

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 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. The Deputy Zoning Administrator shall be the 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. Despite one's best efforts, it is sometimes not possible to avoid Ex Parte contact, however, and it is important that every member and other interested parties are made aware of what was said. When Ex Parte contact 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.

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.

All appeals, appeal notices, interpretation requests and variance requests are to be sent to the Township Clerk. The Clerk, on receipt, shall date- and time-stamp the documentation and shall confirm receipt with the applicant or sender via email or mail (if email is not available) immediately.

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 blanks or a forms (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 and the body or officer from whom the appeal is taken. The Clerk will then notify the ZBA Chairperson and the body or officer being appealed that an appeal has been filed and the date of filing. 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 using Robert's Rules of Order as a guideline.

5.0 Minutes 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.

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.

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.