

**Centerville Township Zoning Board of Appeals
Bylaws
Adopted October 24, 2022**

1. PURPOSE OF BYLAWS

The following bylaws are hereby adopted by the Centerville Township Zoning Board of Appeals (ZBA) to facilitate the performance of its duties as outlined in the Centerville Township Zoning Ordinance and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

2. DUTIES OF THE ZBA

The ZBA shall hear and decide questions as they arise in the administration of the Centerville Township Zoning Ordinance, including interpretation of zoning maps. The ZBA also shall hear and decide on matters referred to the ZBA or upon which the ZBA is required to pass under a zoning ordinance adopted under the Michigan Zoning Enabling Act of 2006 (MZE). The ZBA shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under the MZE. For special land use and planned unit development decisions, an appeal may be taken to the ZBA only if provided for in the Zoning Ordinance.

The concurring vote of a majority of the members of the ZBA is necessary to reverse an order, requirement, decision or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the ZBA is required to pass under the Zoning Ordinance, or to grant a variance in the Zoning Ordinance.

If there are practical difficulties for nonuse variances in the way of carrying out the strict letter of the Zoning Ordinance, the ZBA may grant a variance in such a manner that the spirit of the Zoning Ordinance is observed, public safety secured and substantial justice done.

The decision of the ZBA shall be final. A party aggrieved by the decision may appeal to the circuit court for Leelanau County.

3. MEMBERSHIP

- a. Regular Members.** The ZBA shall comprise three regular members. Of those, one member shall be appointed by and from the Planning Commission, and the remaining members shall be appointed by the Centerville Township Board. A member of the Township Board may serve on the ZBA but may not serve as chairperson. The Zoning Administrator or other employee or contractor of the Township Board may not serve on the ZBA.
- b. Alternate Members.** The Township Board may appoint not more than two alternate members for the same term as regular members. No alternate member may be either a member of the Township Board or the Planning Commission. The alternate members may be called in as needed, on a

rotating basis, to sit as regular members of the ZBA in the absence of a regular member if the regular member is absent from or will be unable to attend one or more consecutive meetings. An alternate member also may be called to serve in 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 or has voted on the issue. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member.

4. TERMS OF OFFICE

Members shall be appointed for three-year terms, except for Planning Commission and Township Board members, whose terms shall be limited to the time they are members of the Planning Commission or Township Board. Members may be reappointed. Vacancies for unexpired terms shall be filled for the remainder of the term.

5. ATTENDANCE

Any ZBA member who is absent from three consecutive regularly scheduled meetings shall be considered delinquent. Delinquency shall be grounds for the Centerville Township Board to remove a ZBA member for nonperformance of duty or misconduct after holding a public hearing on the matter. The ZBA secretary (or acting secretary in the absence of the elected secretary), shall keep attendance records and shall notify the Centerville Township Board whenever any member of the ZBA is delinquent. The Centerville Township Board may consider further action under law or excuse the absences.

6. REMOVAL

The Township Board may remove ZBA members for misfeasance, malfeasance or nonfeasance in office, upon written charges and after a public hearing.¹

7. RESIGNATION

A member may resign from the ZBA by sending a letter of resignation to the township supervisor.

8. VACANCIES

Vacancies shall be filled by the township supervisor, with approval of the Township Board. The successor shall serve out the unexpired term of the member being replaced. A successor shall be appointed not more than one month after the term of the preceding member has expired.

9. TRAINING

Each member may attend at least four hours per year of training in planning and zoning during the member's current term of office. Training shall be provided by an organization such as Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, Michigan Municipal

¹ For reference purposes only, the following definitions are from Black's Law Dictionary:

Misfeasance: A lawful act performed in a wrongful manner.

Malfeasance: A wrongful or unlawful act; especially wrongdoing by a public official.

Nonfeasance: The failure to act when a duty to act existed.

League and Michigan State University continuing education programs.

10. OFFICERS

- a. **Selection.** At its first meeting each year, the ZBA shall elect from its membership a chair, vice-chair, and secretary. All officers are eligible for reelection. If the office of chair becomes vacant, the vice-chair shall succeed to this office for the unexpired term and the ZBA shall elect a successor to the vice-chair for the unexpired term.
- b. **Tenure.** The chair, vice-chair and secretary 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.
- c. **Chair's Duties.** The chair retains his or her ability to discuss, make motions and vote on issues before the ZBA. The chair shall:
 - i. preside at all meetings with all powers under parliamentary procedure;
 - ii. rule out of order any remarks that are irrelevant, personal, about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the ZBA;
 - iii. restate all motions;
 - iv. appoint committees;
 - v. call special meetings as required; and
 - vi. perform other duties as required by the ZBA.
- d. **Vice-Chair's Duties.** The vice-chair shall:
 - i. Act in the capacity of chair in the chair's absence.
 - ii. Perform other duties as required by the ZBA.
- e. **Secretary's Duties.** The secretary shall:
 - i. execute official ZBA documents; and
 - ii. perform other duties as required by the ZBA.

