

TOWNSHIP OF BENGAL
ZONING BOARD OF APPEALS
BYLAWS AND RULES OF PROCEDURE

Adopted:

The main function or purpose of the following Bylaws is to establish the rules of operation for the Zoning Board of Appeals. In addition to establishing procedure, the Bylaws also describe the organizational framework of the Zoning Board of Appeals, and, in general terms, define the duties and responsibilities of the Zoning Board of Appeals.

Bengal Township
6586 West M-21
St. Johns, MI 48633

ARTICLE I: AUTHORITY**Section 1**

The following rules and procedures of the Bengal Township Zoning Board of Appeals are subordinate and subject to the following statutes:

Michigan Public Act 285 of 1931, as amended
Michigan Public Act 267 of 1976, as amended
Planning Enabling Act, Public Act 33 of 2008
Michigan Zoning Enabling Act P.A. 110 of 2006 further amended as Public Act 12 of 2008
The Bengal Township Zoning Ordinance 2019.

ARTICLE II: TITLE

The group's title shall be "The Bengal Township Zoning Board of Appeals", hereinafter referred to as "the ZBA".

ARTICLE III: MEMBERSHIP**Section 1**

The membership of the ZBA shall be the number and appointed according to the procedure as established in the Bengal Township Zoning Ordinance of 2019 and Section 601 of P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C. L. 125.3601).

Section 2

Absence of a member from three (3) consecutively scheduled meetings or three (3) of seven (7) regular meetings without the recorded consent of the Chairperson may be construed as a resignation from the ZBA by absence. The Chairperson shall determine if absences will be excused. The Chairperson shall convey absenteeism to the Township Board for consideration at a public hearing.

Section 3

When members propose to resign, a notice of their intent in writing shall be provided to the Chairperson with a date of the resignation, effective in such a manner as to allow time for appointment of successors. The Chairperson shall promptly indicate that a vacancy exists and provide a copy of the resignation to the Township Supervisor.

Section 4

Members of the ZBA are required to attend training in planning and zoning. The Township will make every effort to provide training that is convenient and conducive to the member's schedule. As part of training, every member is encouraged to read the Bengal Township Zoning Ordinance, the Michigan Zoning Enabling Act, the Planning Enabling Act and the Michigan Municipal League's Zoning Board of Appeals Handbook.

Section 5

The ZBA may request the assistance of liaisons. The purpose of liaisons is to provide information. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements pursuant to Article III, section 2. Liaisons are, but not limited to: Zoning Administrator, Building Inspector, Attorney, County Surveyor, County Register of Deeds, Planning Consultant. The ZBA must obtain the approval of the township board prior to the contracting of liaison services.

Section 6

A member of the ZBA may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall recuse himself or herself from a vote in which the member has a conflict of interest. Failure of a member to recuse himself or herself from a vote in which the member has a conflict of interest constitutes a malfeasance in office.

Section 7

Members may be paid a reasonable per diem and be reimbursed for expenses actually incurred in the discharge of his or her duties at a rate determined by the township board. Members may volunteer their services.

ARTICLE IV: Conflict of Interest and Incompatibility of Office.**Section 1**

Each member of the ZBA shall avoid situations that are conflicts of interest, and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

- a. Issuing, deliberating on, voting on, or reviewing a case concerning him or herself.
- b. Issuing, deliberating on, voting on or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or herself.
- c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership or and other entity in which he or she is a part owner, or any other relationship where her or she may stand to have financial gain or loss.
- d. Issuing, deliberating on, voting on or reviewing a case which is an action which results in a pecuniary benefit to him or herself.
- e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
- f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is
 - (1) An applicant or agent for an applicant or
 - (2) Has a direct interest in the outcome.

Section 2

When a conflict of interest exists, the member of the ZBA shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

- a. Declare a conflict exists at the next meeting of the ZBA.
- b. During deliberation of the agenda item before the ZBA leave the meeting, or remove one's self from the front table where members of the ZBA sit, until that agenda item is concluded.

Section 3

If a member of the ZBA is appointed to another office, which is an incompatible office with his or her membership on the ZBA, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the ZBA. If a member of another office is appointed to the ZBA which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the ZBA, that shall result in an automatic resignation from the other office.

