

## **~~SECTION 303. DUTIES OF THE ZONING BOARD OF APPEALS~~**

### **~~303.1 ESTABLISHMENT.~~**

~~The Lake Township Zoning Board of Appeals is established as specified within the Michigan Zoning Enabling Act, Public Act 110 of 2006.~~

### **~~303.2 MEMBERSHIP.~~**

~~The Township Zoning Board of Appeals shall consist of five (5) members. The first member of such Board of Appeals shall be a member of the Township Planning Commission. One member of the Zoning Board of Appeals may be elected by the Township Board from its members to serve at the pleasure of the Board for as long as this member shall be an elected member of the Township Board. The remaining members of the Board of Appeals shall be selected from the electors of the Township by the Township Board. Members so selected shall be representative of the population distribution and of various interests present in the township. An elected officer of the township shall not serve as chairperson of the Board of Appeals. An employee or contractor of the Township Board may not serve as a member or an employee of the Township Board of Appeals. Members of the 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. The Township may appoint not more than two (2) alternate members to the board, said alternate members to have the same term as regular members of the board and to be subject to the same qualifications and other provisions contained herein applicable to regular members of the Board.~~

### **~~303.3 TERMS OF OFFICE.~~**

~~With the exception of the members of the Planning Commission and Township Board who shall serve for the term of their appointment to the Planning Commission or election to the Township Board, the term of each member of the Board of Appeals shall be for three (3) years. Of the first members appointed to the Board of Appeals, excepting the Planning Commission and Township Board member; one (1) member shall be appointed for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years.~~

### **~~303.4 COMPENSATION.~~**

~~The total amount allowed to the Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be appropriated annually in advance by the Township Board.~~

### **~~303.5 RULES OF PROCEDURE.~~**

~~The Board of Appeals adopts its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its chairperson, and in the chairperson's absence, an acting chair.~~

## **LAKE TOWNSHIP ZONING ORDINANCE**

### **303.6 MEETINGS.**

~~Meetings shall be held at the call of the chairperson and at such times as the Board of Appeals may determine. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.~~

### **303.7 RECORDS.**

~~Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the Township Clerk and shall be public records.~~

### **303.8 DECISIONS.**

~~The Zoning Board of Appeals shall return a decision upon each case within ninety (90) days of the filing of a request or appeal unless a further time is agreed upon by the parties concerned. Any decision of the Zoning Board of Appeals shall not take effect until the expiration of five (5) days after the date of said decision, unless the Board of Appeals certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights. No permit authorized by such a decision shall be issued until the decision has taken effect.~~

### **303.9 MAJORITY VOTE.**

~~The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to decide upon any issue brought before the Board. For example, if three members are present, out of a total of five members, all three must concur to pass a motion.~~

### **303.10 CONFLICT OF INTEREST.**

~~A member of the Zoning Board of Appeals shall disqualify himself or herself from discussion and voting in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.~~

### **303.11 DUTIES.**

~~The Township Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined in this Section. The Board of Appeals shall NOT have the power to alter or change the zoning district classification of any property, or to make any change in the terms or intent of this Ordinance.~~

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~~A. **Administrative Review.** The Zoning Board of Appeals is empowered to review and reverse or modify any order, decision or determination made by an administrative official charged with enforcing or administering this Ordinance. The Board is not empowered to overturn decisions of the Planning Commission regarding Special Use Permits, including such permits for Planned Unit Developments. The Board may not overturn the denial of a site plan in connection with any Special Use Permit proceedings. An Administrative Review by the Zoning Board of Appeals may be requested by any person aggrieved, or by any officer, department, or board of the local government. Any such request must be made in writing not more than ten (10) days after the date of the Zoning Administrator's decision.~~

~~An administrative review shall stay all proceedings in furtherance of the action being reviewed, except as follows:~~

~~If the Zoning Administrator certifies in writing to the Zoning Board of Appeals, after a request for an administrative review has been filed, that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.~~

