

ARTICLE 20

ADMINISTRATION

Section 20.01. **ZONING ADMINISTRATOR; DESIGNATION.** The Township Board shall appoint one, or more, Zoning Administrator(s) whose duty it shall be to administer and enforce the provisions of this Ordinance.

Section 20.02. **ZONING ADMINISTRATOR(S); DUTIES.** In administering and enforcing this Ordinance, the Township Zoning Administrator shall perform the following duties:

- (a) Provide necessary forms and applications;
- (b) Determine and verify zoning compliance upon the demonstration that the applicant's plan are found to conform with the provisions of this Ordinance;
- (c) The Zoning Administrator shall not vary, change or grant exceptions to any terms of this Ordinance, or to any person making application under the requirements of this Ordinance;
- (d) Issue any authorized permits;
- (e) Identify and record information relative to nonconformities;
- (b) Provide assistance in zoning changes and amendments to the Ordinance text or map;
- (c) Maintain files of applications, permits and other relevant documents and said records are open for public inspection.

Section 20.03. **ZONING ADMINISTRATOR(S); POWERS.** The Zoning Administrator(s) shall have all powers and authority conferred by laws, statutes and ordinances to enforce the provisions of this Ordinance.

Section 20.04. **BOARD OF APPEALS; MEMBERS; APPOINTMENT.** There is herewith created by the zoning ordinance a Zoning Board of Appeals (the "Board of Appeals"). The Board of Appeals shall have the authority and responsibilities conferred by law and this Ordinance.

- (a) The Board of Appeals shall consist of three (3) members. Members shall be appointed by the Township Board by a majority of its membership and that one (1) regular member of such Board of Appeals shall be a member of the Planning Commission. One (1) regular or alternate member may be a member of the Township Board, provided that no elected officer of the Township shall serve as Chairperson of the Board of Appeals. The remaining regular and alternate

member(s) shall be chosen from the electors residing within Casnovia Township and shall not be an elected official or member of the Planning Commission. An employee or contractor of the Township may not serve as a member of the Board of Appeals.

- (b) The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Board of Appeals. An alternate member may be called as specified in the zoning ordinance to serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest and shall serve in the case until a final decision is made. An alternate member serving on the Board of Appeals has the same voting rights as a regular member of the Board of Appeals.
- (c) Members of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself because of a conflict of interest constitutes malfeasance in office. Any vacancy on the Board of Appeals shall be filled by the Township Board for the remainder of the unexpired term in the same manner as the original appointment. *[Ord #02-2006, effective 1/27/2006; Revised section 20.04 Ord. #2009-03, effective 8/28/2009]*

Section 20.05. **TERMS.** Of the members appointed to the first Board of Appeals, one (1) shall serve a term of one (1) year, one (1) shall serve a term of two (2) years, and one (1) shall serve a term of three (3) years. Thereafter, all members and alternate members shall be appointed for a term of three (3) years, provided that each member shall serve until his successor is duly appointed. The terms of the Township Board and the Planning Commission member shall coincide with their respective terms as members of those bodies.

[Ord. #2009-03, effective 8/28/2009]

Section 20.06. **BOARD OF APPEALS; COMPENSATION.** Members of the Board of Appeals may be paid reasonable compensation in an amount determined by the Township Board and may be reimbursed for expenses actually incurred in the performance of official duties. *[Ord. #2009-03, effective 8/28/2009]*

Section 20.07. **BOARD OF APPEALS; OFFICERS.** A Chairperson shall be elected from among the members, and a secretary shall be appointed who need not be a member of the Board of Appeals. The chairperson or, in his absence, the acting chairperson may administer oaths and compel the attendance of witnesses. *[Ord. #2009-03, effective 8/28/2009]*

Section 20.08. **BOARD OF APPEALS; POWERS.** The Board of Appeals shall have all the powers and duties prescribed by law and this ordinance, including the following:

- (a) To adopt rules of procedure for governing the transaction of its business and maintain a record of its procedures.

- (b) To hear and decide non-use (dimensional) and use variances and all other matters assigned to it for decision under the terms of this Ordinance.
- (c) To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing the provisions of this Ordinance.
- (d) To order the issuance of all relevant Township permits for buildings and uses.
- (e) To ascertain in which district any unspecified use should be located, by determining which district has the most similar comparable uses.
- (f) The Board of Appeals shall have no jurisdiction or authority over with regard to any aspect or part of an application for approval for a special land use or planned unit development or any aspect or part of a determination or decision made with regard to a special land use or planned unit development. *[Ord #02-2006, effective 1/27/2006; Ord. #2009-03, effective 8/28/2009]*

Section 20.09. **VARIANCES.** The Board of Appeals shall further have the power to order the issuance of variances and to exercise the following powers:

- (a) *Non-use variances* (dimensional): A non-use variance from any standard established in this Ordinance may be granted in the discretion of the Board of Appeals to allow a modification from such standard establishing area, year, height, floor space, frontage, setback or similar restriction. A non-use variance may be granted when evidence establishes that there are “practical difficulties” in carrying out the strict letter of this Ordinance and only when all of the following conditions are found to be met:
 - (1) That the strict compliance with the Ordinance would either prevent improvement of the property in a manner which is reasonable customary and consistent with other properties in the area, or cause practical difficulty in strict compliance with the Ordinance, which would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
 - (2) That relief would not be a substantial detriment to adjacent property or change the essential character of the area, and would not materially impair the purposes of this Ordinance or the public interest.
 - (3) That the problem complained of is not self-created, nor created by the applicant’s predecessor in interest to the property in question.
 - (4) That the variance is requested to address exceptional and extraordinary

circumstances or conditions applying to the property itself, such as narrowness, shallowness, shape, water or topography and is not due to the applicants personal or economic difficulty.

