

**CHAPTER XVII**

**117.1700**

**BOARD OF APPEALS**

**117.1701 Members, appointment, tenure, per diem expenses and removal.**

Sec 17.01. There is hereby created a Township Board of Appeals of seven (7) members. The first member of the Board of Appeals shall be a member of the Township Planning Commission, the second member may be a member of the Township Board appointed by the Township Board, and the remaining members shall be selected by the Township Board of among the electors residing in the unincorporated areas of the Township; provided, that no elected officer of the Township nor any employee of the Township Board may serve simultaneously as the additional member of the Board or as an employee of the Township Board of Appeal. Members shall serve for a period of three (3) years. They shall continue in office until their successors are selected and qualified. The total amount allowed such Board of Appeals in any one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall be a reasonable sum which shall be provided annually by the Township Board.

**117.1702 Officers.**

Sec. 17.02. The Board shall elect from its membership a Chairman, Vice-Chairman and Secretary.

**117.1703 Rules of procedures.**

Sec. 17.03. The Board shall adopt rules of procedures. These rules shall be available for public inspection at the Office of the Township Clerk.

- A. The Board shall annually establish a regular schedule of Board meetings and the time and place of each. All such meetings and hearings shall be open to the public.
- B. The presence of four (4) members shall constitute a quorum. The Board shall act by resolution. The concurring vote of four (4) members of said Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance, or to grant variations from the requirements of this Ordinance.

- C. The Board shall keep minutes of its proceedings, showing the action of the Board, the reasons on which it bases its action, and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the Office of the Board and shall be a public record.
- D. A copy of each resolution passed upon by said Board shall be submitted to the Clerk of the Township and to the Secretary of the Planning Commission.

**117.1704 Jurisdiction.**

Sec. 17.04. The Board, in conformity with the provisions of this Ordinance, shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of zoning maps. It shall hear and decide all appeals from and review any order, requirements, decisions or determination made by the Zoning Administrator or other administrative officers charged with the enforcement of the provisions of this Ordinance. The Board shall also hear and decide all matters referred to it or which it is required to pass under this Ordinance.

**117.1705 Powers of the board.**

Sec. 17.05. The Board shall have the power to hear applications:

- A. Where it is alleged that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the Zoning Administrator or any other Administrative Board or official charged with the enforcement of the provisions of the Ordinance.
- B. Where by reason of the exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or other extraordinary conditions of land, buildings or structure, or of the development of property immediately adjacent to the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause undue hardship.

**117.1706 Variances.**

Sec. 17.06. No variance in the provisions or requirements

of this Ordinance shall be authorized by the Board unless the Board makes findings, based upon competent, material and substantial evidence on the whole record:

- A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zone;
- B. That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone under the terms of this Ordinance;
- C. That the special conditions or circumstances do not result from the actions of the applicant;
- D. That the authorizing of such variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this Ordinance.

No nonconforming use of neighboring lands, structures or buildings shall in itself be considered grounds for the issuance of a variance.

**117.1707 Conditions of approval.**

Sec. 17.07. In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other conditions regarding location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

**117.1708 Time limitations on variances.**

Sec. 17.08. Any variance granted by the Board shall automatically become null and void after a period of twelve (12) months from the date granted unless the owner or his agent shall have taken substantial steps toward effecting the variance as granted by the Board.

**117.1709 Procedure.**

Sec. 17.09. The following procedure shall be required:

- A. An appeal for variance from or review of any ruling of the Zoning Administrator or other administrative office administering any portion of this Ordinance may be

taken by any person or any governmental department affected or aggrieved.

- B. An appointment for variance or review authorized by this Ordinance may be taken by any person or governmental department affected.
- C. *Fees.* Each application for variance or review shall be accompanied by a filing fee as set by the Township Board provided that if the applicant requests that a special meeting of the Board be called for the purpose of hearing the request, the application shall be accompanied by a fee as set by the Township Board. Said fees are in addition to the zoning permit fees.
- D. When an application or appeal has been filed in proper form and with the required data, the Secretary of the Board shall immediately place the said application or appeal upon the calendar for hearing and cause notices stating the time, place, and object of the hearing to be served. One (1) notice that a hearing is to be held shall be published in a newspaper that circulates in the Township and shall be served personally or by mail not more than fifteen (15) days nor less than eight (8) days prior to the day of such hearing, upon the applicant, or the appellant, the Zoning Administrator and all persons assessed for any real property within three hundred (300) feet of the premises in question and to the occupants of all structures and dwelling units within three hundred (300) feet of the premises in question. Such notices shall be served personally or by regular mail addressed to the respective owners and tenants at the address given in the last assessment roll. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. Any party may appear at such hearings in person or by agent or by attorney.

#### **117.1710 Decisions of the board.**

Sec. 17.10. The Board shall decide all applications and appeals within thirty (30) days after the final hearing thereon. A copy of the Board's decisions shall be transmitted to the applicant or appellant and to the Zoning Administrator within forty-eight (48) hours of such decision. Such decision shall be binding upon the Zoning Administrator and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. A decision of the Board shall not become final until the expiration of five (5) days from the date such

decision is made unless the Board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

**117.1711 Stay of proceedings.**

Sec. 17.11. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after notice of appeal shall have been filed with him, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Board or by the Circuit Court on application, after notice to the Zoning Administrator.