11. SUPPORT STAFF

- a. **ZBA Manager.** The zoning administrator, township planner, or other person designated by the township to manage an appeal shall:
 - i. attend all ZBA meetings;
 - ii. consult with the ZBA on interpretation of the Zoning Ordinance;
 - iii. prepare written staff recommendations for the ZBA as appropriate;
 - iv. act as primary contact with ZBA applicants; and
 - v. perform other duties as directed by the ZBA.
- b. **Recording Secretary.** The recording secretary shall:
 - i. report to the chair on ZBA business;
 - ii. take meeting minutes and add them to permanent records maintained by the township clerk. The minutes shall contain a brief synopsis of the meeting, including attendance, a restatement of all motions and a record of votes;
 - iii. receive all communications, petitions, and reports to be addressed by the ZBA;
 - iv. keep attendance records;
 - v. provide notice to the public and ZBA members for all meetings;

- vi. prepare and post ZBA meeting agendas according to the Open Meetings Act;
- vii. issue formal written correspondence as directed by the ZBA;
- viii. bring all petitions and other written materials to the attention of the ZBA chair;
- ix. issue newspaper notices as required; and
- x. perform other duties as directed by the ZBA.

12. APPLICATIONS FOR APPEAL

- a. **Filing.** Applications for appeal of a decision or for a variance shall be in writing on a form provided by the zoning administrator, and upon payment of a fee set by the Centerville Township Board. Applications for appeal of a decision shall be filed with the zoning administrator within the time frame specified in the township ordinance after the date of the decision being appealed. Applications for a variance may be filed with the zoning administrator at any time.
- b. **ZBA Notification.** Within 21 days of receipt of a complete application for appeal, the zoning administrator, or a person designated by the township Supervisor, shall contact the ZBA chair to establish a date and time for a public hearing. The zoning administrator, or a person designated by the township Supervisor, may also prepare background information, technical analysis, or other information regarding the appeal to assist the ZBA in its deliberations.
- c. **Public Notification.** Public notice shall be given not less than 15 days before the public hearing in the following forms:
 - i. published in a newspaper of general circulation in Centerville Township;
 - ii. mailed to owners of properties subject to the appeal;
 - iii. mailed to all persons to whom property is assessed within 300 feet of the subject property, and to all persons who occupy structures within 300 feet of the subject property; and
 - iv. mailed to the applicant and/or the applicant's agent

The notice shall identify the appellant, the property in question, the subject of the appeal and the action that could result if the appeal is granted.

- d. **Public Hearing.** All appeals taken to the ZBA under the provisions of the Zoning Code shall be considered by the ZBA at a public hearing. At the hearing the ZBA shall read the appeal and all written communications received on the appeal and list the other information available on the appeal for the record. A party may appear in person or by agent or attorney. The appellant will first be provided the opportunity to explain and defend the appeal. All interested persons will be permitted to address the ZBA on the appeal. The appellant will be provided the opportunity to respond to questions or concerns raised by others.
- e. **ZBA Decision.** After public comments, the ZBA shall close the public hearing and then deliberate and take action on the appeal. The ZBA may act at the same meeting or it may defer action to a subsequent meeting. The ZBA may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

- f. **Notice of Decision.** The ZBA secretary or his/her designate shall mail notices of the decision to applicant and/or the applicant's agent. The notice shall specify the action taken by the ZBA, including any conditions that may have been imposed, and the expiration date of any approval.
- g. **Effective Date of Decision.** The ZBA decision shall be effective on the date the minutes are approved for the hearing after which the ZBA made its ruling.

13. MEETINGS

- a. **Regular Meetings.** The ZBA shall meet at least once each year. Other ZBA meetings will be called as needed in response to receipt of an appeal application. Meetings may be called by the ZBA chair, vice-chair or township zoning administrator. All meetings, hearings and records shall be open to the public and posted in compliance with the Michigan Open Meetings Act.
- b. **Quorum.** The ZBA shall not conduct business unless a majority of regular members of the ZBA are present.
- c. **Conflict of Interest.** A ZBA member shall disqualify himself/herself from a vote in which he/she has a conflict of interest. Failure to do so constitutes malfeasance in office. During deliberation on the matter in which a member has a conflict of interest, the member shall leave the front table until that agenda item is included. However, the member may consider and vote on other unrelated matters involving the same property.
- d. **Ex Parte Contact.** Whenever possible, members shall avoid *Ex Parte* contact concerning cases in which a decision is pending with the ZBA. If avoiding *ex parte* contact is not possible, the member should take detailed notes and report what was said to the ZBA at a public meeting.
- e. **No Voting More Than Once on the Same Issue.** A ZBA member who also is a member of the Planning Commission or Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or Township Board. However, the member may consider and vote on other unrelated matters involving the same property.²
- f. **Site Visits.** Prior to any meeting or public hearing involving specific properties, each ZBA member shall visit the subject properties on his or her own.
- g. **Absence of Applicant.** If an applicant (or the applicant's agent) fails to appear at a properly scheduled ZBA meeting, the chair may entertain a motion from the ZBA to dismiss the case. In the absence of a motion, the chair shall rule. If a case is dismissed, the applicant will be given written notice, and he/she shall have seven days from the date of the notice to apply in writing for reinstatement. Reinstatement shall be at the discretion of the ZBA chair for good cause shown, and upon payment of a fee set by

²For example, if the Planning Commission acted on a special land use request and the applicant later appealed a condition of that decision to the ZBA, the Planning Commission representative to the ZBA must refrain from participating in the ZBA hearing on that matter.

The provision **does not** mean that a ZBA member cannot vote on an appeal simply because he/she was involved in approving the Zoning Ordinance or amendments to it as a member of the Township Board of Planning Commission.

the Township Board. All reinstated cases will be scheduled and readvertised as for new cases.

14. ADOPTION AND AMENDMENTS

These bylaws shall become effective upon adoption by a majority vote of the ZBA regular membership. They may be amended at any ZBA meeting by a majority vote of the regular ZBA membership, as long as the amendment does not conflict with state law, the Centerville Township Zoning Ordinance or any court decision.

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