



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

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RULES OF PROCEDURE

SAUGATUCK TOWNSHIP ZONING BOARD OF APPEALS

The following rules of procedure are enacted by the Saugatuck Township Zoning Board of Appeals (the “ZBA”) to facilitate the performance of its duties as outlined in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended and to facilitate the duties of an appeal board of any order, requirement, decision or determination of the Zoning Administrator and/or Planning Commission for the administration of the Township Zoning Ordinance as outlined in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. These rules and procedures shall be applicable to the Saugatuck Township Zoning Board of Appeals and its members; further, the conflict of interest provisions in Chapter VI shall also apply to any committees created from the Zoning Board of Appeals Commission's membership.

CHAPTER I

OFFICERS AND ADVISORY COMMITTEES

1.1 Officers and Advisory Committee Members. The ZBA shall elect a Chairperson, Vice Chairperson and Secretary from its members and create and fill such other offices or committees as it may deem advisable. Such officers shall be elected annually at the first regular meeting of the ZBA in each fiscal year. Such officers shall be elected by and from or among the membership of the ZBA. The ZBA may appoint persons outside of its membership to serve on such advisory committees as it may establish. The terms of all officers shall be for one (1) year. An elected officer of the Township shall not serve as Chairperson.

1.2 Chairperson. The Chairperson shall intend to preside at all meetings of the ZBA. The Chairperson shall make nominations to the ZBA for the membership of all advisory committees, such committees to then be appointed by the ZBA. The Chairperson shall be an ex-officio member of all committees. The Chairperson shall vote on all actions of the ZBA in the same manner as other ZBA members.

1.3 Vice Chairperson. If the office of Chairperson becomes vacant by death, resignation or otherwise, the Vice Chairperson shall intend to serve as Chairperson until a new Chairperson is elected. In the event of the absence or disability of the Chairperson, such duties shall, for the duration of such absence or disability, be discharged by the Vice Chairperson.

1.4 Secretary. The Secretary shall intend to perform the usual duties of the office of Secretary, and such other duties as the ZBA may direct, specifically including the following:

(a) The Secretary shall be responsible for the safekeeping of all official minute books and records of the resolutions, transactions, findings, and determinations of the ZBA; and shall correspond with the Township Clerk and/or Zoning Administrator to ensure timely notices and proper filing of records with the Township.

(b) The Secretary shall be responsible for all correspondence and notices pertaining to meetings and official acts of the ZBA and shall correspond with the Township Clerk and/or Zoning Administrator as needed to ensure timely notices and proper filing of ZBA records with the Township.

CHAPTER II

ZONING BOARD OF APPEALS MEETINGS

2.1 Meetings. The ZBA shall hold regular meetings at the Saugatuck Township Hall, 3461 Blue Star Highway, Saugatuck, Michigan and by resolution shall determine the time of the meetings. A special meeting may be called by two (2) members upon written request to the Secretary (the Secretary may be one (1) of the two (2) requesting members) or by the Chairperson. The business which the ZBA may perform shall be conducted at a public meeting of the ZBA held in compliance with Michigan Act 267 of the Public Acts of 1976, as amended. Public notice of the time, date and place of a regular or special meeting shall be given in the manner required by Michigan Act 267 of the Public Acts of 1976, as amended. Notice to the members of the ZBA of the place, day and hour of any special meeting of the ZBA shall be served on each member at least eighteen (18) hours in advance of the time of the meeting. Service of notice may be made personally, by telephone, or by mailing such notice, postage prepaid, plainly addressed to the member at his/her current mailing address. However, notice by mail of a special meeting of the ZBA may only be given if the mailing occurs at least forty-eight (48) hours in advance of the meeting.

2.2 Quorum and Membership. A majority of at least two (2) members of the ZBA shall constitute a quorum for the transaction of ZBA business. The ZBA shall consist of three (3) regular members, and the Township Board may at its discretion appoint not more than two (2) alternate members for the same term as regular members to ZBA. An alternate member may be called as specified to serve as a member of the ZBA in the absence of a regular

member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the ZBA. They shall be representative of major interests which exist in the Township. All alternate and regular members of the ZBA shall be qualified electors of the Township. One (1) regular member of the ZBA shall be a duly appointed member of the Planning Commission. All members of the ZBA shall continue to hold office until their successors are appointed by the Township Board.

