

LONG LAKE TOWNSHIP
ZONING BOARD OF APPEALS
BY-LAWS
AND
RULES OF PROCEDURE

Section 1 – Authority

Section 1.1 – These Rules of Procedures are adopted by the Township of Long Lake, Grand Traverse County, Michigan, Zoning Board of Appeals, (hereinafter referred to as the ZBA), in accordance with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended and Public Act 267 of 1976, as amended, the Open Meetings Act.

Section 1.2 - Members

The ZBA shall consist of five (5) members appointed by the Long Lake Township Board.

- a. One member shall be a member of the Township Planning Commission
- b. The remaining members shall be selected from the electors of Long Lake Township.
- c. One (1) member may be a member of the Township Board, though, that member may not serve as chairperson of the ZBA.
- d. An employee or contractor of the Township Board may not serve as a member or an employee of the ZBA.

Section 1.3 - Alternate Members

The Township Board may appoint not more than two (2) alternate members to the ZBA.

- a. Alternates shall not be a member of the Township Board or Planning Commission.
- b. An alternate shall be called as specified to serve as a member of the ZBA in absence of a regular member if the regular member will be unable to attend one (1) or more meetings.
- c. An alternate member shall also be called to serve as a member for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made.
- d. The alternate, when serving as a member of the ZBA, has the same voting rights as a regular member of the ZBA.

Section 2 – Officers

Section 2.1 – Selection. At the first regular meeting of the new fiscal year, (the fiscal year of the Township starts July 1 and ends June 30), the ZBA shall select from its membership a Chairperson, Vice-Chairperson and Secretary, who shall serve for a

twelve (12) month period and who shall be eligible for re-election. Vacancies in an office of the ZBA shall be filled at the next regular meeting of the ZBA. The membership shall elect one of its members to fill the vacancy until the next annual election.

Section 2.2 – Duties. Officer duties include the following: A Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson. The Secretary shall be responsible for making sure the Recording Secretary follows correct procedures to assure efficient and informed ZBA operations. The ZBA collectively shall perform such duties as contained in the Long Lake Township Zoning Ordinance #60, as amended and as required by the Michigan Zoning Enabling Act of 2006, as amended.

Members shall attend training sessions, conferences and/or meetings as needed to fulfill the duties of the ZBA, and for which the appropriation of funds have been approved by the Township Board.

Members of the ZBA may conduct site visits as deemed necessary to evaluate the application and supporting material of a petition to be held before the ZBA. Site visits may be conducted individually and at no time shall there be a quorum, as cited in Section 3.4, present at the site, unless the site visit is conducted as part of an open meeting.

Section 2.3 – Tenure. The officers shall take office immediately following their election. They shall hold their office for a term of one year, or until their successors are elected and assume office.

Section 2.4 – Committees of the ZBA. The Chairperson may appoint committees, comprised of members of the ZBA, as long as no quorum is present, other citizens and Township Staff, to assist the ZBA to research, analysis, and identification of issues and alternatives on issues before the ZBA.

Section 2.5 – Absences, Resignations and Vacancies

- a. To be excused, members of the ZBA shall notify the Township Zoning Administrator or ZBA chairperson when they intend to be absent from a meeting. Failure to make the notification prior to the meeting shall result in an unexcused absence.
- b. Members of the ZBA may be removed as provided by statute upon written charges and after a public hearing. For purposes of this Section, the ZBA recommends to the Township Board that misfeasance (nonperformance of duty) should include more than three (3) consecutive, unexcused absences. An “excused absence” shall be defined as an absence caused by illness, family related emergency, job requirement or personal matters.

- c. A member may resign from the ZBA by sending a letter of resignation to the Township Supervisor, Township Board and/or the ZBA chairperson.

Section 3. – Meetings

Section 3.1 – Meeting Notices. All meetings shall be posted at the Long Lake Township Hall according to the Open Meetings Act. The notice shall include the date, time and place of the meeting.

Section 3.2 – Regular Meeting. Regular meetings of the ZBA shall be held on the First Tuesday of each month, at 7:00 p.m. in Long Lake Township Hall or in a suitable place available to the general public if deemed necessary by the Chairperson.

The dates and times shall be posted at the Long Lake Township Hall and a notice should be published in accordance with the Open Meetings Act. Any changes in the date or time of the regular meeting shall be posted and noticed in the same manner as originally established, in accordance with the Open Meetings Act.

Section 3.2.1 - No agenda item listed under old or new business shall commence after 10:00pm. Business that is not completed by 10:00pm: the meeting shall recess until such date and time as agreed upon by the ZBA, unless a motion is made and supported to extend the meeting past 10:00pm.

