

Article 31: Zoning Board of Appeals

Amendments:

ARTICLE XXXI

ZONING BOARD OF APPEALS

SEC. 31.1 MEMBERSHIP, TERMS, REMOVALS

There shall be a Charter Township of Plymouth Zoning Board of Appeals which shall have five (5) members appointed by the Township Board, subject to the following:

1. Membership

One (1) member of the Zoning Board of Appeals shall also be a member of the Charter Township of Plymouth Planning Commission. One (1) member may also be a member of the Township Board. The remaining members shall be selected from among electors residing in the Charter Township of Plymouth. An elected officer of the Township shall not serve as Chair of the Zoning Board of Appeals. An employee or contractor of the Township Board shall not serve as a member or an employee of the Zoning Board of Appeals.

2. Removal

Members of the Zoning Board of Appeals may be removed by the Township Board for nonperformance of duty or misconduct in office after written charges have been filed with the Township Clerk, and after public hearing has been held on the charges by the Township Board. Failure of a member to disqualify himself/herself from deliberations and action on any questions, interpretations, appeals or other requests for action in which he/she has a conflict of interest shall constitute misconduct in office.

3. Term

The term of each member shall be for three (3) years, except that of the members first appointed, two (2) shall serve for two (2) years and the remaining members for three (3) years. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for un-expired terms shall be filled for the remainder of the term.

4. Alternates (as amended 9/30/07)

Up to (2) alternate members may be appointed to serve on the Zoning Board of Appeals in the same manner as appointments of regular members. An alternate may be called on a rotating basis to serve as a member of the Zoning Board of Appeals, with the same voting rights as a regular member, in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings, or for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. Whenever an alternate serves as a member of the Zoning Board of Appeals on a case, the alternate member shall continue to serve in the case until a final decision is made.

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SEC. 31.2 OFFICERS AND RULES OF PROCEDURE

The members of the Zoning Board of Appeals shall annually elect a Chair, Vice-Chair and Secretary. The member of the Zoning Board of Appeals who is a member of the Board of Trustees shall not serve as Chair of the Zoning Board of Appeals.

1. Rules of Procedure

The Zoning Board of Appeals shall annually fix and adopt rules and regulations to govern its procedures.

2. Quorum

The Zoning Board of Appeals shall not conduct business unless a majority of the members of the Zoning Board of Appeals are present.

SEC. 31.3 MEETINGS

Meetings of the Zoning Board of Appeals shall be held at the call of the Chair, and at such other times as the Zoning Board of Appeals may specify in its rules of procedure. The Chair, or (in the absence of the Chair) the Vice-Chair, shall conduct the meeting, and may administer oaths and compel the attendance of witnesses.

All meetings of the Zoning Board of Appeals shall be open to the public. A record of the proceedings of the Zoning Board of Appeals shall be a public record made by the Secretary and filed and maintained in the office of the Township Clerk.

SEC. 31.4 DUTIES (as amended 9/30/07)

In accordance with Public Act 110 of 2006, as amended, the Zoning Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including interpretation of the Zoning Map. The Zoning Board of Appeals shall hear and take action upon requests for variances from the strict provisions of this Ordinance, appeal of any order, requirement, decision or determination made by an administrative official of the Department of Building and Code Enforcement charged with enforcement of the Zoning Ordinance, and all other matters referred to it or upon which it is required to pass by the provisions of the Zoning Ordinance.

SEC. 31.5 STAY OF PROCEEDINGS

The submittal of a complete and accurate application for appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official from which the appeal is taken certifies to the Zoning Board of Appeals that a stay would cause imminent peril to life or property by reason of facts stated in the certificate. Upon acceptance of the administrative official's certificate by the Zoning Board of Appeals, proceedings shall not be stayed, except by a restraining order granted by the Circuit Court.

SEC. 31.2	OFFICERS AND RULES OF PROCEDURE
SEC. 31.3	MEETINGS
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SEC. 31.6 FEES FOR APPEALS

The Board of Trustees of the Charter Township of Plymouth shall by resolution from time to time determine fees applicable to proceedings before the Zoning Board of Appeals.