2.3 Rules. For meetings of the ZBA and/or ZBA advisory committees, the rules of parliamentary practice as set forth in "Robert's Rules of Parliamentary Procedure" shall govern in all cases in which they are not inconsistent with these Rules or the laws of the State of Michigan. The Chairperson of any ZBA meeting has the right and duty to regulate the proceedings of the meeting, including deciding questions of order, making public declaration of votes cast, granting authority to persons to speak at the meeting, silencing those who may be out of order or disrupting the meeting, and ordering any disorderly person out of the meeting.

2.4 Order of Business. The recommended order of business for a regular ZBA meeting is the following:

- Call to order
- Reading of previous meeting minutes
- Non-Commission member inquiries and questions
- Public hearings
- Continuation of old business
- New business
- Announcements
- Adjournment

Although the above order of business is recommended, the Chairperson may, at the Chairperson's discretion, change the order of business to suit the requirements of the meeting.

2.5 Agenda. The agenda for ZBA meetings and/or hearings shall be introduced by the Chairperson. The Chairperson shall introduce the matter by announcing substantially as follows:

(a) The meeting is of the ZBA. The duties of the ZBA are to consider and decide appeals from applicants and review of any order, requirement, decision or determination made by the Zoning Administrator or the Planning Commission. On appeal by any party affected thereby,

the ZBA may reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination of the Zoning Administrator or the Planning Commission. Such repeal or review must be requested within 45 days of such order, requirement, decision or determination.

(b) ZBA shall act upon all questions as they may arise in the administration and enforcement of the Township Zoning Ordinance including the interpretation of the zoning map and the text of the Township Zoning Ordinance as outlined in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended; and Michigan Planning Enabling Act, Public Act 33 of 2008, as amended.

(c) Authorize a variance or modification of Township Zoning Ordinance where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this chapter, so that the spirit of Township Zoning Ordinance shall be preserved.

(d) ZBA shall in its capacity as a zoning board, make recommendations to the Saugatuck Township Board. The final responsibility for any zoning amendment to the Zoning Chapter of the Saugatuck Township Code of Ordinances (the "Zoning Chapter") is solely in the hands of the Saugatuck Township Board.

(e) This is the date, time and place for a (regular or special) meeting of the ZBA held pursuant to notice, for the purpose of hearing, considering and acting upon an application to the ZBA.

(f) The Secretary shall read the notice of this public hearing that has been given as required by law.

2.6 Procedure. The Chairperson shall hold the hearing as follows:

(a) The public hearing is declared open following announcement of notice as provided by law.

(b) The procedures to be followed by all persons during the meeting are as follows:

(1) No person shall address the ZBA or otherwise question or comment upon any matter without first being recognized by the Chairperson.

(2) Once recognized by the Chairperson, each person shall give the person's name and address before addressing the ZBA or otherwise questioning or commenting upon any matter.

(3) The Applicant requesting the ZBA meeting/hearing, or their representatives, shall make their full presentation in support of their application first, without interruption.

(4) Following the presentation on behalf of the applicant, ZBA members may direct any comments or questions they may have to the petitioners.

(5) Any persons or groups, or other representatives, in opposition to the applicant may make their presentation next, without interruption.

(6) Following any presentation on behalf of opponents, ZBA members may direct any comments or questions they may have to such persons.

(7) Next, any comments or questions the applicants may have in response to any presentation by an opponent may then be made.

(8) Then, any other comments or questions any opponents may have of the applicants may be made.

(9) Finally, any other persons, whether in support of the application, in opposition to the application, or otherwise, may make their comments and ask their questions.

(c) All ZBA hearings are expected and intended to proceed in an orderly manner. Cooperation of all in attendance is anticipated and will be appreciated. People in attendance are invited to be heard on any petition that they may be interested in regardless of where they may live. All presentations, questions, comments and replies are to be directed to the Chairperson.

(d) When all presentations, comments and questions have been made, and when there is no one else desiring to be heard, and when there are no further inquiries from ZBA members, the ZBA Chairperson should state; "There being no further comment nor anyone else desiring to be heard, I will entertain a motion from the Commission that the public hearing portion of this meeting be closed."

