

ZONING BOARD OF APPEALS
ADMINISTRATIVE MEETING
HAYES TOWNSHIP
9195 MAJOR DOUGLAS SLOAN ROAD
CHARLEVOIX, MICHIGAN 49720
JANUARY 14th, 2026
1:00 PM
AGENDA

Join Zoom Meeting

<https://us02web.zoom.us/j/83141540092?pwd=8B9u2ffX3izb5t85jekpgxyEjDjsre.1>

Meeting ID: 831 4154 0092

Passcode: 396667

1. Chair calls meeting to order
2. Pledge of Allegiance
3. Introduction of Zoning Board Members
4. Review and Approval of Agenda
5. Declaration of Conflict of Interest
6. Approval of December 3rd, 2025 meeting minutes
7. Public Contact with ZBA Members (discussion)
8. Amendments to the Hayes Township Zoning Board of Appeals Rules & Procedures
9. Training Presentation by Todd Millar (Township Attorney)
10. Election of Officers
11. Public Comment
12. Zoning Board of Appeals Member Comment
13. Adjournment

Public Comment at Meetings of Hayes Township Zoning Board of Appeals

The Hayes Township Zoning Board of Appeals values public input and offers two opportunities for public comment near the beginning and end of its meetings. If you speak, however, you should not expect to engage board members or staff in discussion or debate.

ZBA members will not respond to comments made during public comment except to ask a clarifying question, correct an error, or provide specific factual information.

Public comment is recognized by the Michigan Open Meetings Act. The Act allows public bodies to adopt rules for orderly comment. To that end, the following rules have been adopted by the Hayes Township Zoning Board of Appeals:

1. A person wishing to speak will so indicate on the sign in sheet. Zoom attendees can indicate they would like to speak by raising their hand icon. Individuals attending in person will be called on first.
2. The person will begin by stating their name, spelling it if requested.
3. The speaker addresses the Chairperson, or other person chairing the meeting, on behalf of the entire board. Public comment should not be addressed to individual ZBA members or township staff, or to other members of the audience.
4. There is a three (3) minute time allotment for each speaker. The time limit may be extended by the Chairperson or majority of the board. A person may only speak once during a comment period. Audience members may not 'donate' their time to another speaker.
5. A speaker will be out of order if s/he is disruptive, speaks longer than the allotted time, uses vulgarities or makes a personal attack on a ZBA member or township employee that is unrelated to the performance of that person's duties.
6. A speaker ruled out of order will not be allowed to speak again at the same meeting except by special permission of the board.
7. The chair has the discretion to permit audience members to speak at times other than during public comment.

DRAFT
Hayes Township
Zoning Board of Appeals
Administrative Meeting Minutes
December 3rd, 2025
09195 Old U.S. N, Charlevoix, MI 49720

The December 3rd, 2025, Administrative meeting of the Hayes Township Zoning Board of Appeals was called to order by Vice-Chair Joni Hosler at 7:00 pm. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix, MI 49720.

BOARD MEMBERS PRESENT: Bruce Deckinga, Rex Greenslade, Joni Hosler and Doug Kuebler.

BOARD MEMBERS EXCUSED ABSENT: Jessica Perry (Alternate), ZeZe Jess, and Janice Vedder-Whipple

ALSO PRESENT: April Hilton

PLEDGE OF ALLEGIANCE: Ms. Hosler (Vice-Chair) opened the meeting at 7:00 pm with the Pledge of Allegiance to the Flag.

INTRODUCTION OF ZONING BOARD OF APPEALS (ZBA) MEMBERS:

BOARD MEMBERS PRESENT: Bruce Deckinga, Rex Greenslade, Joni Hosler and Doug Kuebler.

BOARD MEMBERS EXCUSED ABSENT: Janice Vedder-Whipple, ZeZe Jess and Jessica Perry (Alternate)

REVIEWED AGENDA:

Mr. Greenslade made a motion, supported by Mr. Deckinga, to approve the agenda as presented.

Yeas: Rex Greenslade, Bruce Deckinga, Doug Kuebler, and Joni Hosler.

Nays: None **Motion Carried**

DECLARATION OF CONFLICT OF INTEREST:

NONE.

APPROVAL OF DRAFT MINUTES FROM NOVEMBER 19TH, 2025:

Mr. Kuebler made a motion, supported by Mr. Deckinga, to approve the November 19th 2025 meeting minutes as amended.

Yeas: Rex Greenslade, Bruce Deckinga, Doug Kuebler, and Joni Hosler.

Nays: None **Motion Carried**

DRAFT
Hayes Township
Zoning Board of Appeals
Administrative Meeting Minutes
December 3rd, 2025
09195 Old U.S. N, Charlevoix, MI 49720

PUBLIC COMMENT:

Public Comment Opened at 7:05pm

No Comments

Public Comment Closed at 7:05 pm

ZBA COMMENT:

Mr. Greenslade made a motion, supported by Mr. Kuebler to set the annual ZBA administrative meeting as well as a Public Hearing for a Variance Request for 11190 Spring St for January 14th 2025 at 7:00pm.