Section 3.2.2 - The ZBA will not act upon an application without the property owner or a designated representative of the applicant present at the meeting without good cause. The representative must be designated, in writing, by the property owner. Good cause shall mean circumstances out of the control of the applicant (such as an illness or accident to the property owner or the representative). However, if the property owner or a representative will not be present, then the applicant shall provide in writing the basis for the good cause and all facts that support the application.

Section 3.3 – Special Meetings. A special meeting may be called by two members of the ZBA upon written request 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 the Open Meetings Act. Public Notice of the time, date, place and purpose of the special meeting shall be given in a manner as required by the Open Meetings Act. The Zoning Administrator shall send written notice of a special meeting to the ZBA not less than 48 hours in advance of the meeting.

Section 3.4 – Quorum. A majority of the regular members of the ZBA shall comprise a quorum (this means that 3 regular members must be present to constitute a quorum as long as the ZBA is comprised of 5 members. By statute [MCL 125.3601(12)], an alternate member is not counted for purposes of establishing a quorum). The ZBA shall not conduct any business unless a quorum is present. When a quorum is not present, no official action, except for closing of the meeting may take place. All public hearings without a quorum shall be scheduled for the next regular or special meeting and no additional public notice is required, unless additional notification is requested by the

ZBA, provided that the date, time and place, of the next meeting, is announced at the meeting.

Section 3.5 – Public Hearings. Hearings shall be scheduled and due notice given in accordance with the provisions of the Acts and Ordinance cited in Section 3.1, 3.2, 3.3, and 3.4. Public hearings conducted by the ZBA shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure.

OPENING OF PUBLIC HEARING

- A. Official opening, by the Acting Chairperson, with the announcement, indicating the basic nature of the request, citing public notice in official newspaper and notification of neighboring properties (if applicable).
- B. Indicate that all comments will be addressed to the Chair. (A time limit for public comment can be indicated at this time).
- C. Announce the order of the hearing which is as follows:
 - 1. OPEN THE PUBLIC HEARING (STATE THE TIME)
 - 2. CONFLICT OF INTEREST STATEMENT.
 - 3. PRESENTATION OF REQUEST, AS RECEIVED BY STAFF.
 - 4. COMMENTS AND EXPLANATIONS BY APPLICANT.
 - 5. OPEN PUBLIC HEARING TO PUBLIC COMMENT (Any person may speak for up to 3 minutes.).
 - 6. CLOSE PUBLIC HEARING TO PUBLIC COMMENT.
 - 7. QUESTION/DISCUSSION BY THE ZBA.
 - 8. DELIBERATION BY ZBA.
 - 9. DISPOSITION BY THE ZBA; APPROVE, APPROVE WITH CONDITIONS AND/OR RECOMMENDATION, POSTPONE, DENY. ALL STATED WITH FINDINGS OF FACT, CONDITIONS AND RECOMMENDATIONS.

Section 3.6 – Motions. Motions shall be restated as directed by the Chairperson before a vote is taken. The name of the maker and supporters of the motions shall be recorded.

Section 3.7 – Voting. An affirmative vote of the majority of the ZBA shall be required for the approval of any requested action or motion placed before the ZBA (This means that 3 votes are required for a decision as long as the ZBA consists of 5 members). An alternate ZBA member, who is officially participating in a matter, has the same voting rights as a regular member. Voting shall be by voice vote; provided however, that a roll call vote shall be required if requested by any ZBA member or directed by the Chairperson. All members of the ZBA, including the Chairperson, shall have the obligation of voting on all matters before the ZBA except as provided in these rules. A member is excused from voting only if that person has a bonafide conflict of interest.

Section 3.8 – Order of Business. A written agenda for all regular meetings shall be prepared as follows. The order of business shall be:

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONFLICT OF INTEREST STATEMENT (Declare and cite agenda item.)
5. APPROVAL OF MINUTES
6. PUBLIC COMMENTS (Any person may speak for up to 3 minutes.)
7. POSTPONED BUSINESS
8. PUBLIC HEARING(S)
9. PENDING BUSINESS
10. NEW BUSINESS
11. PUBLIC COMMENT (Any person may speak for up to 3 minutes.)
12. REPORTS
13. CORRESPONDENCE
14. ADJOURNMENT

Section 3.8.1 - A written agenda for special meetings shall be prepared and followed, stating the time, place and purpose(s) of the special meeting. The order of business shall be:

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONFLICT OF INTEREST STATEMENT (Declare and cite agenda item.)
5. PURPOSE OF SPECIAL MEETING
6. PUBLIC HEARING(S) if that is the purpose
7. PUBLIC COMMENT (Any person may speak for up to 3 minutes.)
8. CORRESPONDENCE
9. ADJOURNMENT

Section 3.9 – Rules of Order. All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by the most recent edition of “Robert’s Rules of Order.”

