

# ***Charter Township of Oscoda***

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## **Zoning Board of Appeals**

### **AGENDA**

**June 20, 2023- 6PM**

Robert J. Parks Public Library  
6010 Skeel Ave Oscoda, MI 48750

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- A. Call to Order – Welcome Guests & All Attending**
  - B. Member Roll Call –**
  - C. Approval of Regular Scheduled Meeting Minutes-**
    - a. Zoning Board of Appeals Regular Meeting April 25, 2023
  - D. Agenda – Additions, corrections, and approval**
  - E. Public Comment – (Non-scheduled and scheduled agenda items)**
  - F. Public Hearing – N/A**
  - G. Old Business – N/A**
  - H. New Business –**
    - a. By-Law Review
    - b. Election of Officers
      - i. Chairperson
      - ii. Vice Chair
      - iii. Secretary
  - I. Zoning Board of Appeals Member comments**
  - J. Planning Commission Member Comments**
  - K. Report of Planning and Zoning Director**
  - L. Adjournment**

# ***Charter Township of Oscoda***

## **Zoning Board of Appeals**

### **Minutes**

#### **Regular Scheduled Meeting Minutes**

April 25, 2023 6PM

Robert J. Parks Public Library

6010 Skeel Ave

Oscoda, MI 48750

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1) **Call to Order** - Mr. Schulz called the meeting to order on April 25, 2023 at 6:00 PM.

2) **Pledge of Allegiance**

3) **Member Roll Call** -

**Present-** Mr. Hume, Ms. Schwedler, Mr. Rush, Mr. Schulz

**Absent-** N/A

**Quorum-** Mr. Schulz declared a quorum present.

3) **Approval of Meeting Minutes:**

- i. Regular meeting minutes- March 20, 2023- Mr. Hume made a motion to approve the minutes as presented. Supported by Mr. Rush. Roll call vote. All in favor.

4) **Agenda** –

- i. Mr. Rush made a motion to approve the agenda as presented. Supported by Ms. Schwedler. Roll call vote. All in favor.

5) **Public Comment (Non-scheduled agenda items)** -

- i. No public comment.

6) **Public Hearing** –

- i. **Case # 603-2023- Doug Andrews Variance Request**
  - a) Mr. Hume made a motion to open the public hearing for Case #603-2023. Supported by Mr. Rush. Roll call vote. All in favor.
  - b) Mr. Schulz asked Ms. Vallette to give an overview of the proposed variance application. Ms. Vallette read case #603-2023 and stated that Mr. Andrews applied to build a deck all the way to their South side property line. The reason for the variance request is due to the setback requirements, decks are required to be 10' from the property line. The proposed deck is at 7406 N US 23, #063-011-200-012-00. The property is Zoned RT, Residential Tourist District.

- c) Mr. Schulz allowed the applicant to speak on their request. Mr. Andrews stated he owned the property to the South and the deck would be on ground level, not causing any obstruction visually to neighbors. The exit door is on that side of the house and it made most sense to them to have that as the access point.
- d) Mr. Rush stated that it was possible that the owners could possibly sell the property to the South and then there would be a non-conforming deck. Ms. Vallette commented stating that the owner would have to split off a certain amount of footage from the property to make the deck conform to the Ordinance. Mr. Rush asked if the properties could be combined. Ms. Vallette did recommend combining the lots to the applicant. Mr. Rush recommended ADA compliant beach mats.
- e) Ms. Schwedler stated that she thought there were other viable options other than a Variance.
- f) Mr. Schulz stated that there had to be a very unique circumstance to approve a Variance.
- g) Mr. Hume asked if it was a freestanding deck if the setbacks would still apply. They would apply.
- h) Mr. Schulz asked Ms. Vallette to read any correspondence she received. One neighbor (to the South) stopped in the office to ask which parcel the variance was on. It was not his neighboring property so he wasn't concerned about the case. Gary Barber, neighbor to the North, asked for the application and plan. His comments were that the plan did not show ADA compliance for wheelchair accessibility.
- i) Ms. Schwedler made a motion to close the Public Hearing and move into deliberations on Case #603-2023. Supported by Mr. Rush. Roll call vote. All in favor.
- j) The Commissioners had no other comment or concerns about the case.
- k) Mr. Schulz asked Ms. Vallette to read the 5 conditions, there will be a roll call vote using a "yes" or a "no" after each condition.
- l) Ms. Vallette read condition # 1: Would strict adherence to the Charter Township of Oscoda Ordinance unreasonably prevent the owner from using their property for a permitted use, or make the use extremely difficult? Roll call vote. 3 no votes by Mr. Rush, Ms. Schwedler and Mr. Schulz. Mr. Hume voted yes.
- m) Ms. Vallette read condition # 2: Would strict adherence to the Charter Township of Oscoda Ordinance deprive the applicants of rights commonly enjoyed by other properties in the same district, and is the variance request the minimum necessary? Roll call vote. 3 no votes by Mr. Rush, Ms. Schwedler and Mr. Schulz. Mr. Hume voted yes.



