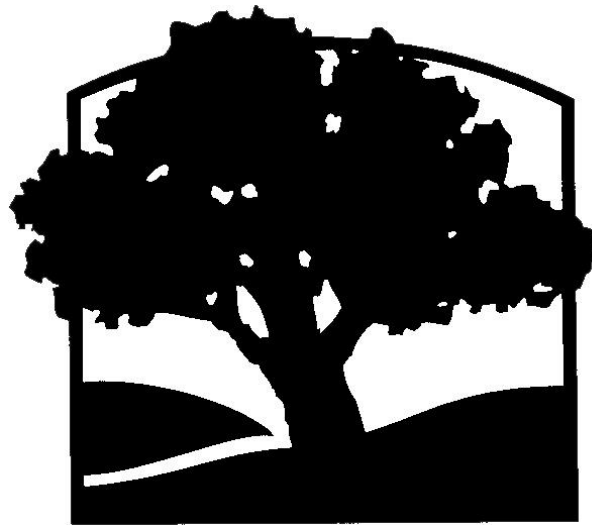


**CANTON TOWNSHIP  
ZONING BOARD OF APPEALS**



**CANTON**  
*Community*

**BY-LAWS AND RULES OF PROCEDURE**

Adopted February 2023

## SECTION ONE                    AUTHORITY

- A. The Canton Township Zoning Board of Appeals shall hereafter be referred to as the “ZBA.”
- B. These Bylaws are adopted by the ZBA pursuant to the authority granted under the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.
- C. The ZBA shall comply with the requirements, procedures of the Michigan Planning Enabling Act, Michigan Zoning Enabling Act, the Open Meetings Act, and the Canton Township Code of Ordinances.

## SECTION TWO                    MEMBERSHIP

- A. **Appointment.** Members of the ZBA are appointed by majority vote of the Township Board of Trustees, pursuant to section 601 of the Michigan Zoning Enabling Act.
  - i. The ZBA shall consist of five (5) members, each representing important segments of the community, as well as geographic locations of the Township, in accordance with PA 110 of 2006 (MCL 125.3601), as amended.
  - ii. Members shall be appointed for three-year terms in such manner as to create three sets of staggered appointments, per calendar year. If a member does not fulfill the three-year term for which they were appointed, for any reason, a new member may be appointed by the Board of Trustees for the duration of the three-year term. A partial term will complete at the end of the scheduled three-year term, regardless of when the replacement member was appointed.
  - iii. One (1) ZBA member shall be a member of the Planning Commission, whose term shall be limited to the time he or she is a member of the Planning Commission.
  - iv. Two (2) alternate members may be appointed by the Township Board of Trustees for the same term as regular members in accordance with the Michigan Zoning Enabling Act. Alternates are under the same orientation and training obligations as regular ZBA Members. An alternate member may be called as specified in the zoning ordinance to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Zoning Board of Appeals has the same voting rights as a regular member.

- B. Orientation.** After a new member has been appointed to the ZBA, the Community Planner or a member of the Planning Services Division staff shall schedule an orientation with the new member prior to the next scheduled Board meeting.
- i. The orientation shall be informal and shall provide an opportunity for the new member to meet the Community Planner and staff, review meeting procedures, ask questions, and for staff to provide an update on ongoing and future projects in the community.
  - ii. Upon taking office, each member shall have access to an Orientation Guidebook to familiarize themselves with the role and responsibilities of the ZBA. The Guidebook shall include reference materials, such as, but not limited to:
    - Canton Township Zoning Board of Appeals Bylaws
    - Canton Township Master Plan and sub-area plans
    - Canton Township Zoning Map
    - The Michigan Planning Enabling Act, PA 33 of 2008, as amended
    - The Michigan Zoning Enabling Act, PA 110 of 2006, as amended
    - The Zoning Board of Appeals Handbook, published by the Michigan Municipal League
    - Other materials deemed appropriate by the Community Planner
- C. New Member Training.** To ensure that all members of the ZBA have a basic understanding of their new role, as well as all rules and responsibilities, new members shall complete necessary training.
- i. New members appointed after the effective date of these bylaws shall complete a training program within six (6) months after appointment date. The training program shall be approved by the Community Planner to ensure the program provides information and training on the role and responsibilities of the ZBA, as well as planning and zoning best practices.
  - ii. Planning staff shall coordinate with the new members to ensure that the program is completed within the designated timeframe and shall report the fulfillment of the requirement to the Community Planner.
- D. Reference Materials.** Each Board member shall have access to the Orientation Guidebook, as noted in Section 2B, above.