(e) After motion to close the hearing carries, one of the following motions should be made and acted upon:

(1) Motion to take the matter under advisement for recommendation at a later date; or

(2) Motion to recommend approval, disapproval, or to recommend approval in part and disapproval in part, etc.; or

(3) Any other motion as may be proper or appropriate.

(f) Although the basic agenda set forth above are recommended for all ZBA hearings, the Chairperson may, at the Chairperson's discretion, change the agenda to suit the requirements of the hearing. In particular, the Chairperson may, with approval of the ZBA, require that a particular hearing be adjourned and continued to a time, place and date certain, after due and proper notice, because of the length or complexity of any such hearing, the need for additional information to be furnished, or for any other proper reason.

CHAPTER III

FISCAL YEAR AND ANNUAL REPORT

3.1 Fiscal Year. The fiscal year of the ZBA shall be the same as the fiscal year of the Township.

CHAPTER IV

APPEALS AND PROCEDURES

4.1 Notice of Appeal. Appeals to the Board shall be prepared on forms supplied by the Township. Any communication purporting to be an appeal shall be regarded as mere intent until the required form has been completed and filed with the Township. All appeals shall be filed within thirty (30) days from the date the form. The completed form shall specify the grounds for the appeal. Upon receipt of a completed form, the Zoning Administrator shall forthwith transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. The Zoning Administrator shall verify proper notice and filings with the Township Clerk.

4.2 Appeal Stay: Final Decision: Circuit Court Appeal. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the ZBA after the notice of Appeal has been filed that by reason of facts stated in the Zoning Administrator's certificate, a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the ZBA or by the Circuit Court, on application, on notice to the Zoning Administrator and on due cause shown. Any decision of the ZBA shall be final, and any person having an interest affected by the Zoning Ordinance or variance shall have the right to appeal to the Allegan County Circuit Court. Upon appeal the Court shall review the record and decision of the ZBA to insure that the decision:

- (a) Complies with the Constitution and laws of the State;
- (b) Is based upon proper procedure;
- (c) Is supported by competent, material and substantial evidence; and
- (d) Represents the reasonable exercise of discretion granted by law to the ZBA.

4.3 Time of Hearing. The Board shall fix a reasonable time for the hearing of the appeal and shall give due notice thereof to the parties.

4.4 Agents and Attorneys. All appeals shall be made by the property owner or his or her authorized agent or attorney. The authority of such agent shall be in writing and a copy thereof shall be filed with the appeal. Any party appearing before the ZBA may appear in person or by or with his or her authorized agent or attorney.

CHAPTER V

DISPOSITION OF APPEALS

5.1 Time Decision. The Board shall decide all appeals and all matters referred to it or upon which it is required to pass under the Zoning Ordinance within a reasonable time.

5.2 Withdrawal. Any person having filed an appeal or a zoning permit application or form which requires the approval of the ZBA may, with the consent of the ZBA, withdraw such appeal or application at any time prior to action thereon. However, if a motion has been made for the disposition of such appeal or application, then such appeal or application may no longer be withdrawn.

5.3 Majority Vote: Grounds Stated. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, to decide in favor of the applicant any matter upon which the ZBA is required to pass under the Zoning Ordinance, or to grant any variation from the Zoning Ordinance. The grounds of each determination by the ZBA shall be stated in writing.

5.4 Decision: Building Permit: Notice. If the decision of the ZBA grants authority for the applicant to construct, erect, modify, rebuild, reconstruct, demolish or do other work with respect to a building or structure, the applicant shall obtain the necessary permits and building permits therefore within (90) days from the action by the ZBA. Each party presenting a matter to the ZBA shall be notified of the action of the ZBA as soon as practicable after such as action is taken; specifically, a copy of the decision describing the action taken by the ZBA shall be mailed or personally delivered to each party.

