

ZONING BOARD OF APPEALS  
FOR THE CITY OF TROY

RULES OF PROCEDURE

ARTICLE I  
ORGANIZATION

1. The Board shall annually, at its regular meeting in the month of May, elect its own Chairperson and Vice-Chairperson to hold office for one year. The Zoning Administrator shall be the Clerk of the Board, provided that the Clerk may appoint other persons to make records of the meetings.
2. The Chairperson shall preside at all meetings of the Board. In the case of the absence of the Chairperson, the Vice-Chairperson shall preside. The presiding officer, subject to these rules, shall decide all points of order or procedure.
3. The Clerk or his or her representative shall keep the minutes of the Board's proceedings, shall have custody of all records of the Board, shall sign all communications of the Board, shall supervise all clerical work of the Board and perform such other duties as may be requested by the Board.

ARTICLE II  
MEETINGS

1. All meetings held by the Board shall be open to the public.
2. Board meetings shall be held on the third Tuesday of each month at 7:30 P.M. except when such day falls on a legal holiday, in which event the Board shall by majority vote designate an alternate meeting date.
3. A resolution supported by the majority of the members present may temporarily suspend any rule of procedure or change the date and time of regular meetings as set forth in paragraph 2 of this Article.
4. Special meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson. Notice of the Special Meeting shall be given in a manner as required by the Open Meetings Act and the Zoning Administrator or his or her designee shall notify all members of the Zoning Board of Appeals not less than 24 hours in advance of a Special Meeting.
5. Four members of the Board shall constitute a quorum for conducting of its business. The concurring vote of four (4) members shall be necessary to decide upon appeals of administrative decisions, Zoning ordinance or Zoning Map interpretations, dimensional or other non use variances, and other matters upon which the Board is required to pass under the Zoning Ordinance.

6. Use variances shall require an affirmative vote of two thirds of the entire membership of the board (5 members) for approval.
7. In the event that a Board member is absent or is excused from voting on an item due to a perceived conflict of interest, one of the alternate Board members shall be temporarily seated at the call of the Chairperson.
8. Alternate members who serve and who participate in any agenda item shall continue to serve on the Zoning Board of Appeals for that item until a final decision is reached on the same.
9. The order of business at meetings shall be as follows:
  - a. Roll Call.
  - b. Approval of Minutes of Previous Meetings
  - c. Approval of Agenda
  - d. Hearing of Cases
  - e. Public Comment
  - f. Communications
  - g. Miscellaneous Business
  - h. Adjournment

ARTICLE III  
VARIANCES & APPEALS

1. All applications to the Zoning Board of Appeals shall be filed with the City. Application forms may be obtained from the Planning Department. A copy of each application shall be served upon the Planning Department, which shall transmit to the Board all information constituting the application.
2. In addition to the information required on the forms, each application shall contain the following information:
  - a. The order being appealed or the section of the zoning ordinance from which a variance is sought.
  - b. The reasons for appeal.
  - c. Plans drawn to approximate scale showing shape and dimensions of lots, existing buildings and buildings to be erected, altered or changed, and any other information with regard to the lot or neighboring lots, and the proposed or existing use, as deemed necessary by the Zoning Administrator.

- d. A clear and accurate description of the proposed use, construction, or work.
  - e. Any other information necessary to clearly explain the nature of the request.
- 3. The applicant may appear on his or her own behalf or may be represented at the hearing by an attorney or authorized agent.
- 4. The Hearing Procedure for Use Variances is governed by Section 15.05 B.3 of the Zoning Ordinance. For all other appeals, the order of procedure of hearings shall be:
  - a. Calling of the Case by the Chairperson
  - b. City Staff introduction of the case.
  - c. Applicant's presentation of the case.
  - d. Open public hearing to interested persons.
  - e. Close public hearing
  - f. Applicant rebuttal or clarification of public comments
  - g. Board deliberation and motion and decision.
- 5. Time limits during public hearings: The Chairperson may establish time limits for presentations to the Board in those cases where it is evident that a particular item is likely to involve public comments from several individuals.
- 6. The Board may require, of the applicant, additional information necessary to fully advise the Board.