Yeas: Rex Greenslade, Bruce Deckinga, Doug Kuebler, and Joni Hosler

Nays: None **Motion Carried**

ADJOURNMENT: Mr. Kuebler made a motion, supported by Mr. Deckinga, to adjourn at 7:08pm

Yeas: Rex Greenslade, Bruce Deckinga, Doug Kuebler, and Joni Hosler

Nays: None **Motion Carried**

Respectfully Submitted,
April Hilton
Hayes Township Deputy Clerk/Recording Secretary



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

ZBA

3 messages

clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

Fri, Jun 13, 2025 at 2:16 PM

Reply-To: clerk@hayestownshipmi.gov

To: Todd Millar <tmillar@parkerharvey.com>

Todd,

Please find attached a text from Hayes ZBA Chair Janice Vedder Whipple as well as emails she has received on her personal email.

She reached out to me regarding harassment. I am not sure how to proceed with that. Please note that Hayes Township website only has the ZBA members names, not email and absolutely not home addresses nor personal cell numbers.

I am concerned that applicants and agents are speaking directly with ZBA members. We work very diligently to preserve the sanctity of the Open Meetings Act and the improper contact as well as the harassment is unacceptable.

Please give me a call. I would like to protect those who serve Hayes Township.

--

Kristin Baranski
Hayes Township Clerk
9195 Major Douglas Sloan Road
Charlevoix, Michigan 49720
231.547.6961

 **zba conflict 2025.pdf**
2948K

Todd Millar <tmillar@parkerharvey.com>

Mon, Jun 16, 2025 at 7:57 AM

To: "Kristin Baranski (clerkhayestownshipmi@gmail.com)" <clerkhayestownshipmi@gmail.com>, William Conklin

<supervisorhayestownshipmi@gmail.com>

Cc: Ron Vanzee - Zoning <zoning@hayestownshipmi.gov>

Kristin,

Unfortunately, there is not a lot we can do to prevent people from contacting ZBA members directly. A township is a small community and people know each other. It is not hard to find out where someone lives or their phone number. A township does not have the power or authority to punish someone for reaching out and communicating with a ZBA member.

However, I think there are some things we can do to help discourage and minimize personal contact. It centers around conflict of interest and the appearance of impropriety or a conflict. The ZBA is like no other entity in the township. The ZBA is a quasi-judicial body, and ZBA members should not be having ex-parte communications about a matter before them, just like a court of law. It is in no one's interest to taint the process. Given that we cannot stop someone from coming up to a ZBA member and saying something, we try to discourage the communication and make sure that any such communication is being reported to the entire board. I can think of a couple ways to do this:

1. Amend the ZBA rules of procedure to add the following:
 - a. Prohibit ZBA members from communicating directly with a person regarding the matter outside of the hearing or meeting at which the matter is considered. There is a reason for the public hearing and that is to make sure all information is out in the open.
 - b. Require that if a ZBA member is contacted by someone regarding a matter, the ZBA member is to report that contact and substance of the contact to the ZA who will make a record of it and report that to the entire ZBA.
 - c. Require that any information obtained or provided to the ZBA that was not passed through the ZA be excluded from the record and not considered by the ZBA. We need to be careful here not to exclude site visits by ZBA members.
 - d. Require that all requests for information about the matter from the ZBA go through the ZA. The ZA will be responsible for getting the info and sharing it with all ZBA members.
 - e. Require that all information considered by the ZBA go through the ZA.
2. Put a notice on the web site that in order to avoid the appearance of a conflict of interest by a ZBA member, any information given directly to a ZBA member will be excluded from the record. All information to be considered by the ZBA must be passed through the ZA.
3. Amend the Zoning Ordinance, Article VIII, to reflect many of the same provisions in paragraph 1 above.

On a separate note, I would like to see the Township amend Section 8.03(2) of the Zoning Ordinance. It states that an appeal may be taken by "any person who alleges he or she has been aggrieved by a decision". That is not consistent with the Zoning Enabling Act or the ZBA Rules of Procedure. I would like to see that changed to "any person aggrieved by a decision". That brings it in line with the statutes and rules, and we then avoid an argument that our ordinance expands the constellation of people that can appeal a decision.

Let me know if you would like to discuss any of the above.

Todd

Todd W. Millar
Attorney

DIRECT 231.486.4519 **EMAIL** tmillar@parkerharvey.com

PARKER HARVEY PLC

901 S. Garfield Ave, Suite 200, Traverse City, MI 49686

MAIN 231.929.4878 **FAX** 231.929.4182 www.parkerharvey.com



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[Quoted text hidden]



Roy Griffitts <rwgriffitts3@gmail.com>

Definition for Hayes ZO

3 messages

Roy Griffitts <rwgriffitts3@gmail.com>
To: Todd Millar <tmillar@parkerharvey.com>

Wed, Nov 5 at 3:18 PM

Good afternoon Todd,

I hope this note finds you well and enjoying all of Falls delights.