SEC. 31.7 RIGHTS AND REMEDIES CUMULATIVE

The rights and remedies provided in this Ordinance are cumulative and in addition to any other remedies provided by law.

SEC. 31.8 REVIEW PROCEDURE

Variance requests, use decisions permitted requiring approval of the Zoning Board of Appeals, requests for interpretation of provisions of this Ordinance, including district boundaries or other elements shown on the official Zoning Map, and appeals from the order, requirement, decision or determination of an administrative official of the Department of Building and Code Enforcement concerning the administering and enforcing of the provisions of the Zoning Ordinance may be taken by any person aggrieved, or by any officer, department, board or bureau of the Township, County or State, to the Zoning Board of Appeals, in accordance with the following procedure:

1. Scope

The appellant shall file with the Department of Building and Code Enforcement and the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof, within such time as shall be prescribed by the Zoning Board of Appeals by general rule, but in no event later than fifteen (15) days after the date of the order, requirement, decision or determination from which the appeal is taken. The administrative official of the Department of Building and Code Enforcement from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

2. Public Hearing Requirement (as amended 9/30/07)

(a) Public Hearing Requirement for Variances (Use and Non-use)

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. Notice of the hearing shall be published in a newspaper which circulates in the Township and sent by first-class mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the

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term “occupant” may be used in making notification. The notice shall be given not less than fifteen (15) days before the date the appeal will be considered. The notice shall:

1. Describe the nature of the appeal.
2. Indicate the property which is the subject of the appeal. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the appeal will be considered.
4. Indicate when and where written comments will be received concerning the appeal.

(b) Public Hearing Requirements for Appeals Interpretations

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or interpretation, give due notice thereof to the parties, and decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. A notice of the hearing shall be published in a newspaper which circulates in the Township and sent by first-class mail or personal delivery to the person requesting the interpretation or appeal. If the request for interpretation or appeal involves a specific parcel, written notice shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term “occupant” may be used in making notification. The notice shall be given not less than fifteen (15) days before the date the interpretation or appeal will be considered. The notice shall:

1. State the nature of the request.
2. State the time, date, and place of the public hearing.
3. Indicate when and where written comments will be received concerning the appeal or interpretation.

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3. Determinations (as Amended 9/30/07)

The Zoning Board of Appeals shall make no determination in any specific case until it shall have conducted a public hearing. The concurring vote of a majority of the total regular membership (not less than three (3) of the Zoning Board of Appeals shall be necessary to act on any appeal, interpretation, non-use variance request or other matter referred to it or upon which it is required to pass by the provisions of the Zoning Ordinance. A concurring vote of a 2/3 majority of the total regular membership (not less than four (4) members) of the Zoning Board of Appeals shall be required to grant a use variance. The grounds of every determination shall be stated, and the decision of the Zoning Board of Appeals shall be final.

- (a) Appeal decisions shall be in accordance with Section 31.9, Appeals of Administrative Decisions.
- (b) Interpretation decisions shall be in accordance with Section 31.10, Interpretations.
- (c) Variance decisions shall be in accordance with Section 31.11, Variances or Section 31.12, Use Variances, as appropriate.
- (d) Decisions regarding uses subject to Zoning Board of Appeals approval shall be in accordance with the standards of Section 2.8, Uses Permitted Requiring Approval of the Zoning Board of Appeals.
- (e) Rear yard setback reductions in single family residential districts shall be in accordance with Section 20.2(bb).

SEC. 31.9 APPEALS OF ADMINISTRATIVE DECISIONS

The Zoning Board of Appeals may take any of the following actions regarding an appeal from an administrative decision of the Department of Building and Code Enforcement concerning the administering and enforcing of the provisions of the Zoning Ordinance. To that end, the Zoning Board of Appeals shall have the same authority as the administrative official from whom the appeal was taken, and may direct or deny the issuance of a permit:

- 1. The Zoning Board of Appeals may affirm the administrative order, requirement, decision or determination.
- 2. The Zoning Board of Appeals may modify the administrative order, requirement, decision or determination where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Zoning Ordinance, so that the spirit of the Zoning Ordinance shall be observed, public safety secured and substantial justice done.
- 3. The Zoning Board of Appeals may reverse the administrative order, requirement, decision or determination only after determining that it was arbitrary or capricious, was based upon an erroneous finding of a material fact, constituted an abuse of discretion, or was based upon an erroneous interpretation of the Zoning Ordinance.

