

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS BYLAWS
FEBRUARY 5, 2007**

The following rules of procedure are hereby adopted by the Tyrone Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in the following pages:

Section 1.0 OFFICERS

- 1.1 Selection. At the regular meeting in April of each year, the Zoning Board of Appeals shall select from its membership a chairperson and a vice chairperson. All officers are eligible for reelection.
- 1.2 Tenure. The chairperson and vice chairperson shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.
- 1.3 Duties. The chairperson shall preside at all meetings and perform such other duties as may be ordered by the Zoning Board of Appeals. The vice chairperson shall act in the capacity of chairperson in his/her absence. In the event the office of the chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term, and the Zoning Board of Appeals shall select a successor to the office of the vice chairperson for the unexpired term.

Section 2.0 APPEALS

- 2.1 **Criteria for Granting Variances for Dimensional (Non-Use) Requirements:**

Variances and appeals from the Ordinance dimensional requirements shall be granted only in accordance with Michigan Public Act 184 of 1943, as amended, and shall be based on findings of fact related to the criteria set forth in this section. Consistent with the decisions of courts of law in the State of Michigan, *all* of the criteria indicated below must be found by the ZBA to indicate a practical difficulty exists, thereby justifying a dimensional or non-use variance. A financial hardship of the land owner, developer or other related party shall not be a consideration in determining if a practical difficulty exists or otherwise justify granting a variance.

 1. **Unreasonable Burden:** Strict compliance with Zoning Ordinance requirements will be unreasonable or unnecessarily burdensome, preventing the use of the land for any and all permitted purposes. The demonstration of mere inconvenience is insufficient to justify a variance.
 2. **Substantial Justice:** Granting of a requested variance or appeal will provide substantial justice to the appellant as well as to other property owners in the vicinity. Resulting development permitted by a variance will relate harmoniously with adjacent land uses and will not alter the essential character of the neighborhood. In evaluating this criterion, consideration shall be given

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to prevailing traffic patterns, convenience of access, continuity of development, and the need for particular services and facilities in specific areas.

3. **Minimum Variance Required:** The requested variance or appeal will be the minimum variance required to provide substantial justice and the variance can be granted in such fashion that the spirit of these regulations will be observed and public safety and welfare secured.
4. **Extraordinary Circumstances:** There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the area. The described circumstances or conditions shall uniquely identify this request and any variance granted to satisfy the request. The circumstances shall not be self-created by the owner or a former owner of the land. Finally, the circumstance shall be related to the land and not to the property owner, developer or any other person. No precedent shall be established for general application in the Township when exceptional or extraordinary circumstances or conditions are delineated that clearly serve to identify the unique characteristics of each request.
5. **No Safety Hazard or Nuisance:** The granting of a variance or appeal will not increase the hazard of fire or otherwise endanger public safety or create a public nuisance.

2.2 Criteria for Granting Variances for Use Requirements:

Variances and appeals from the Ordinance use requirements shall be granted only in accordance with Michigan Public Act 184 of 1943, as amended, and shall be based on findings of fact related to the criteria set forth in this section. Consistent with the decisions of courts of law in the State of Michigan, *all* of the criteria indicated below must be found by the ZBA to indicate an unnecessary hardship exists, thereby justifying approval of a use variance. A financial hardship of the land owner, developer or other related party shall not be a consideration in determining if an unnecessary hardship exists or otherwise justify granting a variance.

1. **Unusable for Conforming Use:** The appellant must establish that the site cannot be used for a conforming use, consistent with the principal or special uses permitted in the subject zoning district.
2. **Unique Circumstances:** The appellant must demonstrate that the plight of the subject site is unique and not a general condition in the area nor be a condition of the neighborhood where the land is located.

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3. **Essential Character:** The use to be authorized by the variance will not alter the essential character of the area. The appellant must demonstrate that the proposed use will be compatible with the surrounding uses and will not cause harm to other established uses in the neighborhood or reduce the ability of other land in the area to comply with Ordinance requirements.
 4. **Not Self-Created:** The hardship shall not be self-created. If the use of a site is impaired due to action of the current or a previous property owner of the site, a use variance shall not be granted to remedy the impairment suffered as a result of the property owner's action. A personal hardship suffered by the property owner and unrelated to the land is not sufficient to justify approval of a use variance.
 5. **No Safety Hazard or Nuisance:** The granting of a variance or appeal will not increase the hazard of fire or otherwise endanger public safety or create a public nuisance.
- 2.3 An appeal halts all proceedings appealed unless the officer from whom the appeal is taken certifies to the Board that a stay would, in his/her opinion, cause imminent peril to life or property.