- n) Ms. Vallette read condition # 3: Is it true that the circumstances and conditions of the property and variance requests are not a result of the actions of the applicant or previous owner? Roll call vote. 3 yes votes by Ms. Schwedler, Mr. Rush and Mr. Hume. Mr. Schulz voted no.
- o) Ms. Vallette read condition # 4: Is it true that granting the variance will not be detrimental to adjoining property or the general welfare? Roll call vote. 3 no votes by Mr. Rush, Ms. Schwedler and Mr. Schulz. Mr. Hume voted yes.
- p) Ms. Vallette read condition # 5: Will granting the variance be in harmony with the general purpose and intent of the Charter Township of Oscoda Ordinance? Roll call vote. 3 no votes by Mr. Rush, Ms. Schwedler and Mr. Schulz. Mr. Hume voted yes.
- q) Majority vote on 5 of the 5 conditions was no.
- r) Mr. Schulz informed the applicant that Case #603-2023 has been denied.

**7) Old Business – N/A**

**8) New Business- N/A**

**9) Zoning Board of Appeals Member Comments – No comments**

**10) Report of Planning Commission Representative –** Ms. Vallette talked about the Special Meeting the Planning Commission had 4/17/2023.

**11) Report of Planning and Zoning Director-** Ms. Vallette talked about the training opportunities that she is bringing to the Township.

After declaring no further business, the meeting was adjourned at 6:55PM by Mr. Schulz, Chair.

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Greg Schulz – Chair

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Date

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Nichole Vallette– Planning and Zoning Director



# CHARTER TOWNSHIP OF OSCODA

## Zoning Board of Appeals

### By-Laws

The following Bylaws are hereby adopted by the Oscoda Township Zoning Board of Appeals (ZBA) to facilitate the performance of its duties as outlined in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended ("MZEA").

#### Section 1: Officers

- A. **Selection and Tenure:** At the first regular meeting in June of each year, the Zoning Board of Appeals shall elect from its membership a Chairperson and Vice Chairperson. An elected Township Official appointed to serve on the Zoning Board of Appeals shall not be eligible to serve as Chairperson. All officers shall serve a term of one year, or until their successors are elected and assume office. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. **Chairperson:** The Chairperson shall preside at all meetings, appoint members to committees, assign tasks, and perform such other duties as necessary to fulfill his or her obligations under the Zoning Ordinance and the MZEA.
- C. **Vice Chairperson:** The Vice Chairperson shall act in the capacity of the Chairperson in his/her absence. In the event the office of Chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of Vice Chairperson for the unexpired term.
- D. **Secretarial Duties:** The Secretary and/or Planning and Zoning Director shall execute documents in the name of the Zoning Board of Appeals, perform the duties listed below and shall perform such other duties as determined by the Zoning Board of Appeals.
  - 1. **Minutes:** The Planning and Zoning Director shall be responsible for maintaining a permanent record of the minutes of each meeting and shall ensure they are retained as required by the Township Clerk. The minutes shall contain a record of attendance, clear description of the meeting, including all motions and record of votes, and any conditions or recommendations made on any application before the Zoning Board of Appeals.
  - 2. **Correspondence:** The Planning and Zoning Director shall be responsible for issuing formal written correspondence as directed by the Zoning Board of Appeals. All communications, petitions, reports or other written materials received pertaining to the Zoning Board of Appeals shall be forwarded to each member at the earliest opportunity.

3. **Per diem/Expense payments:** The Secretary shall submit requests for per diem payment and expense reimbursement to payroll staff.
- E. **Alternate Zoning Board of Appeals Member:** The Township Board may appoint up to two (2) alternates to the Zoning Board of Appeals. Alternates shall participate in all Zoning Board of Appeals matters, except that alternates shall vote only in the event of an absence of a member, in the case of a vacancy on the Board, or if a member has a conflict of interest. In such event, the first alternate shall participate as a voting member. The second alternate shall participate as a voting member during the second occurring absence or vacancy at the same meeting.
- F. **Planning Commission Representative:** The Planning Commission representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Planning Commission and shall also update the Zoning Board of Appeals on the actions of the Planning Commission.