~~B. **Interpretation.** The Zoning Board of Appeals may interpret provisions of this Ordinance as outlined below. Each such interpretation shall establish the precedent for future treatment of the issue being addressed. To achieve the objective of consistent enforcement of this Ordinance, whenever an interpretation question arises which has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the Board. Interpretation issues do not include dimensional variance issues. The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.~~

~~1. The Board may determine the precise location of the boundary lines between zoning districts.~~

~~2. The Board may classify any activity which is not specifically mentioned as a Use by Right or Special Use within at least one Zoning District, provided that said classification shall be consistent with the classification of similar uses and with the purpose and intent of each Zoning District.~~

~~3. The Board may determine the off-street parking and loading space requirements of any use for which these requirements are not determinable using the information provided for this purpose.~~

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4. ~~The Board may interpret any portion of this Ordinance when the Zoning Administrator is unable to clearly determine its intent or effect.~~

C. ~~**Variances.** The Zoning Board of Appeals is empowered to grant variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this Ordinance which can be expressed in terms of numbers may be brought before the Zoning Board of Appeals to be considered for a variance. A variance may be granted when any ONE (1) of the following special conditions can be demonstrated clearly:~~

1. ~~There are PRACTICAL DIFFICULTIES or unnecessary hardships which prevent carrying out the strict letter of the Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.~~

2. ~~There are exceptional CIRCUMSTANCES or physical conditions such as narrowness, shallowness, shape, or topography of property involved. Circumstances resulting from an act of the applicant, after the adoption of this Ordinance, shall not be allowed a variance.~~

3. ~~Variation is necessary for the preservation of a SUBSTANTIAL PROPERTY RIGHT possessed by other properties in the same zoning district. When a variance is being considered to overcome unique circumstances or physical conditions regarding the configuration of the property involved, these circumstances or conditions must not have resulted from any act of the applicant or property owner subsequent to the adoption of this Ordinance.~~

D. ~~**Rules for Zoning Board of Appeals Actions.**~~

1. ~~A public hearing must be held by the Zoning Board of Appeals prior to making a decision on a variance or an administrative review or interpretation which relates to a specific parcel. Mailed notice shall be given at least fifteen (15) days in advance of the date of the meeting at which the action will be considered.~~

2. ~~In making any decision, the Zoning Board of Appeals must endeavor to avoid causing a substantial adverse effect upon property values in the immediate vicinity of the subject property. Nor shall such actions have the effect of substantially impacting property values for land in the Zoning District in which the subject property is located.~~

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- ~~3. Any action brought before the Zoning Board of Appeals may relate only to a single parcel which must be under control of the applicant. If the applicant is not the owner of the property, evidence must be provided that the owner concurs with the request for Zoning Board of Appeals action.~~
- ~~4. Approval by the Zoning Board of Appeals of any request may not be granted simply to prevent an economic loss. Improving an owner's chance to profit from sale of a parcel is NOT an objective of this Ordinance.~~
- ~~5. Any request which has been denied wholly or in part by the Zoning Board of Appeals may only be appealed to the Circuit Court within thirty (30) days of the Zoning Board of Appeal's decision. No application for a variance which has been denied wholly or in part by the board shall be resubmitted for a period of one (1) year from the date of the last denial except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.~~
- ~~6. The board may specify, in writing, such conditions regarding the character, location and other features that will in its judgement, secure the intent and purposes of this ordinance. The breach of any such conditions shall automatically invalidate the permit granted.~~
- ~~7. Each variance granted under the provisions of this ordinance shall become null and void unless:
  - ~~a. The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance.~~
  - ~~b. The occupancy of land, premises, or buildings authorized by the variance has taken place within two (2) years, after the granting of the variance.~~~~

**Section 303, Duties of the Zoning Board of Appeals, amended in its entirety, said amendment adopted September 19, 2016. For complete amended text, refer to Pages 3-6A through 3-10A**