- i. ZBA members shall be given access to additional reference materials and publications, as feasible, that will provide information related to the role and responsibilities of the ZBA, as well as planning and zoning topics and relevant case law that may be of interest to the members.

**E. Resignation.** A ZBA member may resign their position by submitting a letter to the Township Supervisor. Resignation shall be effective upon receipt by the Township Supervisor unless a separate resignation date is specified in the letter.

## SECTION THREE

## DUTIES OF ALL MEMBERS

**A. Attendance.** ZBA members have a duty to attend all meetings.

**B. Absences.** Members who are unable to attend a scheduled meeting must contact the Community Planner or member of the Planning Services Division staff prior to the scheduled meeting to notify of the intended absence.

- i. During roll call/attendance at the public meeting, the ZBA shall determine if the absence is to be excused and shall motion and vote whether to excuse the absence if prior notice was given. The motion and vote shall be recorded in the meeting minutes.
- ii. The ZBA may postpone to excuse the absence of a member until the next scheduled meeting, if necessary.
- iii. Unexcused absence. If any member of the ZBA has three (3) unexcused absences from regularly scheduled meetings within one (1) calendar year, such absences shall constitute misfeasance or nonfeasance in office. The Board of Trustees shall determine, after a public hearing, if the member shall be removed from the ZBA for misfeasance or nonfeasance.

**C. Preparation.** Members shall arrive to the meeting prepared for the business at hand, having reviewed written materials and completed site visits, as necessary.

**D. Ex Parte contact.** Members shall not engage in *Ex Parte* contact regarding any case or project pending before the ZBA. Questions or concerns related to such matters shall be directed to the Community Planner or another member of the Planning Services Division staff.

- i. *Ex Parte* contact about matters pending before the ZBA, including contact through electronic communications, shall include any of the following outside of a public meeting:

- a. discussions among a quorum of ZBA members, including “round robin” discussions between less than a quorum of ZBA members;
    - b. discussions between ZBA member(s) and an applicant(s); or
    - c. discussions between ZBA member(s) and the general public.,
  - ii. If a ZBA member is contacted by an applicant, or member of the public regarding a matter to be discussed before the ZBA, all efforts shall be made to the end the discussion and direct the individual to attend the public meeting or to contact the Planning Services Division staff with questions and comments. A summary of the contact shall be sent to the Community Planner or member of Planning Services Division staff and the ZBA Chair prior to the meeting in which the item is to be discussed.
- E. Continued Education.** To ensure that all members of the ZBA are kept up to date on important planning and zoning issues and relevant case law, continued education shall be required per year and per term.
- i. Each ZBA member shall commit to at least two (2) hours of continued education per calendar year and at least 6 (six) hours per 3-year term. Continued education courses/webinars may be provided by local and regional agencies, private consultants, Township staff, and other qualified trainers as determined by the Community Planner.
  - ii. New ZBA members shall not be required to complete the continued education requirement for the first year of appointment, due to the completion of the new member training program, as noted in Section 2C.
  - iii. Planning Services Division staff shall notify ZBA members about training and education opportunities throughout the year that would satisfy this requirement. The hours fulfilled by each ZBA member shall be tracked by Planning Services Division staff and reported to the Community Planner at the end of each calendar year.
  - iv. Failure to complete the required hours of continued education may result in the ZBA member not being reappointed to the ZBA.
- F. Voting on the Same Issue Twice.** Members of the ZBA shall not vote on the same issue twice; such as, in the capacity of serving on another Canton Township board or commission. When an appeal to the ZBA is related to a decision made by another Canton Township board or commission and the individual sits on that board or commission and ZBA, the ZBA member shall recuse themselves from the ZBA meeting in which the case is being heard, noting the conflict to be recorded in the meeting minutes.