ARTICLE V: Officers and Duties of Officers**Section 1**

At the annual meeting each year, the ZBA shall select from its membership a Chairperson, Vice-Chairperson and Secretary. All officers are eligible for reelection.

The officers of the ZBA shall be:

- **A Chairperson**, who shall perform the duties of the office as follows:
 - Preside at all Regular, Adjourned, Special or Committee Meetings.
 - Prepare the agenda for each meeting.
 - Sign all decisions of the ZBA.
 - Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs or similar topics; profanity; or other remarks which are not about the topic before the ZBA. Restate all motions.
 - Appoint committees; and the officers of such committees if deemed necessary.
 - May call special meetings.
 - May administer oaths and request the attendance of witnesses.
 - Represent the ZBA before the Planning Commission or Township Board.
 - Testify or give deposition on behalf of the ZBA as a whole.
 - Set time and date for meetings and notify the membership and others as deemed necessary of such.
 - Prepare a time sheet/attendance record for the clerk for the payment of per diems.
 - Receive all communications, petitions and reports to be addressed by the ZBA and distribute as needed. Perform other such duties as may be ordered by the ZBA

- **A Vice Chairperson**, who shall perform the duties of the office as follows:
 - Act in the capacity of the Chairperson, with all the powers and duties of the Chairperson as previously stated, in the absence of the Chairperson; and
 - Perform other such duties as may be ordered by the ZBA.
- **A Secretary**, who shall perform the duties of the office as follows:
 - Be responsible for the taking of minutes of each meeting in the absence of the recording secretary.
 - Review the draft minutes of each meeting.
 - Perform other such duties as may be ordered by the ZBA.
- **The Recording Secretary**, who shall perform the duties of the office as follows:
 - Record the minutes of each meeting for review by the Secretary.
 - Submit reviewed draft minutes to the ZBA for approval at the next meeting.
 - Transfer draft minutes and approved minutes of each meeting to the Township Clerk.
 - Provide notice to the public for all regular, adjourned, special and committee meetings pursuant to the Open Meetings Act, P.A. 267 of 1976 as amended, M.C.L. 15.261 et seq and pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006.
 - Perform such other duties as may be requested by the ZBA or Township Clerk.

Section 2

A. *Ex Parte* contact

1. Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the Appeals Board whenever possible.

Despite one's best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the ZBA at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

B. Site Inspections

1. Site inspections shall be done by the zoning administrator or other staff. A written report of the site inspection shall be orally presented to the ZBA at a public meeting or hearing on the site.
2. If desired, no more than one member of the ZBA may accompany the zoning administrator or staff on a site inspection.

C. Not Voting on the Same Issue Twice.

1. Any member of the ZBA shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:
 - a. When the appeal is of an administrative or other decision by the Planning Commission and the member of the ZBA sits both on the Planning Commission and ZBA.
 - b. When the appeal is of an administrative or other decision by the legislative body and the member of the ZBA sits both on the legislative body and ZBA.
 - c. When the appeal is of an administrative or other decision by any committee of the Planning Commission, legislative body, other committee, and the member of the ZBA sits both on that committee and ZBA.

D. Accepting gifts.

1. Gifts shall not be accepted by a member of the ZBA or liaisons from anyone connected with an agenda item before the ZBA.
2. As used here, gifts shall mean cash, any tangible item, or service, regardless of value; and food valued over \$10.

E. Spokesperson for the Zoning Board of Appeals.

1. Free and open debate should only take place on issues before the ZBA.
2. Once a vote is taken and an issue is decided by vote, the duty of each member of the ZBA is to represent the position reflected by the outcome of the vote. Minority reports and requests for reconsideration may take place only at an open meeting of the ZBA.
3. From time-to-time or on a specific issue the ZBA may appoint a spokesperson for the ZBA for all matters which occur outside of the meetings of the ZBA.

ARTICLE VI: Powers of the Zoning Board of Appeals

Section 1

The powers shall be provided as established in the Bengal Township Zoning Ordinance of 2019 and Section 601 of P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C. L. 125.3603).