As we are refining the ZO, it appears that we may need to include the definition of aggrieved in the ordinance. I suspect there may be a legal definition of this term and if so, would you send me your recommendations on how best we define this in the ordinance?

Thanks as always for your excellent advice.

All the best,

Roy

Todd Millar <tmillar@parkerharvey.com>
To: Roy Griffitts <rwgriffitts3@gmail.com>

Wed, Nov 5 at 3:44 PM

I will get you something.

[Quoted text hidden]

Todd Millar <tmillar@parkerharvey.com>
To: Roy Griffitts <rwgriffitts3@gmail.com>

Thu, Nov 6 at 11:34 AM

Roy,

I took a look at a number of other zoning ordinance in municipalities that tend to be very thorough with their ordinances, and no one seems to define a "person aggrieved". That may be because there is no such definition in the zoning enabling act. The current definition of that term is contained in case law, the attached supreme court case. I highlighted the pertinent sections starting on page 11 of the opinion. I suppose that since it is case law defined, it could change in the future and by leaving out the definition, the ZBA is free to use the definition of the day so to speak. If you want to include a definition in the ordinance, I suggest the following:

A "person aggrieved" is an individual or entity who has suffered special damages, i.e. specific harm that is unique and different in kind or degree from what other similarly situated property owners experience. Merely owning adjacent property or having general concerns like increased traffic or aesthetic changes is not enough. A person aggrieved must demonstrate a legally protected interest and that the zoning decision has caused the person aggrieved a concrete, particularized injury.

HAYES TOWNSHIP ZONING BOARD OF APPEALS RULES OF PROCEDURE

Section 1.0 Purpose.

The following rules of procedure are hereby adopted by the Hayes Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in Hayes Township Zoning Ordinance.

Section 2.0 Officers

2.1 Selection. At the regular meeting in January of each year, the Zoning Board of Appeals shall select from its regular membership a Chair and Vice-Chair. All officers are eligible for reelection. The Township Board member and the Planning Commission member may not serve as Chair or Vice-Chair.

2.2 Tenure. The Chair and Vice-Chair shall take office upon their selection and shall hold office for a term of one year or until their successors are selected and assume office.

2.3 Duties of Officers. The Chair shall preside at all meetings and perform such other duties as may be ordered by the Zoning Board of Appeals. The Vice-Chair shall act in the capacity of Chair in his/her absence and in the event the office of Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of Vice-Chair for the unexpired term.

2.4 Recording Secretary. It is anticipated that the Township Board will hire a Recording Secretary for the Zoning Board of Appeals. The Secretary or designate shall execute documents in the name of the Zoning Board of Appeals and perform the duties hereinafter listed. The Secretary or designate shall assure that the minutes of all meetings of the Zoning Board of Appeals are properly recorded and that notices for all meetings are duly given. He or she shall also perform such other duties as may be assigned by the Chair or the Appeal Board.

2.5 Duties of all members. Whenever possible, Members shall avoid Ex Parte contact (any conversation about the case between board members, or between board member(s) and the applicant) about cases where an administrative decision is before the Appeals Board whenever possible. Despite one's best efforts it is sometimes not possible to avoid Ex Parte contact. When that happens, the member should take detailed notes on what was said and report to the Appeals Board at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

a. Prohibit Zoning Board of Appeals members from communicating directly with a person regarding the matter outside of the hearing or meeting at which the matter is considered.

b. If a Zoning Board of Appeals member is contacted by someone regarding a matter, the Zoning Board of Appeals member is required to report the contact and substance of the contact to the Zoning Administrator who will make a record of it and report it to the entire Zoning Board of Appeals.

2.6 Accepting Gifts. Gifts shall not be accepted by a member of the Appeals Board from anyone connected with an agenda item before the Appeals Board. As used here, gifts shall mean cash, any tangible item (including food), or service, regardless of value.

2.7 Training. Each member shall have attended at least four hours per year of training in planning and zoning during the member's current term of office. Failure to meet the training requirements may be

grounds for the Township Board to not reappoint the member to the Appeals Board. Training may be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, and Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University.

Section 3.0 Notice of Appeal

3.1 Filing. Any person aggrieved by an administrative decision under the Zoning Ordinance and any officer, department, board, or bureau of the State of Michigan, or the Hayes Township Board, on behalf of the Township, may appeal an administrative decision to the Zoning Board of Appeals. In addition, any interested person, or the person's authorized agent, may seek a dimensional variance from or seek an interpretation of the zoning ordinance from the Zoning Board of Appeals. Any appeal, variance, or interpretation request shall be filed in writing on an application form provided by the Zoning Administrator and shall be accompanied by the payment of a fee, establish from time to time by the Township Board. Such notice shall be filed with the Zoning Administrator not more than 30 days from the date of the decision being appealed.