## SECTION FOUR

## OFFICERS

- A. Selection.** At the regularly scheduled January meeting of each year, the ZBA shall select by a majority vote from its membership a Chair, Vice-Chair, and Secretary who shall serve for a 12-month period. If a January meeting is not held, the selection of officers shall take place at the next regularly scheduled meeting.
- i. In the absence or inability of the Chairperson to discharge the duties of that office, such duties shall devolve upon the Vice-Chairperson until the Chairperson returns or becomes able or until a new Chairperson is selected.
  - ii. In the event the office of the Chair becomes vacant, the Vice-Chairperson shall succeed to the office for the remainder of the term and the ZBA shall select a successor to the office of Vice-Chair for the remainder of the term.
- B. Tenure.** The Chair, Vice-Chair, and Secretary shall take office at the next meeting following their selection and shall hold office until their successors are selected and assume office.
- C. Duties.** The Chair, Vice Chair, and Secretary shall fulfill their specified duties to the fullest of their abilities.
- i. The Chair shall:
    - a. Preside at all meetings and conduct all meetings, in accordance with the rules provided herein, and may rely upon Robert's Rules of Order;
    - b. Restate all motions;
    - c. Call special meetings;
    - d. Appoint an acting-Secretary in the event the Secretary is absent from a ZBA meeting;
    - e. Review the draft agenda with the Community Planner and/or member(s) of the Planning Services Division staff prior to a ZBA meeting, if needed;
    - f. Represent the ZBA before the Board of Trustees, if requested by the Board;
    - g. Perform other such duties, as requested by the ZBA;
    - h. Perform other duties as specified in the Michigan Zoning Enabling Act.
  - ii. The Vice-Chair shall:
    - a. Act in the capacity of Chair, with all the powers and duties, in the Chair's absence or inability;

- b. Perform other such duties, as requested by the ZBA;
  - c. Perform other duties as specified in the Michigan Zoning Enabling Act.
- iii. The Secretary shall:
- a. Execute documents in the name of the ZBA;
  - b. Review the draft minutes, sign, and submit for approval to the ZBA at the next regularly scheduled meeting;
  - c. Receive all communications, petitions, and reports to be addressed by the ZBA;
  - d. Perform other such duties, as requested by the ZBA;
  - e. Perform other duties as specified in the Michigan Planning Enabling Act
- D. **Reappointment.** All officers shall be eligible for reappointment, in accordance with the Michigan Zoning Enabling Act.

## SECTION FIVE                      ROLE AND RESPONSIBILITIES

- A. The ZBA is a quasi-judicial body and shall evaluate each case on all relevant facts, in accordance with the standards of review for all cases that come before it, in accordance with the Michigan Zoning Enabling Act and Section 28.04 of the Canton Township Zoning Ordinance, including:
- i. **Interpretations** – Applicants may request an interpretation of the Zoning Ordinance and/or Zoning Map in situations where there is ambiguity of language or boundary lines;
  - ii. **Non-Use or Dimensional Variances** – Applicants may request to seek modification or relief from the strict application of the Zoning Ordinance when circumstances unique to the property cause practical difficulty to the property owner. Use variances are not permitted;
  - iii. **Appeals** – Applicant may request an appeal of a decision or determination by Township staff and/or the Planning Commission.
- B. The ZBA may request staff and/or the Planning Commission to review ordinance language or Zoning Map boundaries for possible future amendments wherein it is determined that the language or boundary may need to be modified. The Community Planner and Planning Services Division Staff shall present the request and any recommendations to the Planning Commission when the item has been researched and reviewed by applicable Township staff.

- C. Notice of Decision.** A written notice containing the decision of the ZBA will be sent to petitioners and originators of a request, noting the decision of the ZBA and any conditions of approval. The written notices shall be provided within one (1) week after the meeting date.

