

CITY OF ALPENA
Zoning Board of Appeals Bylaws

The following Rules of Procedure are hereby adopted by the Zoning Board of Appeals to facilitate the performance of its duties as outlined in Section 5 of PA 207 of 1921, as amended.

Section 1.0 Powers, Duties, Responsibilities and Matters to be Considered.

1.1 The Board shall have the power to:

A) Act on matters where the Ordinance provides for an interpretation or appeal and to authorize, with or without conditions, a variance as defined by State law and the Ordinance, and to subpoena witnesses and evidence as may be necessary.

1.2 The Board shall not have power to:

A) Repeal or amend the Ordinance text, nor to amend the zoning map, nor to permit prohibited uses in a zoning district.

B) Waive the 30 day time limit for filing an appeal from the decision of the Building Inspector.

C) Decline consideration and action on any matter designated by the Zoning Ordinance to be included in the Board's jurisdiction; or such other matters as the City Council or any Administrative Official of the City shall find advisable or essential.

1.3 Prior to a final decision on any matter, the Board shall conduct a careful study of all the pertinent facts. In consideration of all matters the Board must ensure that the spirit and intent of the Ordinance is observed, public safety secured, and that substantial justice is done.

Section 2.0 Appointment, Tenure and Elections

2.1 Seven (7) Board members shall be appointed by the City Council; Three (3) members for one (1) year, two (2) members for two (2) years, two (2) members for three (3) years: Thereafter each member to hold office for the full three (3) year term.

2.2 Vacancies shall be filled by Council appointment for the remainder of the unexpired term.

2.3 The Board shall annually in May elect its own chairperson, vice-chair, and secretary. Newly elected members shall immediately take and hold office for the remainder of the term or until their successors are elected.

2.4 The chairperson shall not hold that position for more than three (3)

consecutive years, and then must relinquish the chair for at least one (1) year before being considered for re-election to chairperson office.

Section 3.0 Duties of Officers

- 3.1 The Chair presides at all meetings, appoints committees and performs such other duties as outlined in the Ordinance.
- 3.2 The Vice-Chair acts in the capacity of the Chair in his/her absence; and in the event the Chair becomes vacant the Vice-Chair succeeds to this office for the unexpired term pending an election of a Vice-Chair successor for the unexpired term.
- 3.3 The Secretary shall execute all documents in the Board's name and shall perform such other duties as the Board may determine, including recording of meeting minutes and other record keeping, unless a recording secretary is available. Minutes of meetings and hearings shall be spread in suitable volumes.
- 3.4 Communications, Petitions, Reports, etc., shall be addressed to the Board and be delivered or mailed to the Secretary.

Section 4.0 Staff Action on Behalf of the Board

- 4.1 The Board may require investigation, recommendation and/or such other action by the Zoning Administrator or the Building Inspector as may be advisable or essential for Board consideration and action.

Section 5.0 Meetings and Public Hearings

- 5.1 Called Meetings: Meetings shall be called at the request of the Chair and at such times as the Board may determine.
- 5.2 Special Meetings or Hearings shall be called by the Chair on written request of a majority of the Board and all notices shall be given in accord with the Statute.
- 5.3 Public: All meetings, hearings, records, and accounts shall be open to the public and shall be conducted as "Public Hearings."
- 5.4 Quorum: Four (4) members of the Board shall constitute a quorum. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to decide in favor of any applicant on any matter upon which it is authorized by the Zoning Ordinance to render a decision. A majority vote of a quorum may deny a requested variance. Whenever a quorum is not present at a meeting, those present shall adjourn the meeting to another day or hold the meeting for the purpose

of considering such matters as are on the agenda. If a quorum is not present, a "public hearing" may be held on a matter brought to the Board, however, no action taken at such a meeting shall be final or official unless and until ratified and confirmed at a subsequent meeting at which a quorum is present.

- 5.5 Voting shall be by roll call and shall be recorded by yeas and nays.
- 5.6 Abstention from voting: A member shall abstain from voting and participation in the public hearing when there is a conflict of interest involving that Board member in matters being considered.
- 5.7 Board Action or any matter on which a hearing is held shall not be taken until the hearing has been concluded.
- 5.8 Motions shall be restated by the Chair before a vote is taken. The names of the maker and supporter shall be recorded. A motion to approve, deny, or approve with conditions shall state the conclusion and the rationale for the conclusion.
- 5.9 Parliamentary Procedure shall be governed by "Roberts Rules of Order" except where state statute directs otherwise.
- 5.10 All recordings of meetings or hearings shall be maintained at City Hall until such time as the minutes for the particular meeting are formally approved by the ZBA, or until such time the ZBA completes final action on an issue or case included in the recording upon which it has final disposition.

Section 6.0 Order of Business: Agenda

- 6.1 Call to Order, Roll Call, Pledge of Allegiance
- 6.2 Approval of Agenda
- 6.3 Approval of Minutes
- 6.4 Public Hearings and Commission Action
- 6.5 Business
 - (A) Unfinished
 - (B) New
 - (C) Communications or Reports
 - (D) Continuing Education
- 6.6 Public Comment
- 6.7 Member Comments
- 6.8 Adjournment

Section 7.0 Rules of Procedure and Conduct of Public Hearings

- 7.1 The Chair declares the public hearing open and states its purpose.
- 7.2 The Chair summarizes procedures for all present.
- 7.3 The Chair informs those present who will be speaking to identify themselves for the record.
- 7.4 City Staff (usually the Building or Zoning Administrator) presents the essence of the application, staff report(s), and other pertinent data.
- 7.5 The Appellant in the action shall be heard next.
- 7.6 Persons supporting the application are next invited to speak.
- 7.7 Persons opposing the application are next invited to speak. Irrelevant and off-the-subject comments should be ruled "out-of-order" by the Chair.
- 7.8 The Chair may allow rebuttal but should require that all comments be directed through the Chair. Board members and staff should refrain from debating or arguing with persons.
- 7.9 The Chair next announces the close of the public comment portion; or announces the continuation of the hearing to a future specified date, time and location if the hour is late or further information must be obtained.
- 7.10 Deliberation on the matter by the Board is next.
- 7.11 If the Board denies an application, the appellant must be informed of appeal rights and procedures.
- 7.12 Notices of Decisions shall be in writing and shall be sent to the petitioner(s) by the Zoning Administrator.

Section 8.0: Attendance Policy

- 8.1 In the event that a board member has unexcused absences from either three (3) consecutive regular ZBA meetings, or from 60% of all (special and regular) ZBA meetings in any 12-month period the Chairman shall discuss the attendance record with the member and report his findings along with any extenuating circumstances to the board. A recommendation for dismissal of the board member shall be automatically forwarded to the Mayor and City Council unless the board acts within 60 days of the receipt of the chairman's report to overturn such recommendation upon a finding that the board member

will demonstrate satisfactory attendance in the future.

Section 9.0: Amendments

9.1 These rules may be amended at any Board meeting by 2/3 vote of the Board.

ADOPTED: June 15, 1989
AMENDED: February 23, 2022



Dennis Bray, Chair

28 FEB 22
Date