3.2 Notification. Within 10 days from the date of the receipt of the completed application form or Notice of Appeal, the Zoning Administrator shall contact the Secretary or designate, who with the approval of the Chair, will set up a date and time for the Zoning Board of Appeals to meet to hold a hearing to consider and act on the case in question. Notice of hearing shall be made by the Secretary or designate to the other members of the Zoning Board of Appeals. The notice sent to the members shall include copies of the application form for a variance; including all additional material submitted by the applicant, all relevant content of the Zoning Administrator's file, and/or other files on the case; other relevant correspondence, permits by other applicable enforcement agencies; and any other information that is relevant. In addition to the above the Secretary or designate will give notice as required in Section 8.06 of the Hayes Township Ordinance.

3.3 Deadline for Action. The above notwithstanding, the Zoning Board of Appeals shall hear the case within forty five (45) days and file its decision with the Zoning Administrator not more than forty five (45) days after hearing the case, unless a longer period of time is mutually agreed upon by the petitioner and the Zoning Board of Appeals.

3.4 Site Inspection. Members of the Zoning Board of Appeals are required to visit the site in question. This shall be done at their own expense and on an individual and separate basis. Members are not to discuss or deliberate a variance request except during posted open hearings.

3.5 Notice of Decision. The Secretary or designate shall cause a Decision and Order of the Zoning Board of Appeal's decision to be delivered to the Zoning Administrator; to the petitioner, or his/her agent; and to anyone else requesting a copy in writing.

Section 4.0 Meetings

4.1 Regular Meetings. The Zoning Board of Appeals shall meet at least once each year during the month of January. Any other meeting shall be called as needed such as in response to an appeal for a variance or Notice of Appeal. The meeting will be called by the Secretary or the Chair.

4.2 Attendance.

- a. If any member of the Zoning Board of Appeals is absent for two or more meetings in a row, then that member may be considered delinquent and may be removed from the board by the Township Board, for nonperformance of duty. The Secretary or designate shall keep attendance records and notify the Township Board when the problem exists.
- b. When a petitioner fails to appear at a properly scheduled meeting, the Chair may entertain a motion from the Board to dismiss the case for want of prosecution. In such cases, the petitioner shall be notified, in writing, by the Secretary or designate, and the petitioner shall have seven (7) days from the date of notice to apply for reinstatement of the case. The applicant must file a written request for reinstatement to the Secretary or designate, and upon approval by the Chair for good cause shown; pay the fee as set by the Township Board. In all reinstated cases, a new hearing must be scheduled and all prescribed actions performed.

4.3 Conflict of Interest. Each member of the Appeals Board shall avoid situations that are conflicts of interest. If a member has a conflict of interest such conflict of interest shall be fully stated on the record. If a question exists whether the circumstances actually present a conflict of interest, the Zoning Board of Appeals may, by majority vote of the members present and voting, table the matter under consideration in order to obtain a written opinion from the township attorney. Once the conflict of interest matter is declared or confirmed, the member with the conflict of interest shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

- a) Declare a conflict exists.
- b) Cease to participate at the Appeals Board meetings.
- c) Refrain from engaging with any members of the Appeals Board, its staff or any others on the subject of the matter which gives rise to the conflict of interest.
- d) If the conflict is first declared at an Appeals Board meeting, leave the meeting table and not participate during deliberation of or voting on the item before the Appeals Board.

4.4 Incompatibility of Office. Each member of the Appeals Board shall avoid situations giving rise to an incompatibility of office. If a member simultaneously holds two or more incompatible offices, such incompatible offices shall be fully stated on the record. If a question exists whether the circumstances actually present incompatible offices, the Zoning Board of Appeals may, by majority vote of the members present and voting, table the matter under consideration in order to obtain a written opinion from the township attorney. Once the incompatible offices are declared or confirmed, the member of the Zoning Board of Appeals holding the incompatible offices must resign from either the Zoning Board of Appeals or the other office.

4.5 Other Meetings. Meetings shall be called by notifying, all members of the Zoning Board of Appeals at least 48 hours in advance. The notice shall state the purpose, time, location and shall be posted at the Township Hall at least 18 hours prior to the date of the meeting. Meeting notices shall also be published on the township website. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled public meetings.

4.6 Public Meetings. All meetings, hearings, records and accounts shall be open to the public and posted in compliance with the Michigan Open Meetings Act.

4.7 Quorum. A majority of the regular members of the Zoning Board of Appeals shall constitute a quorum for the transaction of business at all meetings of the Appeals Board. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present.