- (5) That the variance requested is the minimum necessary to address the practical difficulty complained of. If the Board of Appeals finds that a variance is justified, but that the extent of the variance requested is greater than necessary to address practical difficulty, the Board of Appeals may approve a lesser variance than applied for.
- (b) *Use variances.* A use variance is a request for permission for a use of land which the Zoning Ordinance would otherwise prohibit for the property in question. A use variance may be granted by the Board of Appeals only in cases where there is reasonable evidence of “unnecessary hardship” in the official record of the hearing and only when all the following conditions are met:
- (1) That the building, structure or land cannot yield a reasonable return if required to be used for a use allowed in the zoned district in which it is located.
 - (2) That there are unnecessary hardships in the way of carrying out the strict letter of these regulations which were caused by exceptional or extraordinary circumstances such as narrowness, shallowness, shape, water or topography or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district and is not due to the applicants personal or economic hardship.
 - (3) That the proposed use will not alter the essential character of the neighborhood.
 - (4) That the undue hardship complained of is not self-created, nor created by the applicant’s predecessor in interest to the property in question.
 - (5) That the variance requested is the minimum necessary to address the practical difficulty complained of. If the Board of Appeals finds that a variance is justified, but that the extent of the variance requested is greater than necessary to address practical difficulty, the Board of Appeals may approve a lesser variance than applied for.
- (c) *Conditions of Approval.* In approving a variance, the Board of Appeals may include such terms and conditions the members deem reasonably necessary to carry out the intent and purposes of this Ordinance and for the protection of the public interests. The Board of Appeals may also require that the applicant submit a site plan prepared in accordance with Article 19 of this Ordinance.

- (d) Hearings, Appeals and Procedures.
- (1) An appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the state or local unit of government. Such appeal shall be taken within thirty (30) days by filing with the body or officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds for the appeal.
 - (2) An appeal to the Board of Appeals stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the Board of Appeals or the Circuit Court.
 - (3) Hearing and notice. Appeals and variance requests shall be heard by the Board of Appeals when a completed application or appeal has been properly filed with the body or officer from whom the appeal is taken and all required fees have been paid. Following receipt of a written request, the Board of Appeals shall then place the application or appeal upon the calendar for public hearing within a reasonable time after the application has been filed. Notice of public hearing shall be given in the manner provided in Section 20.10 of this ordinance. A decision shall be made in writing, whether in favor of or in denial of applications under consideration, within a reasonable time after said public hearing.
 - (4) All decisions by the Board of Appeals in granting variances or in hearing appeals shall be final, except that any party aggrieved by a decision of the Board of Appeals, shall have the right to appeal to the circuit court in the county in which the property is located as provided by State law. The appeal from a decision of the Board of Appeals must be filed within thirty (30) days after the Board of Appeals issues its decision in writing and signed by the chairperson or within twenty-one (21) days after the Board of Appeals approves the minutes of its decision,
 - (5) The presence of two (2) members shall constitute a quorum and the Board of Appeals shall not conduct business unless a majority of the regular members are present. The concurring vote of a majority of the members is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant on a matter on which the Board of Appeals is required to pass under the zoning ordinance, or grant a variance in the zoning ordinance. The approval of a use variance shall require a vote of 2/3 of the members of the Board of Appeals.

- (6) Members of the Board of Appeals who are also members of the Township Board or Planning Commission shall not participate in or vote on the same matter that the member previously voted on in their respective capacities as Township Board member or Planning Commission member. However, the member may consider and vote on other unrelated matters involving the same property.
- (7) Any variance granted by the Board of Appeals shall not be valid after a period of twelve (12) months from the date granted unless the owner or applicant shall have taken substantial steps in implementing the variance granted by the Board of Appeals. An extension of the variance may be obtained by the owner or applicant, prior to the expiration date, for an additional period of twelve (12) months upon showing that the expiration of the variance will cause an undue hardship to the owner or applicant.
[Revised section 20.09 Ord #02-2006, effective 1/27/2006; Revised section 20.09 Ord. #2009-03, effective 8/28/2009]

Section 20.10. PUBLICATION AND DELIVERY OF NOTICE OF PUBLIC

HEARING. Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, PA110 of 2006, as amended, notice of the public hearing shall be published and delivered according to the requirements of this section.

- (a) The notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- (b) For applications or requests involving the rezoning of ten (10) or fewer adjacent properties; applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special land use applications, a notice of public hearing shall be mailed by first class mail during normal business hours with the post office (USPS) or other public or private delivery service or personally delivered to the following persons at least fifteen (15) days prior to the date of the public hearing:
 - (1) The applicant and/or owner of the subject property;
 - (2) All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application or request; and
 - (3) The occupants of all structures within three hundred (300) feet of the property that is the subject of the application. Notice does not need to be given to more than one occupant of a structure unless that structure contains multiple dwelling units, in which case notice must be given to the occupant of each unit. If a structure has more than four (4) units, notice may be given to the manager or owner to be posted at the primary entrance.

- (4) Notice shall also be provided to all persons in the above stated categories within the above three hundred (300) feet radius that extend outside the Township boundaries.
 - (5) When eleven (11) or more adjacent properties are proposed for rezoning, the notification of owners and occupants of the property within three hundred (300) feet of the subject of the request is not required.
 - (6) If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.
- (c) The notice of public hearing shall include the following information:
- (1) A description of the nature of the application or request.
 - (2) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
 - (3) A statement of when and where the application or request will be considered.
 - (4) Identify when or where written comments will be received concerning the application or request. *[New section 20.10 Ord. #02-2006, effective 10/27/2006; Revised section 20.10 Ord. #2009-03, effective 8/28/2009]*