

TOWNSHIP OF FOREST  
ZONING ORDINANCE

**ARTICLE 10: Zoning Board of Appeals**

Section 10.01 - Membership

There is hereby established a Zoning Board of Appeals as authorized by Section 601 of the Michigan Zoning Enabling Act, as amended. The Zoning Board of Appeals shall consist of five members appointed by the Township Board. One member shall be a member of the Township Board. One member shall be a member of the Planning Commission. The remaining members shall be electors who are not employees or contractors of the Township. Each member shall be appointed for a term of three years, except that the term of office of the members who are also members of the Township Board or Planning Commission shall terminate if their membership on the Township Board or Planning Commission terminates before the end of the three-year term. The Zoning Board of Appeals shall elect a Chairman, Vice-Chairman, and Secretary. The Township Board member may not serve as Chairman. The Zoning Board of Appeals shall adopt rules of procedures. Two alternate members may also be appointed by the Township Board to serve for three-year terms. An alternate member may be called to serve on the Zoning Board of Appeals whenever a regular member abstains due to conflict of interest or whenever a regular member is unable to attend meetings for over 30 consecutive days. An alternate member shall continue to serve on a case until a final decision is made.

Section 10.02 - Powers

The Zoning Board of Appeals shall have the following powers.

- A. Consider approval of requests for non-use variances. The Zoning Board of Appeals may not grant a use variance.
- B. Hear appeals of administrative decisions.
- C. Hear appeals of Planning Commission decisions on Conditional Use Permit applications.
- D. Interpret the zoning ordinance text when there is a question concerning its meaning.
- E. Interpret the zoning ordinance map if there is a question concerning the location of zoning district boundaries.

Section 10.03 - Appeals

An appeal may be taken to the Zoning Board of Appeals by any person wishing to appeal any final administrative decision of the Zoning Administrator or the Planning Commission, including conditional land use decisions. Appeals must be filed within 30 days of the date of administrative decision. In considering the request the Zoning Board of Appeals shall have all the powers of the official or body whose decision is being appealed.

Section 10.04 - Variances

The Zoning Board of Appeals shall have the power to grant variances from any requirement of the zoning ordinance other than the uses allowed in a particular zoning district. In consideration of a non-use variance request, the Zoning Board of Appeals shall find that the request has demonstrated practical difficulty in complying with the provision by meet all of the following requirements.

- A. The requirement for which the variance is being granted would unreasonably prevent the Owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
- B. Granting the variance would do substantial justice to the applicant as well as other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief to the applicant while being more consistent with justice to others.
- C. The problem that causes the need for the variance is due to circumstances unique to the property and not part of general conditions in the area.
- D. The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property.
- E. Issuance of the variance would ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done.

#### Section 10.05 - Interpretation

The Zoning Board of Appeals shall have the power to interpret the zoning ordinance on request. Each interpretation shall establish precedent to future treatment of the issue being addressed. To promote consistent enforcement of this ordinance, a record of all interpretations by the Zoning Board of Appeals shall be maintained and included as an appendix of this ordinance.

##### A. Interpretation of Text

- 1. When interpreting text the Zoning Board of Appeals shall use the rules of interpretation included in Article 16, Definitions.
- 2. When determining the classification of a use the Zoning Board of Appeals cannot interpret a specific use is included in a general classification if the use is listed separately in that zoning district or another district. For example, the Zoning Board of Appeals cannot interpret that the use "drug store" is included in the general term "retail establishment" if drug store is listed separately in the zoning ordinance.

##### B. Interpretation of Zoning Map

When interpreting the location of zoning district boundaries the Zoning Board of Appeals shall use the rules of interpretation included in Article 4, Zoning Districts.

##### C. Classifications of Non-conformity

Where there is a question whether a structure, lot or use is a legal non-conformity, the Zoning Board of Appeals may make the determination.

##### D. Recommendation by the Planning Commission

Before an interpretation request is heard by the Zoning Board of Appeals the request shall be heard by the Planning Commission for their recommendation to the Zoning Board of Appeals.

##### E. Authority to Change a Non-conforming Use to Another Non-conforming Use

The Zoning Board of Appeals may allow a legal non-conforming use to be changed to another non-conforming use provided the new use is less non-conforming. That determination shall be made based on the impact of the current and proposed uses such as traffic, noise, light, odor, and the expected impacts of uses allowed in the district. For example, a restaurant is a non-conforming use in a single family residential district. The

applicant wishes to change the use to a book store, also a non-conforming use. In evaluating the request the Zoning Board of Appeals would evaluate whether the impacts of the bookstore such as traffic, noise, light and odor are more similar to the uses allowed in the single-family residential district than a restaurant.

#### Section 10.06 - Procedures

##### A. Applications

Applications for a variance, appeal or interpretation shall be submitted to the township clerk not less than 30 days prior to the Zoning Board of Appeals meeting at which it is to be considered.

##### B. Notice

Notice of the hearing of an appeal shall comply with Section 9.02 of the zoning ordinance except for the notice to property owners and residents within 300 feet. Those requirements shall only be applied to matters that involve a specific parcel.

##### C. Zoning Board of Appeals Decision

1. Following the hearing on an issue brought before them the Zoning Board of Appeals may only reverse an administration decision or grant an applicant's request by a majority vote of the members of the Zoning Board of Appeals. If there is less than 2/3 majority of members, the applicant may request the matter be postponed. The request to postpone the item must be made prior to beginning of the hearing on the request.
2. In making a decision on a request, the Zoning Board of Appeals shall state the basis for their decision, including any findings of fact and how those facts relate to the standards used by the Zoning Board of Appeals in making their decision.
3. The Zoning Board of Appeals shall return a decision upon each case within thirty (30) days of the filing of a complete request application unless an extension is agreed to by the applicant.

#### Section 10.07 - Conditions

A. In making a decision, the Zoning Board of Appeals may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance.

A. The Zoning Board of Appeals may place conditions on an affirmative decision when such conditions:

1. Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
2. Would protect the natural environment and conserve natural resources and energy.
3. Would ensure compatibility with adjacent uses of land.
4. Would promote the use of land in a socially and economically desirable manner.

B. In determining appropriate conditions, the Zoning Board of Appeals shall ensure that:

1. There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact to be mitigated.

2. There is a reasonable connection between the condition imposed and the impact it is mitigating.

Section 10.08 - Expiration of Variance Approvals

Any variance shall expire if the building permit has not been issued and construction begun based on the variance within one year of the Zoning Board of Appeals granting it.

Section 10.09 - Re-Submission

An application to the Zoning Board of Appeals may not be resubmitted for at least one year following its denial unless the Zoning Board of Appeals finds that there has been a change in conditions or a significant change in the nature of the request.