

ARTICLE XXII

BOARD OF APPEALS

SECTION 22.00 CREATION OF BOARD OF APPEALS

There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided by Act 184 of the Public Acts of 1943, as amended, in such a way that the objectives of this Ordinance shall be observed, public safety, morals and general welfare assured and substantial justice done.

SECTION 22.01 MEMBERSHIP OF THE BOARD OF APPEALS

1. The Board of Appeals shall consist of five (5) members.
2. The members of the Board of Appeals shall be appointed as follows:
 - A. The first member shall be a member of the Planning Commission.
 - B. The second member shall be a member of the Township Board, appointed by the Township Board, for the period of his or her term of office.
 - C. The third (3), fourth (4), and fifth (5) members shall be selected and appointed by the Township Board from among the qualified electors residing in the unincorporated areas of the Township, for a period of one (1) year.
 - D. Members of the Board of Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing by the Township Board.

SECTION 22.02 MEETING

All special meetings of the Board of Appeals shall be held at the call of the chairman, and regular meetings at such times as the Township Board may determine. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at 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.

SECTION 22.03 APPEALS

An appeal may be taken to the Board of Appeals by any person firm, or corporation or by an officer, department, board or bureau affected by a decision of the Building Inspector. Such appeal shall be taken, within such time as shall be prescribed by the Township Board by resolution, by filing with the building Inspector a notice of appeal, specifying the ground for the appeal and by paying the

fee established by the Township Board for appeal. The building inspector shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which action was taken. The filing of a notice of appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector presents to the Board of Appeals, with a verified statement setting forth facts to support his opinion that a stay would cause imminent peril to life or property. In the event that the Building Inspector files such a statement, the proceedings shall not be stayed other than by a restraining order which may be granted by the Circuit Court on application, on notice to the Building Inspector, and on due cause shown. The power or authority to alter or change the zoning ordinance or zoning map is reserved to the Township board, as is provided by law.

The Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

SECTION 22.04 NOTICE OF HEARING

Notice of the hearing of the appeal shall be given by the Township Clerk to all owners of record of property within a radius of three hundred (300) feet of the premises involved by mail addressed to the respective owners at the address given in the latest assessment roll. The time, place and subject matter of such hearing shall be printed in a newspaper of general circulation in the Township once not less than ten (10) days prior to such hearing.

SECTION 22.05 POWERS OF BOARD OF APPEALS CONCERNING ADMINISTRATIVE REVIEW AND VARIANCES

The Board of Appeals as herein created, is a body of limited powers. The Board of Appeals shall have the following specific powers and duties:

1. Purpose: To hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by Township Officials in the enforcement of this Ordinance, and to hear and decide appeals where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance so that the spirit of the ordinance shall be observed, public health and safety secured, and substantial justice done.
2. Authorization: In hearing and deciding appeals, the Board of Appeals shall have the authority to grant such variances as may be in harmony with the general purpose and intent of this Ordinance, so that public health, safety and welfare secured, and substantial justice done, including the following:
 - A. Interpret the provisions of the ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning map fixing the use districts, accompanying this Ordinance, where street layout actually on the ground varies from the street layout as shown on the map aforesaid. In case of any question as to location of any boundary line between zoning districts, the Board of Appeals shall interpret the Zoning Map after recommendation from the Planning Commission.

- B. Permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes, in any zoning district to a greater height or of a larger area than the district requirements herein established, and permit the location in any district of a public utility building or structure if the Board of Appeals shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.
 - C. Permit the modification of the off-street motor vehicle parking space or loading space requirements where, in the particular instance, such modifications will not be inconsistent with the purpose and intent of such requirements, after recommendation from the Planning Commission.
 - D. Permit such modification of the height, lot area, yard setback, floor area and lot width regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or size, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification, provided that modification of lot area regulations shall be permitted only in instances where the nature of the soil and drainage is such that there is sufficient area for safe water supply and sanitary disposal of waste (unless central water distribution and/or sanitary sewage are provided). Whenever the Board of Appeals determines that the same are necessary in order to render a decision, it may require the appellant to submit a topographical survey or the results of percolation test certified by a registered engineer or land surveyor.
3. Conditions: The Board of Appeals, by majority vote, may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Building Inspector from whom the appeal is taken.

SECTION 22.06 STANDARDS

In considering appeals for variances, the Board of Appeals shall review each case individually as to its applicability to each of the following standards so that the proposed variance or new land use:

- 1. Will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and applicable regulations of the zoning district in which it is to be located.
- 2. Will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections adequacy of sight distances, location and access of off-street parking and

provisions for pedestrian traffic, with particular attention to minimizing pedestrian-vehicle contacts in residential districts.

3. Will be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating there from which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
4. Will be such that the proposed location and height of buildings or structures and location, nature of height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
5. Will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience or access by prospective patrons, continuity of development, and need for particular service and facilities in specific areas of the Township.
6. Is necessary for the public convenience at that location.
7. Is so designed, located and proposed to be operated that the public health, safety, and welfare will be protected.
8. Will not cause injury to the value of other property in the neighborhood in which it is to be located.

SECTION 22.07 BOARD OF APPEALS APPROVAL

The Board of Appeals may require the appellant to submit all necessary surveys, plans, or other information necessary for the Board of Appeals to investigate thoroughly the matter before it. The Board of Appeals may impose such conditions or limitations in granting a variance as it may deem necessary to comply with the spirit and purposes of this Ordinance.

SECTION 22.08 APPROVAL PERIODS

No order of the Board of Appeals permitting the erection or alteration 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.

No order of the Board of Appeals, permitting a use of a building or premise shall be valid for a period longer than six (6) months unless such use is established within such period; provided, however, that 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.