Section 3.10 – Notice of Decision. A written notice containing the decision of the ZBA will be sent to the applicant of a request or appeal.

Section 4 – Minutes

Section 4.1 – Minutes. The Recording Secretary of the ZBA will prepare the ZBA minutes. The minutes will contain a brief synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the conditions or recommendations made on any action; and recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be annually deposited with the Township Clerk.

Section 5 – Open Meetings and Freedom of Information Provisions

Section 5.1 All meetings of the ZBA shall be opened to the public and held at the Long Lake Township Complex at 8870 North Long Lake Road, Traverse City, MI 49684, or in a suitable place available to the general public if deemed necessary by the Chairperson.

Section 5.2 All deliberations and decisions of the ZBA shall be made at a meeting open to the public.

Section 5.3 A person shall be permitted to address a hearing of the ZBA under the rules established in Sub section 3.5, and to address the ZBA concerning non-hearing matters under the rules established in Section 3.8 to the extent that they are applicable.

Section 5.4 A person shall not be excluded from a meeting of the ZBA except for breach of the peace committed at the meeting.

Section 5.5 All records, files, publications, correspondence, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act, as amended.

Section 6 – Conflict of Interest

ZBA members shall apply the following rules or guidelines in situations that involve or might involve a conflict of interest. If a member is unsure whether a conflict of interest exists, the township attorney should be consulted in advance of the meeting. A conflict of interest arises when:

- a. A relative or other family member is involved in any request for which the ZBA is asked to make a decision;
- b. The ZBA 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;
- c. The ZBA member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the zoning ordinance or other applicable ordinance;
- d. The employer of the ZBA member is a party to the matter that will be considered by the ZBA or has a property interest that could be impacted by the ZBA's decision;
- e. The ZBA member makes public statements concerning the merits of the matter to be decided by the ZBA outside of the hearing on the matter which can reasonably be construed as expressing the ZBA member's preferred

dispositional outcome or which reasonably show that the ZBA member has such a firmly held position in advance of the hearing of the matter such that it would appear to the public that the member cannot reach a decision based on facts that will be presented at the fair hearing on the matter.

- f. Circumstances exist such that an appearance of a conflict of interest or an appearance of impropriety would exist, as determined by the ZBA member declaring such conflict and with advice from the township attorney as needed. It is the Township's policy that public confidence in the impartiality and integrity of the ZBA's decision-making process should be maintained.

When circumstances exist such that a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest, abstain from participating in the matter as a member of the ZBA and abstain from voting on the matter. In addition, the member shall leave the member's seat with the ZBA.

If a ZBA member has a conflict of interest because of Section 6. above, the member shall have the right to speak as a private citizen during public comment or as an applicant. However, the member with such a conflict of interest should avoid any appearance that the member is using his or her membership on the ZBA or relationship with other ZBA members as a basis for attempting to persuade the other ZBA members to vote a particular way. If the ZBA member has another person or method, such as a report by an expert, for presenting information to the ZBA and which is reasonable, the use of this alternate method is preferred.

This conflict of interest policy is intended to promote fair, unbiased decision-making and promote public confidence in township government. However, this policy must not be used by a member as a method of avoiding difficult or controversial decisions. A member's failure to apply this conflict of interest policy in a reasonable manner constitutes malfeasance in office. In addition, a ZBA member, who makes statements as described in Section 6.e. above, commits malfeasance of office.

Section 7 – Site Plan Required

A site plan, as described below, is required in submission of an appeal or petition relating to a parcel of land or structures on that parcel:

- a) A drawing **shall** be submitted reflecting accurate dimensions of the property, locations on the property of structures and locations of buildings on adjacent properties. Where pertinent, the Board **may** request a survey, with the above information which shall be performed by a registered land surveyor.
- b) Drawings in general **shall** provide a clear picture of those factors important to the appeal or petition so the Board can make a factual determination.

The applicant **shall** provide **appropriate staking** on sites where yard variances are desired. The stakes **shall** be flagged and placed to identify the proposed edge of structures involved in the proposed variance. Appropriate yard line stakes **shall** also be placed for the yard line from which the variance is desired.

Section 7 – Amendments

Section 7.1 These rules may be amended by the ZBA by a concurring vote pursuant to Sub Section 3.6, during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

ADOPTION

THESE BY-LAWS AND RULES OF PROCEDURES ARE ADOPTED THIS

_____ DAY OF _____, 20 _____.

LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS

_____, CHAIRPERSON

_____, SECRETARY

November 05, 2008