4.8 Order of Business.

1. Chair declares Hearing open.
 2. Pledge of Allegiance.
 3. Introduction of Zoning Board of Appeals Members.
 4. Zoning Administrator introduces case and presents exhibits.
 5. Petitioner is recognized and he/she, or his/her agent, puts forth his/her case.
 6. Board members report on their site inspections, if any, and ask questions they may have for the petitioner or his/her agent.
 7. Discussion may take place between the petitioner and board members.
 8. Members of the public, present, may speak.
 9. Any correspondence received about the variance, is read or has been included in member's packets.
 10. Anyone can ask the board questions regarding the petitioner's presentation or speeches that were given. The board will attempt to obtain the answers. Answers will be directed to the board chair. No discussion, questioning or answering, shall take place between any two or more persons except between board members and whoever has the floor.
 11. Close the public comment portion of the hearing. (At this point, all public participation on the issue ends).
 12. The Board reviews applicable Sections of the Hayes Township Ordinance.
 13. The Board reviews the facts as known and discussion takes place gathering findings of fact until a member puts forth a motion including the findings of fact. Voting shall be by roll call and shall be recorded.
 14. The hearing is over and the board may take up any further business it may have pending, prior to adjournment.
- Motions dealing with an Appeal or a Variance shall be stated with the following parts:
1. The list of exhibits which is the printed information presented by the applicant and/or the Zoning Administrator.
 2. The list of facts which is the information pertinent to making a decision structured as a "Finding of Fact" on the case.
 3. The conclusion, decision, of the Zoning Board of Appeals. This motion, or part of a motion, shall include the rationale and/or reason, for why the conclusion was made.

The rationale, reasons, shall at a minimum contain a review of the applicable Section of the Hayes Township ordinance.

Motions dealing with an ordinance interpretation, or an appeal of an administration decision, shall be stated with the following parts:

1. The list of exhibits which is the printed information presented by the applicant and/or the Zoning Administrator.
2. The list of facts which is the information pertinent to making a decision structured as a "Finding of Fact" on the case.

3. The conclusion, decision, of the Zoning Board of Appeals. This motion, or part of a motion, shall include the rationale and/or reason, for why the conclusion was made.

4.9 Voting. Voting shall be by roll call vote and shall be recorded. Members must be physically present to cast a vote. Except as provided herein, an affirmative vote of a majority of the entire Zoning Board of Appeals appointed and serving shall be necessary to grant a dimensional variance, to reverse an order, requirement, decision, or determination of the zoning administrator or other administrative official or body, or to decide in favor of the applicant on any matter before the Appeals Board. Unless the Hayes Township Zoning Ordinance requires otherwise, an affirmative vote of a majority of the Appeals Board members present and voting shall be necessary to make all other decisions.

4.10 Not Voting On the Same Issue Twice. Any member of the Appeals Board shall avoid situations where they are sitting in judgment and voting on an administrative decision which they had a part in making, such as decisions of the Township Board or the Planning Commission.

4.11 Alternates. If an alternate is involved in a deliberation on a case the alternate will remain a member of the Zoning Board of Appeals in all deliberations on that case until its conclusion.

Section 5.0 Minute Approval. Copies of the Minutes and Decision and Order shall be distributed to each member of the Zoning Board of Appeals within 8 business days of the meeting. The Secretary or designate will give notice to the members, in writing, of the scheduled date for minute approval.

Section 6.0 Adoption and Repeal. These rules of procedure of the Hayes Township Zoning Board of Appeals shall become effective on the date adopted. All previous rules of procedure, as amended, shall be repealed.

Section 7.0 Amendments. These Rules of Procedure may be added to, amended or repealed in whole or in part. Proposed changes to these Rules of Procedure must be submitted in writing to the regular members of the Zoning Board of Appeals at least one (1) month in advance of the meeting at which the proposed changes will be considered. A majority vote of the entire regular Appeal Board members appointed and serving shall be required to amend these Rules of Procedure.

Kristin & April,

I received these proposed changes to the rules of the ZBA from Ellis in connection with the Pickleball lawsuit. Given our discussion this morning, I would suggest these be provided to the ZBA ahead of Wednesday for discussion regarding the rules of procedure. We can talk about whether the ZBA should adopt any of these proposed changes.

Please let me know if you have any questions.

Todd

Todd W. Millar

Attorney

DIRECT 231.486.4519 EMAIL tmillar@parkerharvey.com

PARKER HARVEY PLC

901 S. Garfield Ave, Suite 200, Traverse City, MI 49686

MAIN 231.929.4878 FAX 231.929.4182 www.parkerharvey.com



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 **proposedRevisedZbaRules2.pdf**
68K



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

proposedRevisedZbaRules2.pdf

1 message

Todd Millar <tmillar@parkerharvey.com>

Tue, Jan 6, 2026 at 12:36 PM

To: "Kristin Baranski (clerkhayestownshipmi@gmail.com)" <clerkhayestownshipmi@gmail.com>, April Hilton

<deputyclerkhayes@gmail.com>

Edits proposed By Ellis Boal

1.0 Purpose

The following rules of procedure are hereby adopted by the Hayes Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in Hayes Township Zoning Ordinance. **A current copy of these Rules is to be posted on the township website.**

2.4 Recording Secretary.

It is anticipated that the Township Board will hire a Recording Secretary **other than the Zoning Administrator or Assistant**, for the Zoning Board of Appeals. The Secretary or designate shall execute documents in the name of the Zoning Board of Appeals and perform the duties hereinafter listed. The Secretary or designate shall assure that the minutes of all meetings of the Zoning Board of Appeals are properly recorded and that notices for all meetings are duly given. He or she shall also perform such other duties as may be assigned by the Chair or the Appeal Board.

