

ARTICLE 6

ZONING BOARD OF APPEALS

SECTION 6.1 CREATION

There is hereby created a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided by Act 110 of the Public Acts of 2006, as amended, and by the provisions of this Ordinance, and in such a way that the objectives of this Ordinance are observed, public safety, morals and general welfare secured, and substantial justice done.

Section 6.1

SECTION 6.2 MEMBERSHIP

- A. The Zoning Board of Appeals shall consist of three (3) members or alternates as provided by Section 601 of Act 110 of Public Acts of 2006, as amended. Members of said board shall be removable by the Township Board for non-performance of duty, or misconduct of office, upon written charges filed with the Township Clerk and following a public hearing by said Board upon such charges.
- B. Alternate Members. The Township Board may appoint not more than 2 alternate members to the Zoning Board of Appeals. Alternates shall not be a member of the Township Board or Planning Commission. Alternates may be called as needed to serve on a rotating basis:
1. In the absence of a regular member if the regular member will be unable to attend one (1) or more meetings.
 2. For the purpose of reaching a decision in a case in which a regular member has abstained for reasons of conflict of interest.
 3. The alternate member shall serve in the case until a final decision has been made. Alternate members shall have the same voting rights as a regular member of the Zoning Board of Appeals.

Section 6.2 Membership

SECTION 6.3 VARIANCES

- A. The Board shall have the power to authorize specific variances or departures from this zoning ordinance. A variance from the dimensional requirements of this zoning ordinance may only be granted if it is determined that all requirements of Section 6.4.C.1 have been satisfied. No use variance or any variance from the use requirements of this zoning ordinance shall be granted.
- B. The following information shall be required for a variance application:
1. A completed application form including, at a minimum, the applicant's and property owner's name and address, property address and parcel tax identification number, and a complete description of the requested improvement specifying the reason a variance is needed.
 2. Signature of the applicant and the property owner or an authorized agent of the owner (authorization must be specified in writing).

Section 6.3 Variances

3. Survey of the lot (if deemed necessary by the Zoning Administrator or chairperson of the Zoning Board of Appeals) detailing that portion of the property involved in the requested variance.
 4. Copies of any permits or other correspondence from outside agencies regarding the proposal must be supplied.
 5. Payment of all required fees.
- C. If a survey is required under B.3 above, lot lines must be marked by stakes at the lot corners or otherwise clearly visible on the site.

SECTION 6.4 DUTIES AND POWERS OF THE ZONING BOARD OF APPEALS

The Township Zoning Board of Appeals shall have the following specified duties and powers:

A. Appeals

Shall hear and decide appeals from any review, any order, requiring a decision or determination made either by the Zoning Administrator and/or the Eveline Township Planning Commission in the administration of this Ordinance unless specified otherwise (*See Section 3.4 Appeals, in regards to the Village Area Mixed Use District*).

B. Interpretation The Zoning Board of Appeals shall hear and decide upon the following requests:

1. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of this Ordinance, the Article in which the language is contained, and all relevant provisions of this Ordinance.
2. Determine the precise location of the boundary line between zoning districts when there is dissatisfaction with the decision made by the Zoning Administrator or uncertainty on the part of the Zoning Administrator.
3. Classify a use that is not specifically mentioned within the use regulations of any zoning district based on a comparable permitted or conditional land use, in accordance with the purpose and intent of each district. If no comparable use is found, the Zoning Board of Appeals shall so declare, the effect being that the use is not permitted until or unless the text of this Ordinance is amended to permit it.

C. Variances

1. The Zoning Board of Appeals shall have the power to authorize specific variances from such dimensional requirements of this Ordinance (area, setback, frontage, height, bulk, density or other dimensional requirements) if it finds based upon competent, material, and substantial evidence following a public hearing that the applicant has established practical difficulty exists for the requested variance by showing all of the following:
 - a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape,

water, or topography and is not due to the applicant's personal or economic hardship.

- b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
 - c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with the purpose and intent of this ordinance and those regulations unnecessarily burdensome.
 - d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with the purpose and intent of this ordinance and give justice to other property owners.
 - e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
2. In addition to the foregoing conditions, the following rules shall be applied in granting of variances:
- a. The Zoning Board of Appeals may impose conditions on the granting of any variance as authorized by Section 5.6 of this Ordinance.
 - b. No application for a variance, which has been denied wholly or in part by the Zoning Board of Appeals shall be submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid except when a rehearing is granted pursuant to Section 5.8 of this ordinance.
 - c. Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within twelve (12) months after the granting of the variance.

SECTION 6.5 PROCEDURES

A. Notice of Hearings

1. Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in

question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

2. For a variance request, The Township shall publish notice of the request and hearing in a newspaper of general circulation in the Township.
 - a. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the Township.
 - b. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:
 - i. Describe the nature of the request.
 - ii. Indicate the property that is the subject of the request. 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 not street addresses, other means of identification may be used.
 - iii. State when and where the request will be considered.
 - iv. Indicate when and where written comments will be received concerning the request.

B. Recess of Hearings. The Zoning Board of Appeals may recess such hearings from time to time; and, if the time and place of the continued hearing be publicly announced at the adjournment, no further notice shall be required.

C. Appearance by Applicant. Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

D. Decisions

The Zoning Board of Appeals shall return a decision upon each case within a reasonable period of time after a request for appeal, variance, or other matter as specified in this ordinance has been filed with the Board unless additional time is agreed upon with the parties concerned. Decisions made by the Zoning Board of Appeals will be forwarded, in writing, to the appealing party and the Zoning Administrator. Any decision of the Board shall not become final until the minutes of the meeting at which the decision is made are approved.

E. Stay of Proceedings

An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to circuit court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals of the circuit court. Provided, however, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this Ordinance.

F. Appeals Procedure

1. Any appeal from the ruling of the Zoning Administrator or Planning Commission concerning the enforcement of the provisions of this Ordinance shall be made to the Zoning Board of Appeals through the Zoning Administrator within thirty (30) days after the date of the decision which is the basis of the appeal.
2. The persons making the appeal must file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken.
3. The Zoning Board of Appeals will not consider an appeal related to the approval of a project under the Village Mixed Use District, see Section 3.4. The Zoning Board of Appeals, may however, hear an appeal relating to the approval of a special land use, see Section 7.2.G.