## **SECTION SIX                      STANDARDS OF CONDUCT**

- A. Code of Ethics.** Members of the ZBA shall comply with Article V, *Code of Ethics*, of Chapter 2 of the Canton Township Code of Ordinances, which include but are not limited to the following:

- Accepting gifts
- Divulging confidential or personal information
- Representing personal opinion as that of the ZBA or Township
- Speaking publicly about a project, applicant, members of the ZBA, Planning Commission, Township Board, or staff
- Engaging in a business transaction in which they may profit from their official position or authority or benefit financially from confidential information which they have obtained or may obtain by reason of that position or authority
- Conflicts of interest

- B. Conflicts of Interest.** ZBA members must adhere to Sections 2-236 and 2-238 of the Canton Township Code of Ordinance, as amended. Members of the ZBA shall alert the Community Planner or member of the Planning Services Division staff if a conflict of interest is present related to a case pending before the ZBA.

- i. Before casting a vote on a matter on which a ZBA member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the ZBA during a public meeting.
  - a. The ZBA shall discuss and determine if a conflict of interest exists. If a conflict of interest exists, fellow ZBA members shall make and support a motion to excuse the ZBA member from deliberating.
  - b. The ZBA member shall recuse themselves and leave the Board table. The ZBA member may sit in the general audience or leave the room in which the meeting is being held.



- c. The ZBA member shall be called back to the Board table prior to the introduction of the next case.
  - ii. Failure of a member to disclose a potential conflict of interest as required by this Section shall constitute a malfeasance in office.
  - iii. A “conflict of interest” may occur in any of the following ways:
    - a. When the ZBA member is the applicant or subject property owner, has a business relationship with the applicant or subject property owner, is a family member of the applicant or subject property owner, or has an immediate family member who has a business relationship with the applicant or subject property owner;
    - b. When a member of the ZBA or member of the ZBA member’s family has a proprietary or financial interest in an issue or matter that is before the ZBA beyond that which is experienced by the public in general;
    - c. When the ZBA member receives a public hearing notice for an item before the ZBA and the ZBA member’s property is expected to be impacted by proposed project;
    - d. When a member of the ZBA may receive or gain a financial benefit as a result of a vote on such issue or matter;
    - e. When there may be an appearance of bias or impropriety when deliberating on the case.
- C. Removal from Office.** A ZBA member may be removed from office by the Township Board for misfeasance, malfeasance, or nonfeasance upon written charges and after a public hearing.

## SECTION SEVEN

## MEETINGS

- A. Notices and Packets.** Meeting agendas and public hearing notices shall be posted on the Township website and at Township facilities, as required by the Open Meetings Act. Public notices and delivery of the meeting packets shall take place in accordance with the ZBA bylaws and the Open Meetings Act.
- B. Regular meetings.** Regular meetings of the ZBA will be held the second Thursday of each month at 7:00 pm at Canton Administration Building 1150 S. Canton Center Road, 1<sup>st</sup> Floor Board Room, Canton, MI 48188 unless otherwise noticed. An annual notice of regularly scheduled ZBA meetings shall be approved by the ZBA at the last meeting of

the calendar year for the next year's activities and shall be posted on the Township website and at all Township facilities, in accordance with the Open Meetings Act.

- C. Special meetings.** Special meetings may be called by the Chairperson and at the request of an applicant upon payment of a non-refundable fee to cover costs of the special meeting, as specified in the adopted fee schedule. Notice of special meetings shall be posted and all notices distributed in accordance with the Michigan Zoning Enabling Act and the Open Meetings Act.
- D. Quorum.** The presence of a majority of the ZBA shall constitute a quorum. If a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another date.
- E. Motions.**

  - i. Motions shall be stated by the Chair before a vote is taken.
  - ii. The Motion shall include findings of fact, listing the relevant facts in the case, conclusions by the ZBA, and the ZBA's action.
  - iii. Misleading statements, hearsay, irrelevant and/or untrue statements shall be excluded.
  - iv. Conditions of approval shall be listed and included in the meeting minutes.
  - v. The names of the ZBA members who made the motion and supported the motion shall be recorded.
- F. Voting.** Voice votes may be used by members of the ZBA unless a roll call is requested by the Chair.

