

ZONING ORDINANCE
OAKLAND TOWNSHIP

25.00.00 ARTICLE XXV BOARD OF APPEALS

25.01.00. ESTABLISHMENT AND PROCEDURES Amended 3-17-77, 1-19-86

- .01. A Board of Appeals is hereby established, which shall be constituted, perform the duties, and exercise the powers provided for by Act 184 of P.A. 1943 as amended, and this ordinance. Members of the Board of Appeals may be removed from office by the legislative body for cause upon written charges and after public hearing.
- .02. The Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- .03. The Board of Appeals 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 keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Clerk.
- .04. The Board of Appeals shall fix a reasonable time for a hearing, not to exceed forty-five (45) days from the filing of a Notice of Appeal or Application and give due written notice of the hearing, directed to all owners of property located within three hundred (300) feet of the parcel of land subject to appeal. Such notice shall indicate: (1) the nature of the appeal or application; (2) the relief sought; and (3) description and/or address of property; and shall be given by regular mail addressed to the owner of record as reflected by the tax roll. At the hearing any party may appeal in person or by agent or attorney. Determination shall be made at said public hearing. Upon written consent and waiver by all affected property owners within a minimum of three hundred (300) feet, the Board may make a determination in advance of the next regular meeting.
- .05. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the

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25.00.00. Board of Appeals (continued)

25.01.00. Establishment and Procedures (continued)

applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

- .06. No order of the Board of Appeals permitting any variance shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

25.02.00. POWERS AND DUTIES - ALLEDGED ERRORS

- .01. The Board of Appeals shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of this ordinance. Appeals to the Board of Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the municipality affected by any decision of the Administrative Official.
- .02. Such appeals shall be taken within a reasonable time of the aggrieved action, not to exceed twenty (20) days, by filing with the Administrative Official and with the Board of Appeals a Notice of Appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. A hearing shall be held in accordance with 25.01.00.
- .03. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official from whom the appeal is taken certifies to the Board of Appeals after the Notice of Appeal is filed with him/her that, by reason of facts stated in the Certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a

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- 25.00.00. Board of Appeals (continued)
25.02.00. Powers and Duties (continued)

restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

- .04. In exercising the powers mentioned in this Section, the Board of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.

25.03.00. POWERS AND DUTIES - VARIANCES

- .01. The Board of Appeals shall have the power to authorize upon application in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. The application for a variance shall not be construed as an appeal from a decision made by or an alleged error of the Administrative Official.
- .02. A variance from the Terms of this ordinance shall not be granted by the Board of Appeals unless and until a written application for a variance is submitted demonstrating:
- A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district;
 - B. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - C. That the special conditions and circumstances do not result from the actions of the applicant;

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- 25.00.00. Board of Appeals (continued)
25.03.00. Powers and Duties (continued)

- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- .03. A variance from the terms of this ordinance shall not be granted by the Board of Appeals unless and until a hearing shall be held in accordance with 25.01.00.
- .04. A variance from the terms of this ordinance shall not be granted unless and until the Board of Appeals shall make findings that:
- A. The requirements of application (25.03.02) have been met by the applicant for a variance;
 - B. The reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
 - C. The granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- .05. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XXX of this ordinance.
- .06. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- .07. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

25.00.00. Board of Appeals (continued)

25.04.00. POWERS AND DUTIES - ENLARGEMENT OF NONCONFORMING
DWELLINGS IN 0-1, 0-2, B-1 AND B-2 DISTRICTS

Amended 4-26-81

.01. The Board of Appeals shall have the power to permit the enlargement of a nonconforming dwelling in 0-1, 0-2, B-1 and B-2 districts provided one of the following conditions applies to the specific case:

- A. Preservation and enlargement of the dwelling is reasonably necessary to preserve the intent of the Township's adopted Goodison Plan.
- B. Enlargement of the dwelling and preservation of its residential use will not adversely affect the health, safety and welfare of those persons residing therein.

25.05.00. APPEALS FROM THE BOARD OF APPEALS

Amended 4-7-84

Any person or persons, or any taxpayer, department, board, or bureau of the municipality aggrieved by any decision of the Board of Appeals may seek review by a court of record of such decision, in the manner provided by the laws of the state and particularly by Act 184, P.A. 1943, as amended.