3.1 Filing.

3.1.1 Appeals: Any person aggrieved by an administrative decision under the Zoning Ordinance **or the person's authorized agent**, and any officer, department, board, or bureau of the State of Michigan, or the Hayes Township Board, on behalf of the Township, may appeal an administrative decision to the Zoning Board of Appeals, **specifying the grounds. For a Notice of Appeal, it shall be filed with the Chair of the Zoning Board of Appeals, ~~the Zoning Administrator, and the body or official from whom the appeal is taken~~ not more than 30 days from the date of the order, requirement, decision or determination** being appealed, as described in Zoning Ordinance 8.03. In addition, seven copies of an Application form, a fee as established from time to time by the Township Board, and other materials an appellant wishes to give the ZBA is due 30 days prior to the date of the ZBA hearing, and shall be submitted to the Zoning Administrator, as described in Zoning Ordinance § 8.05.

3.1.2 Interpretation Requests: Any interested person, or the person's authorized agent, may request an interpretation of the zoning ordinance from the Zoning Board of Appeals. **An interpretation request may be filed in writing at any time.** A fee and application is due 30 days prior to the ZBA hearing date **as described in Zoning Ordinance 8.05.**

3.1.3 Variance Requests: Any interested person, or the person's authorized agent, may seek a dimensional variance from the zoning ordinance from the Zoning Board of Appeals. **A variance request may be filed in writing at any time.** An application, materials described in Zoning Ordinance 8.05, and a fee is due 30 days prior to the ZBA

hearing date.

3.2 Notification

3.2.1 For Appeals: Immediately upon receipt of a Notice of Appeal, the Zoning Administrator or other body or official from whom the appeal is taken shall contact the Secretary or designate, who with the approval of the Chair, will set up a date and time for the Zoning Board of Appeals to meet to hold a hearing to consider and act on the case in question. Notice of hearing shall be made by the Secretary or designate to the other members of the Zoning Board of Appeals. The notice of hearing sent to the members shall include **copies of the Notice of Appeal for an Appeal; a copy of these Rules; and immediately upon receipt of a Notice of Appeal**, the Zoning Administrator shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. In addition to the above the Secretary or designate will give notice as required in Section 8.06 of the Hayes Township Ordinance.

3.2.2 For Variance and Interpretation Requests: Within 10 days from the date of the receipt of the completed application form for a variance or interpretation request, copies of the application form for a variance; including all additional material submitted by the applicant, all relevant content of the Zoning Administrator's file, and/or other files on the case; other relevant correspondence, permits by other applicable enforcement agencies; and any other information that is relevant.

HAYES TOWNSHIP ZONING BOARD OF APPEALS RULES OF PROCEDURE

Section 1.0 Purpose.

The following rules of procedure are hereby adopted by the Hayes Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in Hayes Township Zoning Ordinance. A copy of these Rules of Procedure shall be posted on the Township website.

Section 2.0 Officers

2.1 Selection. At the regular meeting in January of each year, the Zoning Board of Appeals shall select from its regular membership a Chair and Vice-Chair. All officers are eligible for reelection. The Township Board and Planning Commission member may not serve as Chair or Vice-Chair.

2.2 Tenure. The Chair and Vice-Chair shall take office upon their selection and shall hold office for a term of one year or until their successors are selected and assume office.

2.3 Duties of Officers. The Chair shall preside at all meetings and perform such other duties as may be ordered by the Zoning Board of Appeals. The Vice-Chair shall act in the capacity of Chair in his/her absence and in the event the office of Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of Vice-Chair for the unexpired term.

2.4 Recording Secretary. It is anticipated that the Township Board will hire a Recording Secretary for the Zoning Board of Appeals. The Secretary or designate shall execute documents in the name of the Zoning Board of Appeals and perform the duties hereinafter listed. The Secretary or designate shall assure that the minutes of all meetings of the Zoning Board of Appeals are properly recorded and that notices for all meetings are duly given. He or she shall also perform such other duties as may be assigned by the Chair or the Appeal Board.

2.5 Duties of all members. All substantive communication regarding a matter before the Zoning Board of Appeals should occur at a public meeting. Whenever possible, Members shall avoid Ex Parte contact (any conversation about the case between board members, or between board member(s) and the applicant or public) about cases where an administrative decision is before the Appeals Board whenever possible. Despite one's best efforts it is sometimes not possible to avoid Ex Parte contact. When that happens, the member shall take detailed notes on what was said and report it to the Zoning Administrator who will include the report in the materials provided to the Zoning Board of Appeals for that matter so that every member and other interested parties are made aware of what was said.

2.6 Accepting Gifts. Gifts shall not be accepted by a member of the Appeals Board from anyone connected with an agenda item before the Appeals Board. As used here, gifts shall mean cash, any tangible item (including food), or service, regardless of value.

2.7 Training. Each member shall have attended at least four hours per year of training in planning and zoning during the member's current term of office. Failure to meet the training requirements may be grounds for the Township Board to not reappoint the member to the Appeals Board. Training may be provided by one or more of the following

organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, and Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University.