ARTICLE IV  
DISPOSITION OF BOARD ACTION

- 1. The decision of the Board shall be in writing, and, so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts and findings of the Board. The applicant shall be advised of the Board's decision by mail within a reasonable time after the hearing unless the Board moves for a continuation of the hearing, or unless the Board decides that, in its opinion, immediate notification is necessary.
- 2. The applicant may withdraw the appeal at any time prior to the final action by the Board.

ARTICLE V  
MISCELLANEOUS

These rules of procedure are subject to and controlled by the Troy City Code and the Michigan statutes applicable to Zoning Boards of Appeal.

## ARTICLE VI AMENDMENTS

These rules of procedure may be amended at any regular meeting upon an affirmative vote of the majority of the entire membership of the Board provided that any amendment or modification is consistent with the applicable Troy City Code and Michigan statutes.

## CURRENT RULES OF PROCEDURE

### BOARD OF ZONING APPEALS FOR THE CITY OF TROY

#### RULES OF PROCEDURE

##### ARTICLE I ORGANIZATION

1. The Board shall annually, at its regular meeting in the month of May, elect its own Chairman and Vice-Chairman to hold office for one year. The Director of Building and Zoning shall be the Clerk of the Board, provided that the Clerk may from time to time appoint other persons to make records of the meetings.
2. The Chairman shall preside at all meetings of the Board. In the case of the absence of the Chairman, the Vice-Chairman shall preside. The presiding officer, subject to these rules, shall decide all points of order or procedure.
3. The Clerk or his or her representative shall keep the minutes of the Board's proceedings, shall have custody of all records of the Board, shall sign all ex-officio communications of the board, shall supervise all clerical work of the Board and perform such other duties as may be requested by the Board.

##### ARTICLE II MEETINGS

1. All hearings held by the Board shall be open to the public.
2. Board meetings shall be held on the third Tuesday of each month at 7:30 P.M. except when such day falls on a legal holiday, in which event the Board shall by majority vote designate an alternate meeting date.
3. A resolution supported by the majority of the members present may temporarily suspend any rule of procedure or change the date and time of regular meetings as set forth in paragraph 2 of this Article.
4. A special meeting may be called by the Chairman or upon request of three members, provided, twenty-four hours notice has been given to each member of the Board.
5. Four members of the Board shall constitute a quorum for conducting of its business. The concurring vote of four (4) members shall be necessary to modify or reverse any order, requirement, decision or determination of the Director of Building and Zoning or his/her representative, or to decide in favor of the applicant on any matter upon which the Board is authorized to render a decision under the Zoning Ordinance: provided that a smaller number constituting a majority of those present may make decisions on renewals that were originally approved by a concurring vote of four members and adjourn any such appeal or the meeting to another date.

6. The order of business at the board meetings shall be as follows:
  1. Roll Call
  2. Approval of Minutes of Previous Meetings
  3. Renewals
  4. Hearing of Cases
  5. Communications
  6. Miscellaneous Business
  7. Adjournment

### ARTICLE III RENEWALS

All items on the agenda for a meeting which involve a request for renewal of a decision previously approved by the Board may be approved in one motion provided that:

1. Conditions remain the same as they did when the Board last heard the item.
2. No complaints or objections are filed with regard to the request.

Upon request of a Board member or the petitioner, a request for renewal may be considered as a separate item in which case, the Board will consider the item after approval of the other requests for renewal.

An applicant who was previously granted a waiver or modification of the screen wall requirements of the Zoning Ordinance may request a permanent variance if eligible to do so under the Ordinance. However, such request shall be heard and considered by the Board in accordance with the procedure set forth in these rules for Appeals and Other Cases.

### ARTICLE IV APPEALS

1. Any person or entity affected by a decision of the Director of Building and Zoning or his/her representative may make an appeal to the Board of Appeals. The appeal shall be made by the filing with the Director of Building and Zoning an application for hearing before the Board of Zoning Appeals specifying grounds for appeal.
2. All applications to the Board of Zoning Appeals shall be filed in duplicate in writing on forms adopted by the Board. Forms may be secured at the office of the Director of Building and Zoning. A copy of each application shall be served upon the Director of Building and Zoning who shall transmit to the Board all papers constituting the record upon which the action of appeal is taken and shall provide a copy to the representative or building official who made a decision being appealed.
3. In addition to the information required on the forms, each appeal shall contain the following information:
  - a. The order or section of ordinance appealed.
  - b. The reasons for appeal.