CHAPTER VI

CONFLICTS OF INTEREST

5.1 Conflicts and Incompatibility. All members of the ZBA and/or any committee created from the ZBA shall avoid situations which include a conflict of interest or appearance of conflict or an incompatibility of offices. A conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

- (a) Issuing, deliberating on, voting on, or reviewing a case concerning the ZBA member;
- (b) Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by, or which is adjacent to, or whose statutory notice area under the Michigan Zoning Enabling Act includes, land owned by the ZBA member;
- (c) Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which the ZBA member is a part owner, or has any other relationship where the ZBA member may stand to have a financial gain or loss;
- (d) Issuing, deliberating on, voting on, or reviewing a case which results in a pecuniary benefit to the ZBA member;
- (e) Issuing, deliberating on, voting on, or reviewing a case concerning the ZBA member's spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of the ZBA household;
- (f) Issuing, deliberating on, voting on, or reviewing a case where the ZBA member's employee or employer is:
 - (1) an applicant or agent for an applicant, or
 - (2) has a direct interest in the outcome.

5.2 Determination of Conflict of Interest or Appearance of Conflict of Interest. If there is a question whether a conflict of interest exists or not, or if there is an appearance of a conflict of interest, the question or issue shall be put before the ZBA. Whether a conflict of interest or an appearance of conflict of interest exists or not and the question of whether a member should be disqualified from voting shall be determined by a majority vote of the remaining members of the ZBA. All absent members of the ZBA shall not be counted as finding that a conflict exists, and in the absence of a majority vote of the full membership (absent the member with the alleged conflict) the member is not disqualified and shall be required to participate in the vote.

5.3 Remedies. When a conflict of interest or an appearance of conflict of interest exists the affected ZBA member shall do all of the following immediately, upon first review of the case and determining a conflict exists:

- (a) declare a conflict or appearance of conflict exists; and

(b) cease to participate on the case as a member of the ZBA, during meetings or in any other manner, or to represent one's self before the ZBA, its staff, or others, unless otherwise allowed by Michigan law; and

(c) during deliberation of the agenda item before the ZBA, remove one's self from the table where members of the ZBA sit or leave the meeting until that agenda item is concluded. (Note this shall not be construed as requiring a member to disregard his or her personal interests or forego his or her constitutional rights when the floor is open to general public comment).

5.4 Other Prohibitions. ZBA members shall not provide private consultation services, or similar services, for the development of sites within the Township for clients who are or may be applicants before the ZBA. This is not intended to prevent a ZBA member from assisting residents, municipalities, or others seeking help from the ZBA, which is normally part of a ZBA member's duties.

(a) Ex Parte Contact. ZBA members shall avoid whenever possible Ex Parte contact about cases where a recommendation of the ZBA is required or a decision is before the ZBA. Despite one's best efforts it is sometimes not possible to avoid Ex Parte contact. When that happens, the member should take detailed notes on what was said and report to the ZBA at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

(b) Not Voting On the Same Issue Twice. Members of the ZBA shall avoid situations where they are sitting in judgment and voting on a decision which they had a part in making previously. As used here, sitting in judgment and voting on a decision which they had a part in making, at a minimum shall include, but not necessarily be limited to, the following:

(1) When the appeal is of a decision by ZBA and the member of the ZBA sits both on the Planning Commission; and

(2) When the case is a final administrative decision which is decided by the ZBA and is appealed to the Court for relief or reversal, and the member of the ZBA sits both on the Planning Commission and/or the Township Board.

5.5 Gifts. Gifts shall not be accepted by a member of the ZBA or any ZBA Committee or any liaison of the member from anyone connected with a pending agenda item before the ZBA and/or ZBA Committee. As used here, gifts shall mean cash or any other tangible item or service, regardless of value; and food valued over \$10.

CHAPTER VII

MISCELLANEOUS

7.1 Amendment. These Rules of Procedure, in whole or in part, may be amended, added to or repealed upon the affirmative vote of a majority of the members of the ZBA at any regular or special meeting. Notice of the proposed alteration, amendment, addition or repeal must be sent by first-class mail or delivered in person to all members of the ZBA at least fifteen (15) days before the regular or special meeting of the ZBA at which it is to be considered.

7.2 Inconsistent Provisions. Insofar as any provisions of these Rules of Procedure conflict with any Michigan law, the provisions of such Michigan law shall govern and control.

7.3 Records. All records of the ZBA shall be filed in the office of the Township Clerk and shall be public records consistent with Freedom of Information Act, as amended.

7.4 Audio/Video Recordings. If a meeting of the ZBA is audio/video recorded by the Township, the record shall be retained for at least one (1) year after the meeting or until the day after the next meeting of the ZBA, whichever is the last to occur.