Section 3.0 MEETINGS

- 3.1 Board Meetings. Regular Board meetings are held at the call of the chairperson and shall be regularly held the first Monday of the month at 7:30 p.m., at the Tyrone Township Hall. In the event that a regular meeting falls on a legal holiday or the day preceding a presidential primary, primary, special, or general election, the Zoning Board of Appeals shall select the following Monday or a suitable alternate date in the month. Special Board meetings may be held at the call of the chairperson.
- 3.2 Members. The first Zoning Board of Appeals Member shall be a Township Planning Commission Member who shall be appointed by the Township Board and shall serve his/her tenure of office on the Planning Commission. The remaining four members shall be selected and appointed by the Township Board for a term of three years from among the electors residing in the Township. Members may be removed from office by the Township Board for nonperformance of duty or misconduct in office upon written charges and after a public hearing.
- 3.3 Alternate Members. The Township Board may appoint two alternate members for 3-year terms. The alternate members may be called to sit as regular members of the Zoning Board of Appeals in the absence of regular members. An alternate member may also be called on to serve in the place of a regular member for the purpose of

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reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest as allowed by State Law. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

- 3.4 Public. All board meetings are open to the public, and the Zoning Board of Appeals shall maintain a public record of its proceedings on file with the Township Clerk.
- 3.5 Quorum. A majority vote of the membership of the Zoning Board of Appeals, in attendance, is necessary to approve or deny any motion, or reverse a decision of an administrative body or official. The Zoning Board of Appeals shall not conduct business unless a majority of its members are present.
- 3.6 Order of Business - Agenda. The Zoning Board of Appeals recording secretary shall prepare an agenda for each meeting and the order of business shall be as follows:

Approval of Minutes

New Business

Unfinished Business

Miscellaneous Business

Adjournment

- 3.7 Motions. A motion shall be restated by the recording secretary before a vote is taken. The name of the maker and supporter of a motion shall be recorded.
- 3.8 Voting. Voting shall be by roll call, in random order, and shall be recorded by either a "yes" or a "no." The Township Rural Zoning Act requires all members of the ZBA to vote on appeals. In the event of a tie vote, the matter shall be postponed until the next regular meeting at which a five-member Board is present.
- 3.9 Conflicts of Interest. Zoning Board members shall declare a conflict of interest and abstain from participating in any hearing, deliberations, discussion, or vote on a request when:
 - 1. A relative or other family member is involved in any request for which the zoning Board is asked to make a decision;

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2. The zoning board member is the applicant or has business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association;
3. The zoning board member owns or has financial interest in neighboring property. For the purposes of this section, a neighboring property shall include all property falling within the notification radius for the proposed development, as required by the zoning ordinance or other applicable ordinance or state statute;
4. There is a reasonable appearance of a conflict of interest, as determined by the zoning board member declaring such conflict;
5. The majority of the members of the zoning board present vote in the affirmative that they believe a member has a conflict of interest in the matter before them.

For 3.9(4) above, the zoning board member declaring a conflict of interest shall state the nature of the conflict, and whether he or she believes he or she could impartially consider the request before the board. He or she shall individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. The member declaring a conflict may ask the other zoning board member to decide if he or she should abstain. The member declaring a conflict may remove himself/herself from the table or the room in which the discussion takes place. The member declaring a conflict shall not make any presentations to the zoning board as a representative of the proposal.

Section 4.0 SITE VISITS

- 4.1 It is recommended that each Tyrone Township Zoning Board of Appeals Member visit the subject site to become aware of site conditions.
- 4.2 Site visits shall be limited to less than a quorum of the Zoning Board of Appeals membership.
- 4.3 It is further recommended that the Tyrone Township Zoning Board of Appeals members not discuss the appeal with the applicant. However, if contact is made, it shall be reported in the public record at the Zoning Board of Appeals meeting.

Section 5.0 DECISIONS

- 5.1 Zoning decisions run with the land and not with the property owner. Zoning decisions are permanent. An approval cannot be granted for a specified period of time or reviewed at a later date. The reasons for any Board decision shall be stated

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in full and made a part of the meeting records. The Zoning Board of Appeals decisions are final but may be appealed to the Livingston County Circuit Court on questions of law and fact within 21 days of approval of the minutes of the meeting at which the decision was made. The decisions are not appealable to the Township Board or the Planning Commission

- 5.2 The Zoning Board of Appeals will not reconsider any appeal upon which a negative decision has been rendered within one (1) year from the date of the appeal or petition unless it can be shown by the appellant or petitioner that new facts affecting the appeal or petition, which were not presented to the Board at the pervious hearing, are now available and could affect the original decision rendered.
- 5.3 Appeals that are tabled have 90 days in which to come before the Board for a final decision. After 90 days the full application fee will again be required in order to reapply. If an appeal is tabled, due to insufficient information, additional fees will be incurred for the republishing of the public notice, copies for public mailings, and postage.

Section 6.0 AMENDMENTS

- 6.1 These rules may be amended at any regular meeting by a two-thirds vote of the members present.

At a regular meeting of the Tyrone Township Zoning Board of Appeals held December 5, 2005, the following action was taken:

Commissioner Richard Hartigan moved to adopt the Tyrone Township Zoning Board of Appeals Bylaws, as amended. (Commissioner Greg Carnes seconded.) The motion carried by voice vote.

Greg Carnes, Vice Chairman
Tyrone Township Zoning Board of Appeals

Lorie A. Thielen, Recording Secretary
Tyrone Township Zoning Board of Appeals

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CONFLICTS OF INTEREST

You probably have a conflict of interest if . . .

you are the applicant;

a close relative is the applicant;

a business associate, lender or renter is the applicant;

the applicant is a party with whom you have close ties;

the proposal could allow you, a relative, or a business associate, to receive a financial gain or benefit;

you are the Planning Commission representative and the matter to be heard is an appeal from a previous Planning Commission decision in which you participated;

or, **if you have to ask**, chances are others are asking as well. It is better to avoid the perception of a conflict, even though you may conclude that a conflict does not exist. Ultimately, the decision is a personal one. If you feel that you cannot honestly make an objective decision, and the presence of a conflict is not clear, take the action with which you are most comfortable.