Section 3.0 Appeals, Requests for Interpretation and Variances

3.1 Filing.

3.1.1 Appeals. An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the State of Michigan, or the Hayes Township Board, on behalf of the Township of an administrative decision under the Zoning Ordinance. A notice of appeal, specifying the decision or determination being appealed, the date of said decision or determination and the grounds for the appeal, shall be filed on a form (posted on the website or provided by the Zoning Administrator). The notice of appeal and requisite fee established by the Township Board shall be filed with the Township Clerk by (we need to figure out the process here) and the body or officer from whom the appeal is taken. The notice of appeal and fee must be filed within 30 days from the date of the order, requirement, decision or determination being appealed. An appeal may be filed on behalf of an aggrieved party by their authorized agent. No less than 30 days prior to the hearing, seven copies of the appeal form and other materials the appellant wishes to give to the ZBA shall be submitted to the Zoning Administrator as described in Zoning Ordinance Section 8.05. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

3.1.2 Interpretation Request. Any interested person, or their authorized agent, may request an interpretation of the zoning ordinance from the Zoning Board of Appeals. An interpretation request may be filed in writing at any time. A fee and application is due 30 days prior to the ZBA hearing date as described in Zoning Ordinance 8.05.

3.1.3 Variance Request. Any interested person, or the person's authorized agent, may seek a dimensional variance from the zoning ordinance from the Zoning Board of Appeals. A variance request may be filed in writing at any time. An application, materials described in Zoning Ordinance 8.05, and a fee is due 30 days prior to the ZBA hearing date.

3.2 Notification. Within 10 days from the date of the receipt of the completed application form or Notice of Appeal, the Zoning Administrator shall contact the Secretary or designate, who with the approval of the Chair, will set up a date and time for the Zoning Board of Appeals to meet to hold a hearing to consider and act on the case in question. Notice of hearing shall be made by the Secretary or designate to the other members of the Zoning Board of Appeals. The notice sent to the members shall include copies of the appeal or application form; including all additional material submitted by the applicant, all relevant content of the Zoning Administrator's file, and/or other files on the case; other relevant correspondence, permits by other applicable enforcement agencies; and any other

information that is relevant. In addition to the above the Secretary or designate will give notice as required in Section 8.06 of the Hayes Township Zoning Ordinance.

3.3 Deadline for Action. The above notwithstanding, the Zoning Board of Appeals shall hear the case within forty five (45) days and file its decision with the Zoning Administrator not more than forty five (45) days after hearing the case, unless a longer period of time is mutually agreed upon by the petitioner and the Zoning Board of Appeals.

3.4 Site Inspection. Members of the Zoning Board of Appeals are required to visit the site in question. This shall be done at their own expense and on an individual and separate basis. Members are not to discuss or deliberate a variance request except during posted open hearings.

3.5 Notice of Decision. The Secretary or designate shall cause a Decision and Order of the Zoning Board of Appeal's decision to be delivered to the Zoning Administrator; to the petitioner, or his/her agent; and to anyone else requesting a copy in writing.

Section 4.0 Meetings

4.1 Regular Meetings. The Zoning Board of Appeals shall meet at least once each year during the month of January. Any other meeting shall be called as needed such as in response to an appeal for a variance or Notice of Appeal. The meeting will be called by the Secretary or the Chair.

4.2 Attendance.

a. If any member of the Zoning Board of Appeals is absent for two or more meetings in a row, then that member may be considered delinquent and may be removed from the board by the Township Board, for nonperformance of duty. The Secretary or designate shall keep attendance records and notify the Township Board when the problem exists.

b. When a petitioner fails to appear at a properly scheduled meeting, the Chair may entertain a motion from the Board to dismiss the case for want of prosecution. In such cases, the petitioner shall be notified, in writing, by the Secretary or designate, and the petitioner shall have seven (7) days from the date of notice to apply for reinstatement of the case. The applicant must file a written request for reinstatement to the Secretary or designate, and upon approval by the Chair for good cause shown; pay the fee as set by the Township Board. In all reinstated cases, a new hearing must be scheduled and all prescribed actions performed.

4.3 Conflict of Interest. Each member of the Appeals Board shall avoid situations that are conflicts of interest. If a member has a conflict of interest such conflict of interest shall be fully stated on the record. If a question exists whether the circumstances actually present a conflict of interest, the Zoning Board of Appeals may, by majority vote of the members present and voting, table the matter under consideration in order to obtain a written opinion from the township attorney. Once the conflict of interest matter is declared or confirmed, the member with the conflict of interest shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

- a) Declare a conflict exists.
- b) Cease to participate at the Appeals Board meetings.
- c) Refrain from engaging with any members of the Appeals Board, its staff or any others on the subject of the matter which gives rise to the conflict of interest.
- d) If the conflict is first declared at an Appeals Board meeting, leave the meeting table and not participate during deliberation of or voting on the item before the Appeals Board.