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SEC. 31.10 INTERPRETATIONS

The Zoning Board of Appeals shall interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance and the Township Master Plan. In the interpretation and application of the provisions of this Ordinance, the minimum requirements for the public health, safety, morals and general welfare shall be held to be adopted as and for said provisions. This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law, other than those portions of or applications of conflicting ordinances hereby repealed. In such instances when this Ordinance imposes a greater restriction than is otherwise provided by law or by existing ordinances, rules, regulations or permits, the provisions of this Ordinance shall apply and control.

The Board shall interpret the boundaries of the zoning districts, as shown upon the official Township Zoning Map made a part of this Ordinance, in those cases where the street layout or other physical features on the ground that are used as reference points for district boundaries vary from the layout as shown on the official Zoning Map.

SEC. 31.11 VARIANCES (as amended on 9/30/07)

In accordance with Public Act 110 of 2006, as amended, the Zoning Board of Appeals shall have the authority to vary or adapt the strict application of any of the requirements of this Ordinance, where strict application would result in practical difficulty or unnecessary hardship due to the conditions peculiar to the land, so that the land cannot be used or developed within the terms of the Ordinance. Consideration of variance requests shall be in accordance with the following:

1. The appellant shall have the burden of proof to provide sufficient justification and/or evidence to find that the request meets the criteria for granting variances, as specified in Section 31.11.3.
2. The Zoning Board of Appeals may determine that the granting of a lesser variance than requested would provide substantial relief to the appellant and be more consistent with the criteria for granting variances, as specified in Section 31.11.3.
3. No variance from the provisions or requirements of this Ordinance shall be authorized unless the Zoning Board of Appeals determines that the following facts and conditions exist:
 - (a) Practical Difficulties. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render conformity with such restrictions unnecessarily burdensome. The showing of mere inconvenience is insufficient to justify a variance.

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- (b) Substantial Justice. Granting of a requested variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity, and would provide substantial justice to the applicant as well as to other property owners in the district.
- (c) Public Safety and Welfare. The variance will not endanger public safety or create a public nuisance, be of substantial detriment to adjacent property, or materially impair the intent and purpose of this Ordinance or the public interest.
- (d) Exceptional Circumstances. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as or to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district.
- (e) Not a General or Recurrent Nature. The condition, situation or intended use of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of general regulations for such conditions or situations.
- (f) The conditions resulting in a variance request are not self-created.
- (g) The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

SEC. 31.12 USE VARIANCES

Granting a use variance is a serious matter that if used improperly, could undermine the integrity, purpose and intent of the zoning ordinance. A use variance shall not be used as a substitute for the amendment process, but only under very unique circumstances which create unnecessary hardship. A use variance may, on the other hand, provide a resolution to an existing land use problem which would be within the spirit and intent of the zoning ordinance. The use variance may also, provide stability to an area that would otherwise become unstable. Any request for a use variance should be weighed very carefully to insure that there are no other solutions to resolve the problem and that the criteria for unnecessary hardship are met. In almost all cases a use variance request will include an existing building that was constructed as part of a special use approval and the previous use is no longer viable. The type and size of the existing building is not conducive to the permitted or special uses for the existing zoning district (Example: a vacant school building in middle of single family residential neighborhood). In addition the net worth of the building would not make it economically viable to purchase the site and tear down the building to build something that would be compatible within the zoning ordinance.

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The Zoning Board of Appeals shall have the authority to grant a variance from the use provisions of this Ordinance after fully and carefully considering all of the facts of the case and upon finding that all of the following conditions are met:

1. Prior to considering any requested use variance, the application shall be forwarded to the Planning Commission for its review and comment. The Planning Commission shall review the application, and report its findings regarding the proposal's impact on the Master Plan, compatibility with existing or planned uses on surrounding properties, and other factors it considers relevant to the request.
2. The property cannot reasonably be used for any principal permitted or special use in the zoning district in which it is located. The variance granted shall be the minimum necessary to permit a reasonable use of the land.