- c. Plans drawn to approximate scale showing shape and dimensions of lots, existing buildings and buildings to be erected, altered or changed, and any other information with regard to the lot or neighboring lots, and the proposed or existing use, as deemed necessary by the Director of Building and Zoning.
  - d. A clear and accurate description of the proposed use, construction, or work.
- 4. The applicant may appear in his or her own behalf or may be represented at the hearing by an attorney or authorized agent.
- 5. The Board of appeals shall give notice of the hearing to all persons to whom any real property within 300 feet of the premises is in question is assessed and to the occupants of single and two-family dwellings within 300 feet. This notice may be delivered personally or by mail addressed to the respective owners at the addresses given in the last assessment roll.
- 6. The order of procedure of hearings shall be:
  - a. Presentation of all official records and certification of the case by the Chairman of the Board.
  - b. Director of Building and Zoning presentation of the case.
  - c. Applicant's presentation of the case.
  - d. Open public hearing to interested persons.
  - e. Close public hearing
  - f. Motion on decision.
- 7. The Board may require, of the applicant, additional information necessary to fully advise the Board. Refusal or failure to comply may be grounds for dismissal of the application by the board.
- 8. An appeal stays all proceedings in the furtherance of the action appealed from unless the stay would cause imminent peril to life or property.

ARTICLE V  
DISPOSITION OF APPEAL

- 1. The Board of Appeals 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 the opinion of the Board of Appeals ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.
- 2. The decision of the Board shall be in writing, and, so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts and findings of the Board. The applicant shall be advised of the Board by mail within a reasonable time after the hearing unless the Board moves for a continuation of the hearing, or unless the Board decides that, in it's opinion, immediate notification is necessary.

3. The decision of the Board is final and cannot be reconsidered unless newly discovered evidence or substantially changed conditions are brought to the attention of the Director of Building and Zoning.
4. The applicant may withdraw the appeal at any time prior to the final action by the Board.
5. Any decision of the Board favorable to the applicant shall not remain valid for a period longer than one (1) year unless a Building Permit is obtained within such period.

ARTICLE VI  
MISCELLANEOUS

These rules of procedure are subject to and controlled by the Troy City Code and the Michigan Statutes applicable to Zoning Boards of Appeal.

ARTICLE VII  
AMENDMENTS

These rules of procedure may be amended at any regular meeting upon an affirmative vote of the majority of the Board members present, provided that any amendment or modification is consistent with the applicable Troy City Code and Michigan Statutes.

RECOMMENDED FORM FOR MOTIONS GRANTING  
OR DENYING REQUESTS FOR VARIANCES

MOVE TO GRANT THE VARIANCE REQUESTED:

PRELIMINARY FINDINGS: The variance would

- A. Not contrary to public interest; and
- B. Does not permit the establishment of a prohibited use within a zoning district; and
- C. Does not cause an adverse effect to properties in the immediate vicinity or zoning district;

**AND**

SPECIAL FINDINGS

- I. The petitioner has any of the following practical difficulties:

- 1. No reasonable use can be made of the property, or
- 2. Public health, safety and welfare negatively affected, or
- 3. Conforming is unnecessarily burdensome.

These practical difficulties result from the following unusual characteristics of the property:

- 1. (size – e.g.)
- 2. (locations – e.g.)
- 3. (configuration – e.g.)

- II. The following significant natural features or resources would be destroyed:

- 1.
- 2.
- 3.

MOVE TO DENY VARIANCE REQUESTED:

PRELIMINARY FINDINGS

- A. It would be contrary to public interest; or
- B. It would permit the establishment of a prohibited use as the principal use within a zoning district; or
- C. It causes an adverse effect to properties in the immediate vicinity; or
- D. Relates to property not described in the application for the variance

(If any of the above, you must state the reasons for the finding)

OR

SPECIAL FINDINGS

- I. The petitioner has not demonstrated any practical difficulty; or  
The petitioner's problems or practical difficulties do not result from any unusual characteristics of the property because:
  - 1.
  - 2.
  - 3.
- II. No significant natural features or resources are negatively affected.