

ARTICLE XVIII

ZONING BOARD OF APPEALS

Section 18.00 PREAMBLE

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by Act 110 of 2006, as amended, in such a manner that the objectives of this Ordinance shall be observed, public safety, morals and general welfare assured, and substantial justice done. The Zoning Board of Appeals shall consist of five (5) members as follows:

1. The first member shall be a member of the Township Planning Commission, appointed by the Township Board.
2. The second member may be a member of the Township Board, appointed by the Township Board.
3. The remaining members shall be selected and appointed by the Township Board from the electors of the Township residing outside of incorporated cities and villages, which members shall be representative of the population distribution and of the various interests present in the Township. An elected officer of the Township shall not serve as Chairman of the Zoning Board of Appeals. Further, an employee or contractor of the Township Board may not serve as a member or an employee of the Zoning Board of Appeals.
4. The term of each member shall be for three (3) years, except that of the members first appointed, two (2) shall serve for two (2) years and the remaining members for three (3) years. 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.
5. The Township Board may appoint two (2) alternate members for the same term as regular members of the Zoning Board of Appeals. An alternate member may be called to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from, or unable to attend, two or more consecutive meetings of the Zoning Board of Appeals, or for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member, having been appointed, shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
6. Members of the Zoning Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.

Section 18.01 APPEALS PROCEDURES.

These appeals procedures are instituted to hear and decide appeals from and review an order, requirement, decision, or determination made by an administrative official or commission charged with the enforcement of the Township Zoning Ordinance, except the issuance of a variance which shall follow the procedures set forth in this Ordinance.

1. An appeal shall be filed with the officer or commission from whom the appeal is taken and with the Zoning Board of Appeals specifying the ground for the appeal.
 - a. The officer or commission from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the appeal is taken.
 - b. An appeal stays all proceedings in furtherance of the action appealed from unless the officer or commission from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reasons of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board, or by the circuit court, on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
 - c. Such appeal may be taken by any person aggrieved or by an officer, department, commission, board or bureau of the Township.
 - d. The Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board 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 premises, and to that end shall have all the power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties in the way of carrying out the strict letter of such ordinance, the Board shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done. The decision of such Board shall be final. However, a person having an interest affected by the Zoning Ordinance may appeal to the circuit court which shall review the record prepared by the Zoning Board of Appeals consistent with the provisions of Section 23 (a) and Act 184, Public Acts of 1943, as amended.
 - e. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official.
 - f. Any action by the Board shall be stated in writing.

Section 18.02 VARIANCE REVIEW PROCEDURES.

These variance review procedures are instituted to provide an opportunity for the relaxation of the terms of the Zoning Ordinance through a variance, where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant or his predecessors in title, a literal enforcement of the Ordinance would result in practical difficulties. As used in this Ordinance, a variance is authorized only for height, area, and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

1. An application for the approval of a variance shall be made by an owner of an interest in the lot to the Township Planning & Zoning Administrator, accompanied by the necessary fees and documents as provided in this Ordinance.
2. The application shall be accompanied by a site plan drawn to the minimum scale of 1" = 30' and placed on a standard sheet and containing the following information:
 - a. Dimensional elements for which a variance is requested.
 - b. Dimensional relationships of the subject lot to the structures on all adjacent lots.
3. The application shall be accompanied by an affidavit by the applicant explaining:
 - a. How the strict enforcement of the provisions of the Township Zoning Ordinance would cause practical difficulty and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
 - b. The conditions and circumstances unique to the property which are not similarly applicable to other properties in the same zoning district.
 - c. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
 - d. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
 - e. Why the requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.
4. The Township Planning & Zoning Administrator shall notify by certified mail the applicant and all owners of an interest in lots, as recorded on the Township tax roll, and within three hundred (300') feet of the subject lot upon which a variance is requested, of the time and place of the Zoning Board of Appeals meeting at which such application will be considered, provided, however, such notice shall be given not less than fifteen (15) days before such meeting. Further, such notice shall also be published within a newspaper of general circulation within the Township no less than fifteen (15) days prior to such meeting.