(as amended on 9/30/07)

3. The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. The Zoning Board of Appeals must find that circumstances common to the larger neighborhood are not applicable to the property itself. There must be a showing of unnecessary hardship.
4. The use variance, if granted, would not alter the essential character of the neighborhood. The Zoning Board of Appeals must consider whether the intent and purpose of the Zoning Ordinance and the Zoning District in which the site is located will be preserved, and whether the essential character of the neighborhood will be maintained or preserved.
5. The hardship is not a result of the applicant's actions. The Zoning Board of Appeals must determine that the hardship that led to the use variance request was not self-created by the applicant.
6. The variance would not be contrary to the spirit and intent of the Master Plan.
7. The variance would be compatible with the existing or planned uses on surrounding properties, would be within the spirit and intent of the zoning ordinance and would provide stability to an area that would otherwise become unstable.

SEC. 31.13 LIMITS ON AUTHORITY (as amended 4/09/09)

The Zoning Board of Appeals shall not have the authority to alter or change the zoning district classification of any property. No variance shall be made in connection with a special land use decision by the Planning Commission, or planned unit development, single-family cluster or residential unit development option decision by the Township Board.

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31.14 APPEAL OF DECISION (as amended on 9/30/07)

Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Wayne County Circuit Court. The Circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

1. Complies with the constitution and laws of the state.
2. Is based upon proper procedure.
3. Is supported by competent material, and substantial evidence on the record.
4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

If the court finds the record inadequate to make the required review or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

An appeal shall be filed within thirty (30) days after the Zoning Board of Appeals certifies its decisions in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

SEC. 31.15 PETITIONS PREVIOUSLY DENIED (as amended 4/9/09)

Where a prior petition for an appeal applying to a specific piece of property or a part of such property was denied by the Zoning Board of Appeals, a new application for the same appeal shall not be accepted by the Zoning Board of Appeals for consideration for a period of three hundred sixty five (365) days, unless the Zoning Board of Appeals determines that one or more of the following conditions has been met:

1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.

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2. New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.
3. The new application is materially different from the prior application.

END OF ARTICLE 31.

THE FOLLOWING INFORMATION DOCUMENTS HISTORY OF REVISIONS TO THIS ARTICLE SINCE ITS ADOPTION ON JUNE 7, 2004

Charter Township of Plymouth Zoning Ordinance No. 99
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Amendments:

ALL AMENDMENTS TO
ARTICLE XXXI (31)

Charter Township of Plymouth Zoning Ordinance No. 99

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Amendments:

ALL AMENDMENTS TO ARTICLE XXXI (31)

The following language was amended on 4/9/09

SEC. 31.13 LIMITS ON AUTHORITY

The Zoning Board of Appeals shall not have the authority to alter or change the zoning district classification of any property. No variance shall be made in connection with a special land use decision by the Planning Commission, or planned unit development, single-family cluster or residential unit development option decision by the Township Board.

The following language was amended on 9/30/07

SEC. 31.1

4. Alternates

Up to two (2) alternate members may be appointed to serve on the Zoning Board of Appeals in the same manner as appointments of regular members. An alternate may be called on a rotating basis to serve as a member of the Zoning Board of Appeals, with the same voting rights as a regular member, in the absence of a regular member, or for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. Whenever an alternate serves as a member of the Zoning Board of Appeals on a case, the alternate member shall continue to serve in the case until a final decision is made.

The following language was amended on 9/30/07

SEC. 31.4 DUTIES

In accordance with Public Act 184 of 1943, as amended, the Zoning Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including interpretation of the Zoning Map. The Zoning Board of Appeals shall hear and take action upon requests for variances from the strict provisions of this Ordinance, appeals of any order, requirement, decision or determination made by an administrative official of the Department of Building and Code Enforcement charged with enforcement of the Zoning Ordinance, and all other matters referred to it or upon which it is required to pass by the provisions of the Zoning Ordinance.

