall perform the duties of the Commission as provided in the statute and the Charter Township of Van Buren Code of Ordinances, as amended.

Section 13.104 Board of Zoning Appeals

- (A) **Creation of the Board of Zoning Appeals.** There is hereby established a Board of Zoning Appeals, which shall perform its duties and exercise its powers as provided to the Board of Zoning Appeals in Public Act 110 of 2006, as amended, in such a way that the objectives of this Ordinance shall be observed, public safety secured and substantial justice done. The Board of Zoning Appeals shall consist of seven (7) members as follows:
 - (1) **Membership.** The Township Board shall appoint seven (7) regular members and two (2) alternate members to the Board of Zoning Appeals pursuant to the provisions of Public Act 110 of 2006, as amended.
 - (a) One (1) member shall be a member of the Township Planning Commission.
 - (b) One (1) member of the Township Board may be a regular member or alternate member of the Board of Zoning Appeals, but shall not be the chairperson of the Board of Zoning Appeals.
 - (c) 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 Board of Zoning Appeals.
 - (d) The Township Board shall appoint two (2) alternate members to the Board of Zoning Appeals who shall have authority to vote on appeals that come before the Board of Zoning Appeals. The alternate members shall only be allowed to sit in place of a regular member of the Zoning Board of Appeals. The alternate members shall only be allowed to sit as members of the Board of Zoning Appeals and/or vote when a regular member of the Board of Zoning Appeals is absent.

- (2) **Terms.** Terms of members and alternates of the Board of Zoning Appeals 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.
- (3) **Elections and Appointments.** The Board of Zoning Appeals 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 Board of Zoning Appeals may appoint advisory committees outside of its membership. The terms of all officers shall be for one (1) year.
- (B) **Compensation.** Each member alternate member shall receive a reasonable sum as determined by the Township Board for his or her services in attending each regular or special meeting of the BZA. Appropriations to pay the compensation and the expenses of the BZA shall be budgeted annually in advance by the Township Board of Trustees
- (C) **Removal.** Appointed members may be removed for misfeasance, malfeasance, or nonfeasance in office by the Township Board of Trustees only after misconduct of written charges and a public hearing by the Township Board of Trustees, 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.
- (D) **Meetings.**
- (1) All meetings of the BZA shall be held at the call of the Chairperson and at such times as the BZA may determine.
- (2) All hearings conducted by the BZA shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member in question or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions, all of which shall be immediately filed in the office of the Township Clerk and shall be a public record.
- (3) The BZA shall not conduct business unless a majority of the members are present. The concurring vote of a majority of the members of the BZA shall be necessary to reverse an order, requirement, decision or determination of an administrative official or body or to decide in favor of the application a matter upon which they are required to pass under an Ordinance, or to effect a variation in an Ordinance.
- (4) The BZA shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and require the production of books, papers, files and other evidence pertinent to the matters before it.