4.4 Incompatibility of Office. Each member of the Appeals Board shall avoid situations giving rise to an incompatibility of office. If a member simultaneously holds two or more incompatible offices, such incompatible offices shall be fully stated on the record. If a question exists whether the circumstances actually present incompatible offices, the Zoning Board of Appeals may, by majority vote of the members present and voting, table the matter under consideration in order to obtain a written opinion from the township attorney. Once the incompatible offices are declared or confirmed, the member of the Zoning Board of Appeals holding the incompatible offices must resign from either the Zoning Board of Appeals or the other office.

4.5 Other Meetings. Meetings shall be called by notifying, all members of the Zoning Board of Appeals at least 48 hours in advance. The notice shall state the purpose, time, location and shall be posted at the Township Hall at least 18 hours prior to the date of the meeting. Meeting notices shall also be published on the township website. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled public meetings.

4.6 Public Meetings. All meetings, hearings, records and accounts shall be open to the public and posted in compliance with the Michigan Open Meetings Act.

4.7 Quorum. A majority of the regular members of the Zoning Board of Appeals shall constitute a quorum for the transaction of business at all meetings of the Appeals Board. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present.

4.8 Order of Business.

- 1. Chair declares Hearing open.
- 2. Pledge of Allegiance.
- 3. Introduction of Zoning Board of Appeals Members.
- 4. Zoning Administrator introduces case and presents exhibits.
- 5. Petitioner is recognized and he/she, or his/her agent, puts forth his/her case.
- 6. Board members report on their site inspections, if any, and ask questions they may have for the petitioner or his/her agent.
- 7. Discussion may take place between the petitioner and board members.
- 8. Members of the public, present, may speak.
- 9. Any correspondence received about the variance, is read or has been included in member's packets.

10. Anyone can ask the board questions regarding the petitioner's presentation or speeches that were given. The board will attempt to obtain the answers. Answers will be directed to the board chair. No discussion, questioning or answering, shall take place between any two or more persons except between board members and whoever has the floor.
11. Close the public comment portion of the hearing. (At this point, all public participation on the issue ends).
12. The Board reviews applicable Sections of the Hayes Township Ordinance.
13. The Board reviews the facts as known and discussion takes place gathering findings of fact until a member puts forth a motion including the findings of fact. Voting shall be by roll call and shall be recorded.
14. The hearing is over and the board may take up any further business it may have pending, prior to adjournment.

Motions dealing with an Appeal or a Variance shall be stated with the following parts:

1. The list of exhibits which is the printed information presented by the applicant and/or the Zoning Administrator.
2. The list of facts which is the information pertinent to making a decision structured as a "Finding of Fact" on the case.
3. The conclusion, decision, of the Zoning Board of Appeals. This motion, or part of a motion, shall include the rationale and/or reason, for why the conclusion was made.

The rationale, reasons, shall at a minimum contain a review of the applicable Section of the Hayes Township ordinance.

Motions dealing with an ordinance interpretation, or an appeal of an administration decision, shall be stated with the following parts:

1. The list of exhibits which is the printed information presented by the applicant and/or the Zoning Administrator.
2. The list of facts which is the information pertinent to making a decision structured as a "Finding of Fact" on the case.
3. The conclusion, decision, of the Zoning Board of Appeals. This motion, or part of a motion, shall include the rationale and/or reason, for why the conclusion was made.

4.9 Voting. Voting shall be by roll call vote and shall be recorded. Members must be physically present to cast a vote. Except as provided herein, an affirmative vote of a majority of the entire Zoning Board of Appeals appointed and serving shall be necessary to grant a dimensional variance, to reverse an order, requirement, decision, or determination of the zoning administrator or other administrative official or body, or to decide in favor of the applicant on any matter before the Appeals Board. Unless the Hayes Township Zoning Ordinance requires otherwise, an affirmative vote of a majority of the Appeals Board members present and voting shall be necessary to make all other decisions.

4.10 Not Voting On the Same Issue Twice. Any member of the Appeals Board shall avoid situations where they are sitting in judgment and voting on an administrative decision

which they had a part in making, such as decisions of the Township Board or the Planning Commission.

4.11 Alternates. If an alternate is involved in a deliberation on a case the alternate will remain a member of the Zoning Board of Appeals in all deliberations on that case until its conclusion.

4.12 Conduct of Meetings. Meetings shall be conducted pursuant to Robert's Rules of Order.

Section 5.0 Minute Approval. Copies of the Minutes and Decision and Order shall be distributed to each member of the Zoning Board of Appeals within 8 business days of the meeting. The Secretary or designate will give notice to the members, in writing, of the scheduled date for minute approval.

Section 6.0 Adoption and Repeal. These rules of procedure of the Hayes Township Zoning Board of Appeals shall become effective on the date adopted. All previous rules of procedure, as amended, shall be repealed.

Section 7.0 Amendments. These Rules of Procedure may be added to, amended or repealed in whole or in part. Proposed changes to these Rules of Procedure must be submitted in writing to the regular members of the Zoning Board of Appeals at least one (1) month in advance of the meeting at which the proposed changes will be considered. A majority vote of the entire regular Appeal Board members appointed and serving shall be required to amend these Rules of Procedure.