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The following language was amended on 9/30/07

SEC. 31.8

2. Public Hearing Requirement

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. Notice of the hearing shall be published in a newspaper which circulates in the Township and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the appeal will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased, by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- (a) Describe the nature of the appeal.
- (b) Indicate the property which is the subject of the appeal.
- (c) State when and where the appeal will be considered.
- (d) Indicate when and where written comments will be received concerning the appeal.

3. Determinations

The Zoning Board of Appeals shall make no determination in any specific case until it shall have conducted a public hearing. The concurring vote of a majority of the total regular membership (not less than three (3)) of the Zoning Board of Appeals shall be necessary to act on any appeal, interpretation, variance request or other matter referred to it or upon which it is required to pass by the provisions of the Zoning Ordinance. The grounds of every determination shall be stated, and the decision of the Zoning Board of Appeals shall be final.

- (a) Appeal decisions shall be in accordance with Section 31.9, Appeals of Administrative Decisions.
- (b) Interpretation decisions shall be in accordance with Section 31.10, Interpretations.
- (c) Variance decisions shall be in accordance with Section 31.11, Variances or Section 31.12, Use Variances, as appropriate.

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- (d) Decisions regarding uses subject to Zoning Board of Appeals approval shall be in accordance with the standards of Section 2.8, Uses Permitted Requiring Approval of the Zoning Board of Appeals.
- (e) Rear yard setback reductions in single family residential districts shall be in accordance with Section 20.2.(bb).

The following language was amended on 9/30/07

SEC. 31.11 VARIANCES

In accordance with Public Act 184 of 1943, as amended, the Zoning Board of Appeals shall have the authority to vary or adapt the strict application of any of the requirements of this Ordinance, where strict application would result in practical difficulty or unnecessary hardship due to the conditions peculiar to the land, so that the land cannot be used or developed within the terms of the Ordinance. Consideration of variance requests shall be in accordance with the following:

The appellant shall have the burden of proof to provide sufficient justification and/or evidence to find that the request meets the criteria for granting variances, as specified in Section 31.11.3.

1. The Zoning Board of Appeals may determine that the granting of a lesser variance than requested would provide substantial relief to the appellant and be more consistent with the criteria for granting variances, as specified in Section 31.11.3.
3. No variance from the provisions or requirements of this Ordinance shall be authorized unless the Zoning Board of Appeals determines that the following facts and conditions exist:
 - (a) **Practical Difficulties.** Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render conformity with such restrictions unnecessarily burdensome. The showing of mere inconvenience is insufficient to justify a variance.
 - (b) **Substantial Justice.** Granting of a requested variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity, and would provide substantial justice to the applicant as well as to other property owners in the district.
 - (c) **Public Safety and Welfare.** The variance will not endanger public safety or create a public nuisance, be of substantial detriment to adjacent property, or materially impair the intent and purpose of this Ordinance or the public interest.
 - (d) **Exceptional Circumstances.** There are exceptional or extraordinary circumstances or conditions applying to the property in question, as or to the intended use of the

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property that do not apply generally to other properties or other similar uses in the same zoning district.

- (e) Not of a General or Recurrent Nature. The condition, situation or intended use of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of general regulations for such conditions or situations.
- (f) The conditions resulting in a variance request are not self-created.
- (g) The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

The following language was amended on 9/30/07

SEC. 31.12

- 3. The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. The Zoning Board of Appeals must find that circumstances common to the larger neighborhood are not applicable to the property itself.

The following language was added on 9/30/07

31.14 APPEAL OF DECISION

Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Wayne County Circuit Court. The Circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

- 1. Complies with the constitution and laws of the state.
- 2. Is based upon proper procedure.
- 3. Is supported by competent material, and substantial evidence on the record.
- 4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

If the court finds the record inadequate to make the required review or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

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An appeal shall be filed within thirty (30) days after the Zoning Board of Appeals certifies its decisions in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

The following language was amended on 08/29/04

SEC. 31.8 REVIEW PROCEDURE

2. Public Hearing Requirement

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. Notice of the hearing shall be published in a newspaper which circulates in the Township and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the appeal will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased, by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- (a) Describe the nature of the appeal.
- (b) Indicate the property which is the subject of the appeal.
- (c) State when and where the appeal will be considered.
- (d) Indicate when and where written comments will be received concerning the appeal.