

ARTICLE XXI

BOARD OF ZONING APPEALS

SECTION 2100. CREATION AND MEMBERSHIP:

There is hereby established a Board of Zoning Appeals, hereinafter called the "Board", which shall perform its duties and exercise its powers as provided in Act 207 of the Public Acts of 1921, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety and welfare secured and substantial justice done.

The Board shall consist of five (5) members appointed by the City Council. Appointments shall be for a period of one (1), two (2), and three (3) years, respectively, so as nearly as may be to provide for appointment of an equal number each year, thereafter each member to hold office for the full three (3) year term. The Board of Zoning Appeals shall annually elect its own Chairman, Vice Chairman, and Secretary. The compensation of the appointed members of the Board of Zoning Appeals shall be fixed by the City Council. All members of the Board of Zoning Appeals shall be residents of the City of Auburn Hills.

SECTION 2101. MEETINGS:

All meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such times as such Board may determine. All hearings conducted by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall also keep records of its hearings and other official action. The Board shall have the power to subpoena and require attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

SECTION 2102. APPEAL:

An appeal may be taken to the Board of Zoning Appeals by any person, firm or corporation, or any officer, department, board or bureau affected by a decision of the Building Inspector. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals, by general rule, by filing with the Building Inspector and with the Board of Appeals a notice of appeal, specifying the ground thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Zoning Appeals after the notice of appeal has been filed with him that by reason of facts stated in the Certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the Board of Appeals or by a Court of record application, on notice to the Building Inspector and on due course shown.

The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision at the hearing, either in person or by duly authorized agent or attorney.

A fee shall be paid at the time the notice of appeal is filed to the City Treasurer to the credit of the general revenue fund of the City. The fees to be charged for appeals shall be set by resolution of the City Council.

SECTION 2103. JURISDICTION:

The Board of Zoning Appeals shall have the following powers and it shall be its duty:

1. To hear and decide on all matters referred to it upon which it is required to pass under this ordinance.
2. To hear and decide appeals where it is alleged there is an error of law in any order, requirements, decision or determination made by the Building Inspector in the enforcement of this Ordinance.
3. In hearing and deciding appeals, the Board of Zoning Appeals shall have the authority to grant such variance therefrom as may be in harmony with their general purpose and intent so that the function of this Ordinance be observed, public safety and welfare secured and substantial justice done including the following:
 - A. Interpret the provisions of the Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning Map fixing the use districts, accompanying and made part of this Ordinance, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.
 - B. Permit the modification of the automobile parking space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
 - C. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.
4. Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties within the meaning of this Ordinance, the Board of Zoning Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the area regulations of this Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Ordinance and so that public safety and welfare be secured and substantial justice done. No variance or modification to the use regulations of this Ordinance shall be granted. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears beyond a reasonable doubt that at least one (1) of the following facts and conditions exist:
 - A. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
 - B. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
5. In consideration of all appeals and all proposed variations to this Ordinance, the Board of Appeals shall, before making any variation from the Ordinance in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City. The concurring vote of a majority of the Board of Zoning Appeals shall be necessary to reverse any order, requirements, decision, or determination of the Building Inspector, or to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision.

SECTION 2104. PUBLIC NOTIFICATION:

All applications before the Zoning Board of Appeals shall require a public hearing. Notice for said hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and the other provisions of this Section with regard to public notification.

- A. Notice shall be published in the Oakland Press not less than 15 days before the date the application will be considered for approval.
- B. Notice shall 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 1,000 feet of the property and to the occupants of all structures within 1,000 feet of the

property regardless of whether the property or occupant is located in the City of Auburn Hills. 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 state all of the following:

- 1) Describe the nature of the request.
- 2) 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 no street addresses, other means of identification may be used.
- 3) State when and where the request will be considered.
- 4) Indicate when and where written comments will be received concerning the request.

(Amended: 7-24-06 per Ordinance No. 781)