5. The Board shall consider the application for variance at its next regular meeting, which provides sufficient time for notice as required heretofore, or within not more than forty-five (45) days after receipt of the application by the Township Planning & Zoning Administrator and hear and question any witness appearing before the Board.
6. The Board shall approve, with or without conditions, or disapprove the application and shall communicate its action, in writing, to the applicant, the Township Board, the Building Inspector, and the Township Planning Commission within one (1) week from the time of the meeting at which it considered the application.
 - a. The Board shall not approve an application for a variance unless it has found positively that:
 - (1) The strict enforcement of the Zoning Ordinance would cause practical difficulty and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
 - (2) The conditions and circumstances are unique to the subject property and are not similarly applicable to other properties in the same zoning district.
 - (3) The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
 - (4) The requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
 - (5) The requested variance will not be contrary to the spirit and intent of the Township Zoning Ordinance.

The Building Inspector shall, upon receipt of the notice of approval and upon application by the applicant, collect all required fees and issue a building permit, or such other approval, permitting the variance, subject to all conditions imposed by such approval.

Section 18.03 APPROVAL OF TEMPORARY STRUCTURES OR USES.

1. The Zoning Board of Appeals may authorize temporary structures, signs and uses permitted in a district for periods not to exceed two (2) years. The Zoning Board of Appeals may also authorize temporary uses which do not require the erection of any capital improvement of a structural nature which are not otherwise permitted in any district, for a period not to exceed twelve (12) months, with the granting of twelve (12) month extensions. The Board of Appeals, in granting permits for the above temporary uses, shall do so under the following conditions:
 - a. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.
 - b. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted, and arrangements for removing the use at the termination of said temporary permit.

- c. All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of Armada Township shall be made at the discretion of the Board of Appeals.
 - d. The use shall be in harmony with the general character of the district.
 - e. No temporary use permit shall be granted without first giving notice to owners of the adjacent property of the time and place of a public hearing for consideration of the request by the Zoning Board of Appeals. Further, the Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.
2. The Zoning Board of Appeals may issue a permit for the temporary establishment of a portable cement plant or portable asphalt plant solely for use in construction of improvements upon the land where said plant is proposed to be located and/or land immediately adjacent thereto.
 3. Temporary approval granted pursuant to this section shall become effective upon issuance of a permit signed by the Chairman of the Zoning Board of Appeals. Said permit shall clearly state its date of expiration. Any permit may be suspended by an ordinance enforcement officer for a period of not to exceed twenty-one (21) days whenever:
 - a. Any condition of the permit is not being observed;
 - b. Any provision of this Ordinance is being violated;
 - c. It is necessary to preserve or protect public health, safety or welfare;

Provided, however, that the enforcement officer shall forthwith report the suspension and the reasons therefor to the Township Clerk. The Township Clerk shall notify the holder of the permit and the Township Board shall review the action of the enforcement officer at its next regular meeting to determine whether the permit shall be reinstated, suspended for a further period of time, or permanently revoked.
 4. The Building Inspector may grant approval of a temporary dwelling in the instance of new construction or reconstruction as a result of fire or other force of nature, provided adequate assurance has been obtained that the temporary dwelling will be removed upon the completion of the main residence. The length of occupancy shall be valid for one year and may be extended by the Building Inspector for periods up to six months upon written request by the Homeowner.
 5. The Building Inspector may grant the placement of a temporary construction trailer on any active development site for a period not to exceed active development or one year whichever is less. The Building Inspector may grant extensions for periods up to six months upon written request of the landowner. The Building Inspector may refer such request to the Planning Commission or the Township's professional consultants for their review and recommendation.

Section 18.04 APPROVAL PERIOD.

Except as otherwise provided in this Ordinance, no order of the Zoning Board of Appeals permitting a use of a building or land shall be valid for a period longer than six (6) months unless such use is established within such period; provided, however, that where such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.