

# CITY OF SOUTHFIELD ZONING BOARD OF APPEALS

## RULES OF PROCEDURE

### ARTICLE I

#### ORGANIZATION

1. The Board shall, annually, on the first regular meeting in December, elect its own Chairperson and Secretary. They shall assume their offices at the first meeting in January and hold office for one year.
2. If the Chairperson or Secretary should resign prior to his/her termination of office, an election will take place at the next regularly scheduled meeting to fill the unexpired term.
3. The Chairperson shall preside at all meetings of the Board. In the case of the absence of the Chairperson, the Secretary shall preside, and in the case of their absence, a member agreed to by those present. The presiding officer, subject to these rules, shall decide all points of order or procedure.
4. The City Clerk is the official clerk of the Board. However, the City Clerk may appoint, with Board approval, the Department of Building and Safety Engineering to prepare and keep the minutes of the Board's proceedings, to be custodian of all records of the Board, to supervise all clerical work of the Board, and perform such other further duties as may be requested by the Board.
5. All official copies of the minutes, after having been corrected and accepted by the Board, shall be signed by the officer who presides over the meeting.
6. The membership of the Zoning Board of Appeals shall be in accordance with the City Charter and the Michigan State law.
7. The City of Southfield does require each member to attend (virtually or in person) a minimum 2-hour workshop for continuing education within the first 2 years of each term served (3-year term). The continuing education is available through the Michigan Association of Planning or similar courses approved by the Director of Building Safety Engineering. The fees for such continuing education will be paid by The City of Southfield Building and Safety Engineering budget and approved in advance by its director.

## ARTICLE II

### MEETINGS

1. All Board meetings shall be open to the public as provided in the Open Meetings Act.
2. Regular meetings shall be held on the first and third Tuesdays of each month at 7:00 o'clock p.m., except when such day falls on a holiday. Such other regular meetings may be scheduled as determined by the Board to be necessary to handle the case load.
3. A resolution supported by two-thirds of the members may temporarily suspend any rule of procedure or change the date or time of regular meetings as set forth in Article II.
4. Based on Section 602 of the new Zoning Enabling Act, effective July 1, 2006, the Chairperson, or in his/her absence, the Acting Chairperson may call a special meeting and proper notification of such meeting shall be made in accordance with the established Rules of Procedure regarding notification.
5. Three members of the Board shall constitute a quorum for the conducting of business with the exception that four members of the Board shall constitute a quorum for the hearing of land use cases. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide any matter upon which the Board is required to pass by law, or to effect any variation in the terms of the Zoning or Sign Ordinances, provided that due to a lack of a quorum, a smaller number may open, reschedule, and adjourn any meeting to another date.
6. The Order of Business at Board meetings shall be as follows:
  - a. Call to order by Chairperson
  - b. Roll call by city administrative official
  - c. Communications - Official correspondence related or not related to appeals on prepared agenda
  - d. Public hearings
  - e. Approval of minutes of previous meetings
  - f. Discussion of upcoming cases
  - g. Miscellaneous business
  - h. Adjournment