ARTICLE VII: Public Hearing Notices

Public Hearing notices shall comply with the Bengal Township Zoning Ordinance of 2019 and Section 601 of P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C. L. 125.3103).

ARTICLE VIII: Order of Business. Agenda.

The Chairperson or designee shall prepare an agenda for each meeting and order of business therein shall be as follows:

- A. Call to order, roll call, and Pledge of Allegiance, general comments of Chairperson.
- B. Site inspection, then recess (optional, if the meeting is posted to include a site inspection).
- C. Reconvene and roll call (if following a site inspection).
- D. Election of officers, if necessary.
- E. Public Hearings. The Chairperson will declare a hearing open and state its purpose.
 - (1) The Chairperson shall summarize the procedure for public hearings.
 - (2) Appeal Number/Name.
 - (i) The zoning administrator presents the petitioner's request, his action on the matter and reasons for his decisions plus a written copy of the petitioner's request.
 - (ii) The petitioner --through himself, his agent, his lawyer-- may present his case, including presenting witnesses on his behalf. No time limit will be imposed on the petitioner.
 - (iii) Members of the Appeals Board shall report on their site inspection and any conversations with the petitioner they may have had.
 - (iv) Members of the public who support the petitioner speak and correspondence is read.

At the Chairperson's option they may:

- a. *recess the meeting for a short time to allow those in support to caucus in order to have one speak on their behalf for an unlimited period of time if there are a large number of people present on an issue or for a set duration of time.*
- b. *allow many to speak in favor of the petitioner and can impose a time limit for the speaker that is three (3) minutes or more per speaker.*
- (v) Members of the public who oppose the petitioner speak and correspondence is read.

At the Chairperson's option they may:

- a. *recess the meeting for a short time to allow those in opposition to caucus in order to have one speaker on their behalf for an unlimited period of time if there are a large number of people present on an issue.*
 - b. *allow many to speak in opposition of the petitioner and can impose a time limit for the speaker that is three (3) minutes or more per speaker.*
- (vi) Rebuttal. Anyone may ask the Chairperson questions on presentations or speeches given at this hearing. The Chairperson will seek an answer to the question. Answers shall be given to the Chairperson. No discussion, questioning or answering shall take place between any two or more people except between the Chairperson and the individual who has the floor.
 - (vii) Close the hearing. (At this point all public participation on the issue ends.)
- F. Public Comment for on this agenda but which are not items subject to a hearing at this meeting.
- G. Recess to another night as deemed necessary (optional).
- H. Housekeeping Business.
 - (1) Approval of minutes from previous meeting.
 - (2) Other.
- I. Business Session.
 - (1) Action on pending appeal number/name.
 - (i) Discussion: Review of the facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff reports, hearing testimony). Discussion continues until a member is confident enough to propose a motion that includes a "finding of fact" and/or "conclusions", and "rationale explaining why conclusions are reached" and "conditions" if any.
 - (ii) Motion is proposed on "finding of fact".
 - (iii) Discussion on the motion.
 - (iv) Action on the motion.
 - (v) Discussion focusing on standards and requirements of the ordinance.
 - (vi) Motion is proposed on "rationale, conclusions, conditions".
 - (vii) Discussion on the motion.
 - (viii) Action on the motion.
 - (2) Other business of the Appeals Board.
- J. Public comment for items not on this agenda or subject to a hearing at this meeting.
- K. Adjournment.
- L. The deadline to add items to the ZBA meeting agenda shall be no less than 3 business days prior to the next regularly scheduled ZBA meeting.

ARTICLE VIII: Amendment of Bylaws and Rules of Procedure

These Bylaws and Rules of Procedure are intended to provide guidance to enable the Bengal Township Zoning Board of Appeals to function appropriately. These bylaws may be amended from time to time by the Bengal Township Board to bring conformance to changes in State Law or to clarify procedures as set forth herein.

Adopted by the Bengal Township Zoning Board of Appeals on this 15 day of January in the year 2020.

Stan Sillman

Zoning Board of Appeals - Chairperson

Kurt Koenigsknecht

Zoning Board of Appeals - Secretary