

Berlin Charter Township Zoning Board of Appeals By-Laws (Revised 9-19-23)

Preamble

There is hereby established a Zoning Board of Appeals, hereafter called "the Board," which shall perform its duties and exercise its powers as provided in the Michigan Planning Enabling Act, as amended, and the Berlin Charter Township Zoning Ordinance in such a way that the objectives of said Zoning Ordinance as amended, shall be observed, public safety and welfare secured, and substantial justice done.

Article 1 – Officers

- A. Selection and Tenure - At the first regular meeting of each year, the Board shall select from its membership a Chairperson, Vice Chairperson, and Secretary. All Officers shall serve a term of one year or until their successors are selected and assume office, except as noted in C, below. All Officers shall be eligible for consecutive term.
- B. The Chairperson shall preside at all meetings and perform such other duties as ordered by the Board or Township Board. An alternate member shall not serve as Chairperson.
- C. The Vice Chairperson shall act in the capacity of Chairperson in his/her absence. In the event the Office of Chairperson shall become vacant, the Vice Chairperson shall succeed to that Office for the unexpired term and their Board shall select a successor to the Office of Vice Chairperson to fill the unexpired term.
- D. The Secretary shall execute documents in the name of the Board, keep the minutes of all meetings, and perform such other duties as the Board may determine.

Article 2 – Meetings

The business of the Board shall be conducted at a public meeting held in compliance with the Open Meetings Act. The Board may establish reasonable rules and regulations to minimize the possibility of disruption of meetings.

- A. Regular Meetings – Regular meetings shall be held on the third Wednesday of January and the third Tuesday of September in each year. Should the date of any regular meeting be a legal holiday, the meeting shall be held on the next date at which the meeting facility is available.
- B. Special Meetings – Special meetings may be called by the Chairperson as needed or requested by an applicant. Such meetings shall be posted as required by the Open Meetings Act. All appeals other than residential shall be heard only at a Special Meeting.
- C. Notice - Notice for specific requests or actions will be given in accordance with the Michigan Planning Enabling Act or other applicable statute.

- D. Public Hearings - All public hearings held by the Board shall be held as part of a regular or special meeting.
- E. Agenda - The Chairperson shall be responsible for preparing an agenda for Board Meetings. The agenda may be modified by action of the Board.
- F. Quorum - A majority of the regular members of the Board shall constitute a quorum for transacting business and taking action on all matters. The Board shall not conduct business unless a majority of the regular members are present.
- G. Voting - In order to pass or deny any action required by the Board, an affirmative vote of at least a majority of the total membership of the Board is required. Voting shall be by voice vote; a roll-call vote may be required if requested by any Member of the Board or directed by the Chairperson. Except in the case of a conflict of interest, all members of the Board, including the Chairperson, shall vote on all matters.
- H. Public Records - All meetings, minutes, records, documents and other materials of the Board shall be open to public inspection in accordance with the Freedom of Information Act, except as otherwise be provided by law.

Article 3 – Duties of the Board

The Board shall perform the following duties:

- A. Act on any applications for variances, appeals, interpretations or other matters as authorized or required by the Zoning Ordinance or the Michigan Planning Enabling Act.
- B. Such other duties and responsibilities as may be requested by the Township Board or required by the Zoning Ordinance.
- C. Conduct site visits as deemed necessary to evaluate an application and supporting materials. Such visits will be conducted individually.

Article 4 – Absences, Removals, Resignations, Vacancies and Alternates

- A. To be excused, a Board Member must notify the Chairperson or other Board Member of his/her intent to be absent from a meeting. Failure to give notice may result in the absence being unexcused.
- B. Members may be removed from Office of the Township Board for misfeasance, malfeasance or nonfeasance in Office upon written charges and after a Public Hearing.
- C. A Member may resign from the Board by sending a letter to the Township Board.
- D. A Township Board may appoint not more than two (2) alternate Members to the Board. Such alternate Members may be called to serve on the Board as provided by the Michigan Planning Enabling Act and the Zoning Ordinance.

Article 5 – Conflict of Interest

A. Before casting a vote on a matter in which a Member may have a conflict of interest the Member shall disclose the potential conflict of interest to the Board. Failure of a Member to disqualify himself/herself from a vote in which the Member has a conflict of interest constitutes malfeasance in Office.

B. Conflict of interest is defined as, and a Member shall declare a conflict and abstain from participating in deliberations and voting on a request, when:

1. An immediate family member is involved in a request for which the Board is asked to make a decision. Immediate family member is defined as a spouse, mother, father, brother, sister, son or daughter, including an adopted child.
2. The Member has a business or financial interest in the property involved or has a business or financial interest in the applicant's company, agency or association.
3. The Member owns or has a financial interest in neighboring property. Neighboring property is defined as any property adjoining the property involved in the request.
4. The Member is also a member of the Planning Commission and has previously voted on the matter. The Member may consider and vote on other matter concerning the same property.
5. When there is a reasonable appearance of a conflict, as determined by the Board Member declaring such conflict.
6. The Member declaring a conflict should state its nature and whether he/she could impartially consider the request. Should the Member decide he/she must abstain from the matter, he/she should leave the room where possible and should make no presentations to the Board. An alternate Member may be seated in his/her place while the matter is considered.

Article 6 – Amendment

These by-laws may be amended at any meeting by vote of the majority of the Board Members.

Adopted by the Berlin Charter Township Zoning Board of Appeals at a regular meeting on the 19th day of September, 2023