## ARTICLE III

### APPEALS

1. All applications to the Zoning Board of Appeals shall be made in triplicate and in writing on forms provided for that purpose and adopted by the Board, a copy of which is attached hereto and made a part hereof. The application for appeal shall be served on the administrative official from whom the appeal is taken not less than twenty-one (21) working days prior to meeting date, and such official shall transmit to the Board all papers constituting the record upon which the action of the appeal was taken.
2. In addition to the information required in said forms, all appeals shall contain the following information and data that is applicable thereto:
  - a. The principal points on which the appeal is made, based on the decision, order, or section of Ordinance appealed from.
  - b. Plans to scale as prescribed, showing shape and dimension of lots, buildings or signs, and lines of proposed building or sign to be erected, altered, or use changed. Any request for a variance shall be accompanied by seven (7) copies of the plot plan. Request for special exception, land use, expansion of non-conforming use, etc., shall be accompanied by seven (7) copies of the plot or site plan. Such other information with regard to lot or neighboring lots, proposed use, existing use, as may be deemed necessary.
  - c. A clear and accurate description of the proposed use or work.
  - d. The principal points upon which the appeal is made.
  - e. In cases requested by the Board, the names and addresses of abutting property owner or owners of record of property directly affected.
3. Applications for appeals for interpretation, adjustment, special exception, or modification of the requirements of the Zoning or Sign Ordinances shall be made in the name of the owner, or at the discretion of the Board, by persons having substantial interests and rights (land contract, purchaser, optionee, etc.) in the premises affected.
  - a. Proof of ownership or other proof of site control of the property at issue, where variance request is for uncombined lots, the request for variance, special conditions and circumstances shall not be the result from the actions of the applicant.
4. Such applicant may appear in his/her own behalf or may be represented by attorney or agent at the hearings. The attorney or agent shall be authorized by the owner's written letter or direct authorization of the board, unless he/she is present at the hearing.
5. Failure of the appellant or his/her appointed representative to appear at the public hearing shall be justifiable cause for dismissal of the case.

6. The Order of Procedure for public hearings shall be:
  - a. Presentation of official records of the case by the Secretary of the Board.
  - b. Findings of Fact(s) presented by administrative official.
  - c. Appellant presents case.
  - d. Recommendation by administrative official.
  - e. Response in the same order.
  - f. Public comment/hearing.
  - g. Disposition of the case by the Board. Voting shall be by rotating roll call at the discretion of the Chairperson.
7. Upon receipt of a written request for a Zoning Board of Appeals Hearing, a notice stating the nature of the appeal, indicating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the jurisdiction. The notification shall be mailed to the person requesting the public hearing, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to occupants of all structures within 300 feet of the boundary of the property in question. The notice shall be sent by first class mail or personal delivery not less than 15 days before the hearing.
8. The administrative official may require of the applicant such additional information and data as is deemed essential to fully advise the Board with reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the application by the Board.
9. An appeal stays all proceedings in furtherance of the action appealed from, subject to the conditions enumerated in the State Statutes.
10. A concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of two-thirds of the members of the Board shall be necessary to grant a variance from uses of land permitted in an ordinance.
11. In accord with procedures specified in the Zoning or Sign Ordinances, the legislative body of a city or village may appoint not more than two (2) alternate members for the same term as regular members of the Board of Appeals. The alternate members may be called on a rotating basis as specified in the Zoning Ordinance to sit as regular members of the Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. 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 Board of Appeals.

## ARTICLE IV

### REHEARING

1. No rehearing of any decision of the Board will be considered unless new evidence is submitted which could not reasonably have been presented at the meeting or unless there has been a material change in the facts of the case, or after one year has elapsed.
2. Application for rehearing of a case shall be in writing and subject to the same rules as an original hearing.

## ARTICLE V

### DISPOSITION OF APPEAL

1. The Board may reverse, affirm, vary, attach conditions\*, or modify any order, requirement, decision, or determination as in its opinion should be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
2. The final decision 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 and enumerate all reasons for such final decision.
3. An applicant may, with the consent of the Board, withdraw his application at any time prior to final action thereon.
4. Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct and the conditions upon which the resolution was based are maintained.
5. Whenever any variation or modification of the strict application of the terms of the Zoning or Sign Ordinances is authorized by resolution of the Board, a building or sign permit shall be obtained within 18 months from the date of this grant, or failure to obtain such permit within 18 months shall invalidate and terminate this grant.

\* i.e., require sidewalk or driveway installation; require installation of landscaping; require construction of a garage; specify exterior building finish; limit signage and require address numbers as deemed appropriate; etc.

