

ARTICLE XI. ZONING COMMISSION AND ZONING BOARD OF APPEALS

SECTION A. ORGANIZATION AND PROCEDURES

- 1. Membership:** There is hereby established a Township Zoning Commission and Board of Zoning Appeals each of which shall consist of five (5) members, who are residents of the unincorporated area of the Township included in the area zoned. Members shall be appointed and vacancies on the board shall be filled by a majority vote of the Board of Trustees. The five (5) members first appointed shall serve for terms of one (1), two (2), three (3), four (4), and five (5) years respectively; thereafter, appointments shall be made for five (5) year terms.
- 2. Hearings, Adoption of Rules:** The hearings of the Zoning Commission and of the Board of Zoning Appeals shall be public. Both Boards shall organize annually and elect a President, Vice-President, and Secretary. The Boards shall act by Resolution in which three (3) members must concur. The Boards shall adopt from time to time such rules and regulations as they may deem necessary to carry into effect the provisions of this Resolution.
- 3. Minutes:** The Boards shall keep minutes of their respective proceedings, showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact; and shall keep records of the examinations and other official actions, all of which shall be immediately filed in the office of the Board of Trustees and shall be a public record.
- 4. Witnesses, Oaths, Subpoena Powers:** The Boards shall have power to subpoena witnesses, administer oaths, punish for contempt, and may require the production of documents, under such regulations as either board may establish.
- 5. The boards cannot go into executive session.**

SECTION B. APPEALS

1. Appeals may be taken to and before the Board of Zoning Appeals by any person aggrieved, or by an officer, department or Board of the Township. Such appeal shall be taken within twenty (20) days after the decision by filing with the officer from whom the appeal is taken, and with the Board a notice of appeal and specifying the grounds thereof. The officer or department from which the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the appeals action was taken.
2. An appeal shall stay proceedings in furtherance of the action appealed from, unless the Zoning Inspector shall certify to the Board of Zoning Appeals after the notice of appeal shall have been filed with it that by reason 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 a court of equity, after notice to the officer from whom the appeal is taken and on due cause shown.
3. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal or other matters referred to it and give at least ten (10) days notice thereof to the parties in interest and decide the same within a reasonable time. Upon this hearing, any party may appeal in person or agent by attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.

SECTION C. POWERS AND DUTIES

The Board of Zoning Appeals shall have the following powers and it shall be its duty:

1. **To hear and decide appeals.** Where it is alleged there is error of law in any order, requirement, decision, or determination made by the Zoning Inspector in the enforcement of this Resolution or any amendments thereto.
2. **Exceptions.** In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:
 - a. Permit the extension of a district where the boundary line of a district divides a lot or tract held in a single ownership at the time of the passage of this Resolution.
 - b. Interpret provisions of this Resolution in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts, accompanying and made a part of this Resolution where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.
 - c. Permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or public enemy, to the extent of more than sixty (60) percent of its fair market value where the Board finds some compelling necessity requiring a continuance of non-conforming use and the primary purpose of continuing and non-conforming use is not to continue a monopoly.
 - d. Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship on the use of the lot, as contrasted with merely granting an advantage or convenience.
 - e. Permit land within three hundred (300) feet of a multiple dwelling to be improved for the parking spaces required in connection with a multiple dwelling, but only when there is positive assurance that such land will be used for such purpose during the existence of the multiple dwelling.
 - f. Determine whether an industry should be permitted within the "M-1" Industrial District because of the methods by which it would be operated and because of its impact upon uses within surrounding zoning districts.
3. **Grant Variations.** The board shall have the authority to grant the following variations:
 - a. **Area Variance:** Permit a variation in yard requirements of any district where there are unusual and practical difficulties or in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions provided such variation will not seriously affect any adjoining property or the general welfare.
 - b. **Use Variance - Authorize Upon Appeal:** Whenever a property owner can show that a strict application of the terms of this Resolution relating to the use, construction or alterations of buildings or structures or the use of land will impose unnecessary hardships, such variations of the strict application of the terms of the Resolution as are in harmony with its general purpose and intent; but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the zoning plan as established by this Resolution, and at the same time, the surrounding property will be properly protected.

SECTION C. POWERS AND DUTIES (CONT'D):**3. Grant Variations (cont'd):**

- c. Non-conforming:** The extension or completion of a building devoted to a non-conforming use upon a lot occupied by such building, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building became non-conforming, and where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor areas of such extension shall not exceed in all one hundred percent (100%) of the floor area of the existing building or buildings devoted to a non-conforming use and provided further that such extension or extensions shall be undertaken within five (5) years of the date when the use of such building became non-conforming.
- 4. Impose Requirements and Conditions:** The Board shall have the power to hear and decide in accordance with the provisions of this Resolution, applications for conditional uses. In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a conditional use, the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation - in addition to those expressly stipulated in this Resolution for the particular conditional use - as the Board may deem necessary for the protection of adjacent properties and the public interest.
- 5. Public Values and Safety:** In considering all appeals and all proposed exceptions to this Resolution, the Board shall, before making any exceptions or variances from the Resolution in a specific case, first determine that it will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the portion of the Township to which this Resolution applies.

SECTION D. FEES

A fee (refer to current fee schedule) shall be paid to the Zoning Inspector at the time the notice of appeal is filed, which the Zoning Inspector shall forthwith pay over the Township Clerk to the credit of the general revenue fund of the Township.