

City of West Branch Zoning Board of Appeals Bylaws

The following rules of procedure are hereby adopted by the City of West Branch Zoning Board of Appeals to facilitate the performance of its duties as outlined in Article 8 of the zoning ordinance and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, *et seq.*

SECTION 1: Officers

- A. Selection and Tenure**— At the first regular meeting each January, the zoning board of appeals shall select from its membership a chairperson and vice chairperson. The secretary of the board shall be the City Manager or designee. All officers shall serve a term of one year, or until their successors are selected and assume office, except as noted in C, below. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. Chairperson**—The chairperson shall preside at all meetings, appoint committees and perform such other duties as ordered by the zoning board of appeals or City Council. An alternate member nor an elected officer of the City shall serve as chairperson.
- C. Vice Chairperson**—The vice chairperson shall act in the capacity of the chairperson in his/her absence. In the event the office of 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 vice chairperson for the unexpired term.
- D. Secretary**—The secretary shall execute documents in the name of the zoning board of appeals and shall perform such other duties as the zoning board of appeals may determine.
 - 1. **Minutes**—The secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the City clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance.
 - 2. **Correspondence**—The secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the zoning board of appeals. All communications, petitions, reports, or other written materials received by the secretary shall be brought to the attention of the zoning board of appeals.
 - 3. **Attendance**—The secretary shall be responsible for maintaining an attendance record for each zoning board of appeals member and report those records annually to the zoning board of appeals chairperson.
 - 4. **Notices**—The secretary shall issue such notices as may be required by the zoning board of appeals including Open Meetings Act notices, as well as notice required for specific actions under the Michigan Zoning Enabling Act.

SECTION 2: Meetings

The business the zoning board of appeals may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. The zoning board of appeals may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

- A. Regular Meetings**—The zoning board of appeals may schedule regular meetings each year and by resolution shall determine the time and place of such meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or

upon a day resulting in a conflict, the zoning board of appeals shall, if possible, select a suitable alternate meeting date in the same month as the originally scheduled meeting.

Notice of regular zoning board of appeals meetings shall be posted at City Hall within 10 days after the zoning board of appeals' first meeting in each calendar year in accordance with the Open Meetings Act.

- B. Special Meetings**—Special meetings may be called by the chairperson or upon written request to the secretary by at least two members of the zoning board of appeals. Notice of special meetings shall be given to the members of the zoning board of appeals at least 48 hours prior to the meeting. Such notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act.
- C. Notice**—Notice required for specific requests or actions will be given in accordance with the Michigan Zoning Enabling Act or other applicable statute.
- D. Public Hearings**—All public hearings held by the zoning board of appeals must be held as part of a regular or special meeting of the zoning board of appeals.
- E. Agenda**—The secretary shall be responsible for preparing an agenda for zoning board of appeals meetings. The agenda may be modified by action of the zoning board of appeals.
- F. Quorum**—A majority of the regular members of the zoning board of appeals shall constitute a quorum for transacting business and taking official action for all matters. The zoning board of appeals shall not conduct business unless a majority of the regular members is present.
- G. Voting**—To pass or deny and use any dimensional variance, appeal or other official action required by the zoning ordinance, an affirmative vote of at least a majority of the total membership of the zoning board of appeals is required except that a vote of 2/3 of the membership shall be required to approve a use variance. Voting shall be by voice vote; a roll call vote shall be required if requested by any zoning board of appeals member or directed by the chairperson. In all roll call votes, the name of the members of the board shall be called in alphabetical order and the name to be called first shall be advanced one position alphabetically in each successive roll call vote. Except in the case of a conflict of interest, all zoning board of appeals members, including the chairperson, shall vote on all matters.
- H. Public Records**—All meetings, minutes, records, documents, correspondence and other materials of the zoning board of appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

SECTION 3: Duties of the Zoning Board of Appeals

The zoning board of appeals shall perform the following duties:

- A.** Act on applications for dimensional and use variances, appeals, interpretations, or other matters as authorized or required by the zoning ordinance and the Michigan Zoning Enabling Act.
- B.** Perform other duties and responsibilities as requested by the City Council or as maybe specified in the zoning ordinance.
- C.** Conduct site visits as deemed necessary to evaluate an application and supporting material. Site visits shall be conducted individually.

SECTION 4: Absences, Removals, Resignations, Vacancies and Alternates

- A.** To be excused, zoning board of appeals members shall notify the secretary, zoning board of appeals chairperson, or if the first two cannot be notified, any other zoning board of appeals member when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence.
- B.** Members of the zoning board of appeals may be removed by the City board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
- C.** A member may resign from the zoning board of appeals by sending a letter of resignation to the City Clerk.
- D.** A successor shall be appointed not more than 30 days after the term of the preceding member has expired. Successors shall serve out the unexpired term of the member being replaced, with the exception of the planning commission representative, whose term shall run consecutively with the term as planning commissioner and the City Council member, whose term shall run consecutively with the term as Council Member.
- E.** The City Council may appoint not more than two alternates to the zoning board of appeals. An alternate member may be called to serve as a member of the zoning board of appeals as provided in the zoning ordinance and the Michigan Zoning Enabling Act.

SECTION 5: Conflict of Interest

- A.** Before casting a vote on a matter on which a zoning board of appeals member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the zoning board of appeals. Failure of a member to disqualify him or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- B.** Conflict of interest is defined as, and a zoning board of appeals member shall declare a conflict of interest and abstain from participating in zoning board of appeals deliberations and voting on a request, when:
 - 1. An immediate family member is involved in any request for which the zoning board of appeals is asked to make a decision.

MCL 168.2: An individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.

- 2. The zoning board of appeals member has a 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 of appeals member owns or has a financial interest in neighboring property.

For the purposes of this section, a neighboring property shall include any property immediately adjoining the property involved in the request.

- 4. There is a reasonable appearance of a conflict of interest, as determined by the zoning board of appeals member declaring such conflict.

5. The zoning board of appeals member is also a member of the planning commission or the City Council and voted on the same matter as a member of the planning commission or City Council. However, the member may consider and vote on other unrelated matters involving the same property.
- C. The zoning board of appeals member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the zoning board of appeals. He or she should 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 absent him/herself from the room in which the discussion takes place, unless doing so would violate his or her constitutionally protected rights to participate. He or she should not make any presentations to the zoning board of appeals as a representative of the proposal.

SECTION 6: Amendments

These bylaws may be amended at any meeting by a vote of a majority of the membership of the zoning board of appeals.