## ARTICLE VI

### AMENDMENTS

1. These Rules of Procedure may be amended at any official meeting upon an affirmative vote of four members.

## ARTICLE VII

### RULES OF ORDER

1. The Board shall be governed by Robert's Rules of Order for all items not defined herein, with the exception that the Chairperson shall be a voting member of the Board.
2. These Rules of Procedure shall be reviewed annually at the first meeting in December and re-adopted or modified.

Effective 11/27/63

Revised 02/13/64

Revised 06/20/95

Revised 12/4/01

Revised 12/20/05

Revised 12/19/06

Revised 12/2/08

Revised 12/2/14

Revised 3/15/16

Revised 10/7/22

Revised 12/19/23

Revised 4/16/24



ARTICLE 23. - BOARD OF APPEALS

Sec. 5.198. - Powers.

- (1) The zoning board of appeals shall not have the power to alter or change the zone district classification of any property; allow a use of property not otherwise permitted in a zone district except as provided in subparagraph (2); nor make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for administrative review or interpretation, and to authorize a variance as defined in this section. Said powers include:
  - (a) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the director of the department of building and safety engineering with the exception of a decision made pursuant to section 5.57 of this chapter or any other administrative official in carrying out or enforcing any provision of this chapter.
  - (b) *Zoning map.* To hear and decide in accordance with the provisions of this chapter requests for interpretation of the zoning map.
  - (c) *Variances.* To authorize, upon appeal, a variance from the strict applications of the provisions of this chapter where, by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of the original enactment of this chapter or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in practical difficulties to, or undue hardship upon, the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance, the board of appeals may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in the furtherance of the purpose of this chapter. In granting a variance, the board of appeals shall state the grounds upon which it justifies the granting of a variance.
- (2) The zoning board of appeals, in addition to the general duties and powers conferred upon it by law, may, in specific cases and subject to appropriate conditions and safeguards, interpret and determine the application of the regulations herein established in harmony with their general purpose and intent as follows:
  - (a) Permit the erection of additional buildings or the enlargement of existing buildings or uses on the same parcel of land, or one contiguous thereto, or directly across an alley therefrom, each in the same single ownership of record at the time of passage of this chapter, for a legal



nonconforming business or activity located in a district restricted against such use, where the enlargement or expansion of such business or activity will not be detrimental to or tend to alter the character of the neighborhood or district.

- (b) Where the boundary line of a district divides a lot in a single ownership at the time of passage of this chapter, permit the extension of a use permitted on the less restricted portion of such lot to the entire lot but not for a distance of more than fifty (50) feet (15.25 meters) beyond the district boundary line.
- (c) Permit variations in the requirements for outer courts in dwellings.
- (d) Permit variations in the provisions in the chapter for the erection and use of buildings on farms for normal farm purposes, requiring however, that such buildings shall conform to all the provisions of this chapter insofar as is practicable.
- (e) Temporary use permit: Permit conditional and temporary buildings and uses subject to appropriate conditions and restrictions for an initial period of not more than one (1) year which may be extended by the board for additional periods not to exceed one (1) year each provided:
  - 1. In granting this temporary use, the board of appeals shall determine that the following conditions will be met:
    - a. Such temporary use shall not adversely affect the character of the area and shall not be injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this chapter.
    - b. Such use shall not be dependent upon major building improvements.
    - c. Site improvements shall be of such character that adequate protection shall be provided to abutting uses.
  - 2. Any action by which a temporary use permit is granted shall be taken by the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the membership of the board after a public hearing. The reasons for granting such temporary use permit and the restrictions and limitations thereon and the nature of development permitted and arrangements for removing the use at the termination of said temporary permit shall be stated in the resolution.
  - 3. Such permit may be revoked by the board at any time upon a proper showing that the operation of such conditional and temporary building or use has become detrimental to the health, safety, and general welfare of the city.
  - 4. The board may refer the application for such temporary use permit to any office, department, or commission of the city for study, recommendation, and report to the board.



Sec. 5.199. - Fees.

The city council may, from time to time, prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the zoning board of appeals.

Secs. 5.200, 5.201. - Reserved.