  - i. Members must be present to cast a vote unless participating remotely, as allowed by the Open Meeting Act.
  - ii. Voting by proxy is prohibited.
  - iii. Alternates, when called upon to sit for an absent ZBA member, shall have the same voting rights as a regular member.
- G. Public Participation.** All regular, special meetings, and hearings shall be open to the public, in accordance with the Open Meetings Act.

  - i. Public comment on items whether on or off the agenda shall be permitted at the conclusion of all meeting business, as noted in the approved agenda.
  - ii. Any member of the public wishing to address the ZBA should state their name, address, and a brief summary of comments.

- iii. The general public shall limit their remarks to three (3) minutes each. A representative for a group may speak for five (5) minutes. Speakers shall not exceed the time limit without permission from the Chair.

**H. Order of Business.** A written agenda for all meetings shall be prepared as follows:

- Call to Order
- Pledge of Allegiance
- Roll Call
- Acceptance of Agenda
- Approval of Minutes - *Each set of minutes shall be approved individually*
- Communications – *Summary of materials provided to the ZBA, including emails received after packets were distributed, magazines, publications, or other materials provided to ZBA members*
- Public Hearings
- Old Business – *Items that have been postponed from a previous meeting*
- New Business – *New items not requiring a public hearing*
- Public Comment – *Items on or off the agenda.*
- Reports and Discussion – *Staff reports, Board members, and liaison comments*
- Adjourn

**I. Meeting packets.** Meeting packets shall be provided to the ZBA and the public at least three (3) days prior to the meeting date. The meeting packet shall include the agenda, draft minutes from the previous regular meeting and/or special meeting, and applicable materials related to each case (application, plans, supporting documents, staff review letter, and other materials as deemed necessary). The meeting packets shall be emailed to each ZBA member and shall be available on the Township website for public viewing.

## SECTION EIGHT

## PUBLIC HEARINGS

**A.** All Hearings shall be open to the public and due notice given in accordance with the provisions of the Michigan Zoning Enabling Act and the Open Meetings Act.

**B.** Hearings conducted by the ZBA shall be run in an orderly and timely manner and shall not exceed 90 minutes unless extended by the ZBA.

**C.** Hearings shall be accomplished by the following procedure:

- Introduction of case by Chair;
- Community Planner or member of the Planning Services Division staff shall summarize the staff report;
- Applicant or project representative may address the ZBA and provide a description of the project, summarize any specific requests, and address the comments made by staff;
- ZBA members may address specific questions to the applicant or staff;
- The Chair opens the Public Hearing via motion:
  - Each person wishing to speak should state their name and community of residence for the record
  - An individual may speak for three (3) minutes. A representative for a group may speak for five (5) minutes.
- The Chair closes the Public Hearing via a motion
- The ZBA deliberates and discusses the points of the case
- The Chair calls for a motion. The motion shall include findings of fact and shall specify the ways in which the request meets or does not meet the applicable standards of review.
- After a motion has been made and supported, the Chair shall ask if there is additional discussion.
- The Chair calls for a vote, which may be roll call or voice vote.

## **SECTION NINE            COMPENSATION**

**A.** All members of the ZBA shall be compensated at a per diem rate determined by the Township Board.

**B.** Compensation shall include per diem for regular and special meetings, as determined by the Township Board.

- C. Mileage and meals for off-site training may be reimbursed in accordance with Township policy.

## **SECTION TEN                    OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS**

- A. **Public Meeting.** All meetings of the ZBA shall be open to the public and held in a place available to the general public. All deliberation and decisions of the ZBA shall be made at a meeting open to the public.
- B. No persons shall be excluded from a meeting of the ZBA, except for breach of the peace committed during the meeting.
- C. All records, files, publications, correspondence, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

## **SECTION ELEVEN                    BYLAWS AMENDMENTS & REVIEW**

- A. The ZBA may amend these bylaws by a concurring vote during any regular or special meeting, provided that all members have received an advanced copy of the proposed amendment(s) at least three (3) days prior to the meeting at which such amendments are to be considered.
- B. These bylaws shall be reviewed periodically as determined necessary by the Community Planner.