

LARKIN TOWNSHIP ZONING BOARD OF APPEALS
OPERATING PROCEDURE

The Zoning Board of Appeals is the Board constituted by Article 16 of Ordinance No. 166 of the Charter Township of Larkin, pursuant to the authority vested in it by Act 359 of 1947 and Act 184 of 1943 of the Public Acts of the State of Michigan as amended. In addition to the statutory responsibilities, as cited in this enabling act and the township ordinance, the Zoning Board of Appeals has adopted guidelines of procedure to govern its actions as an appeals board.

1. The Board of Appeals is made up of five members appointed by the Township Board. At least three of these members must be present at a hearing to rule on a variance request.
2. Once the Chairperson of the Board of Appeals receives the request accompanied with the request fee, the Chairperson will schedule a hearing no later than 45 days from the receipt of the request. Prior to the scheduled hearing, a notice will be posted at the Township Hall or published in the newspaper describing the variance request. It is preferred this notice be in the newspaper, rather than posted at the hall. Also, all property owners within 300 feet of the site or structure to which the variance pertains shall be notified. At a minimum, adjacent property owners are to be notified, regardless of the distance involved. Property owners must have at least seven days notification, and the newspaper publication must be at least three days prior to the hearing.
3. The Chairperson of the Board of Appeals shall conduct the scheduled hearing according to the following procedure:
 - a. The hearing will be brought to order.
 - b. The hearing procedure will be summarized including the “Guidelines for Granting a Variance”.
 - c. The Chairperson presents the essence of the application and other pertinent reports and information.
 - d. The Chairperson then opens the meeting to public comment:
 - All speakers are asked to state their name and address for the record.
 - Speakers are asked to refrain from repeating one another.
 - Speakers are reminded to make their statements as factual as possible, since the Board’s decisions must be based on facts.
 - The Chairperson reserves the right to limit the time of individual speakers.
 - e. Individuals speaking in support are next invited to speak; beginning with the applicant and his/her representative.

- f. Individuals speaking in opposition are then invited to speak.
- g. The Chairperson can allow cross-examination or rebuttal but must insist that all comments are directed to the Board and not to individuals in attendance.

Note: If this point is not adhered to, the Chairperson reserves the right to close the public comment.

- h. The Chairperson then closes the meeting to the public comment.
- i. The Board of Appeals then reviews all of the facts that were presented in writing or in person.
- j. The Board of Appeals then reviews the following criteria and facts, which show that the criteria to justify a variance have been met or not met. These criteria are used to guide, not dictate, the Board's decision.

Criteria:

- 1) The property cannot be used in conformance with the ordinance without the requested variance.
 - 2) Problems the owner or requesting party(ies) faces was created by circumstances unique to the party and not to surrounding parcels.
 - 3) That granting a variance would not alter the essential character of the area.
 - 4) A variance would not injure or damage neighboring properties, resulting in hazards from fire, flood, lights, traffic congestion, etc. It would not impede accessibility of fire and other emergency vehicles.
 - 5) That the problem creating the request was not self-created by action of the applicant, his agents or predecessors.
 - 6) Is the hardship presented based solely on economic considerations?
 - 7) Does the variance constitute the minimum action necessary to permit reasonable use of the land and buildings?
- k. The Chairperson asks for a motion from a member of the Board and seconded either to grant or deny the request, grant the request with conditions, or to adjourn the meeting to obtain additional information or legal opinion.
- l. After the motion is made, the Secretary reads the motion, and the Chairperson asks if there is any additional discussion.
- m. The Chairperson: a) polls the Board members as to whether they support or oppose the motion, or b) adjourn to gather additional information or legal counsel. The Chairperson also votes. If the meeting is adjourned, a follow-up meeting will be scheduled no later than 60 days from the original meeting.

Note: No decision can be made by vote of less than a majority of the total membership of the Board, not just a majority of those present.

- n. The decision is announced to the meeting attendance.

Note: Decisions of the Zoning Board of Appeals may not be appealed to the Township Board or the Planning Commission. Board of Appeals decisions are final but may be appealed to the Circuit Court on questions of law and fact within 21 days of the decision.

- o. A motion is made to close the meeting.

4. Minutes of the meeting, containing the findings of facts and the decision, will be available at the Office of the Township Clerk within eight (8) business days. In addition, minutes will be sent to the following: the Applicant and his/her representative, the Building Inspector, and Zoning Board of Appeals members.
5. The Secretary will also complete the "Results of ZBA Action" form and mail a copy to the applicant and his/her representative, the Building Inspector, and the Office of the Township Clerk.
6. The Secretary shall submit an expense voucher for pay according to current township procedures.
7. The election of Chairperson and Secretary of the Zoning Board of Appeals will be left at the discretion of the majority of the Board members and reviewed annually.

RESULTS OF ZONING BOARD OF APPEALS ACTION

Hearing Date: _____

Name of Applicant: _____

Variance Request: _____

Legal Description of Property: _____

_____ **Variance Approved as Requested**

Rationale:

_____ **Variance Approved with Conditions**

Rationale and Conditions:

_____ **Variance Request Denied**

Rationale:

_____ **Variance Request Tabled**

Reasons for Tabling:

Signature – Secretary, ZBA