## Section 2: Meetings

- A. **Meetings:** Meetings of the Zoning Board of Appeals shall be held on the third Monday of each month or as otherwise directed. Unless specifically indicated otherwise in the public notice of the meeting, all meetings shall take place at the Robert J. Parks Library. All meetings shall be conducted in compliance with the Open Meetings Act. At the first regular meeting of the year in January, the board shall adopt its regular meeting schedule for the upcoming year.
- B. **Notice:** All meeting notices shall comply with the requirements of the Zoning Ordinance. Meeting notices shall state the purpose, time and location of meetings and shall be posted in accordance with the Open Meetings Act.
- C. All minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals prepared, owned, used, in the possession of, or retained as required under the MZEA shall be made available to the public in accordance with the Freedom of Information Act.
- D. A majority of the membership of the Zoning Board of Appeals shall constitute a quorum for purposes of transacting business. If a quorum is not present, the only official action that may be taken is to close the meeting.
- E. **Voting:** To pass or deny any variance, appeal or other official action required by the Zoning Board of Appeals under the Zoning Ordinance, an affirmative vote of at least a majority of the total membership of the Zoning Board of Appeals is required. Voting shall be voice roll call vote. All Zoning Board of Appeals members, including the Chairperson, shall vote on all matters, but the Chairperson shall vote last (with the exception of a conflict of interest).



**F. Agenda:** The Planning and Zoning Director shall be responsible for preparing an agenda for Zoning Board of Appeals meetings. The order of business for meetings shall be as follows:

1. Call to Order.
2. Pledge of Allegiance.
3. Roll Call of Members/Welcome of Guests.
4. Approval of Minutes.
5. Additions to the Agenda.
6. Public Comment Period (for non-scheduled and scheduled agenda items).
7. Scheduled Public Hearings/Agenda Items.
8. Old Business.
9. New Business.
10. Zoning Board of Appeals Member comments.
11. Report of the Planning Commission member.
12. Planning and Zoning Director comments.
13. Adjournment.

**G. Public Hearings:** All Public Hearings held by the Zoning Board of Appeals must be held as part of a regular or special meeting of the Zoning Board of Appeals. The following procedure shall apply to Public Hearings held by the Zoning Board of Appeals:

1. Chairperson summarizes procedures/rules to be followed during the Public Hearing. The applicant will be given the opportunity to table his or her request if all ZBA members are not present.
2. Chairperson announces the subject, asks all members if they visited the site, if there are any known conflicts, and requests a motion to open the Public Hearing. All motions throughout the Public Hearing process will be repeated by the Chairperson along with the names of the Commissioners who made and seconded the motion. All voting shall be done by voice roll call vote.
3. Applicant presents his/her request.
4. All persons wishing to comment will be recognized. Public comment shall be limited to four (4) minutes per person. Unless otherwise directed by the Chairperson, comments in favor of the applicant's petition will be requested, followed by comments in opposition to the applicant's request. Once all persons have had the opportunity to speak, the applicant will then be allowed another opportunity to reply to any of the previous comments. All comments shall be directed to the Chairperson. At the discretion of the Chairperson, additional comments may be permitted.
5. The Planning and Zoning Director may provide input/analysis.



6. Chairperson requests a motion to close the public comment period and move into deliberation.
  7. Deliberation takes place by ZBA Members
  8. Chairperson asks for a motion to close deliberations, followed by a motion on the pending matter.
  9. Chairperson informs the applicant of the Board's decision.
  10. Explanation of Appeal Process upon an application denial.
- H. Special Meetings:** Applicants to the Zoning Board of Appeals may request a special meeting, of which all costs (as directed by Township Board Resolution) shall be paid by the applicant. If there is more than one applicant, the costs shall be shared equally between all applicants. Upon receipt of a request, the Chairperson or two members of the Zoning Board of Appeals shall call the special meeting and direct the Planning & Zoning Director to post notice of the special meeting. Notices of special meetings shall be given in accordance with the Open Meetings Act.

### **Section 3: Duties of the Zoning Board of Appeals**

- A. The Zoning Board of Appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including:
  1. Interpretation of the zoning map
  2. Matters referred to the Zoning Board of Appeals or upon which the Zoning Board of Appeals is required by the Zoning Ordinance or the MZEA to decide on.
  3. Appeals from and review of any administrative order, requirement, decision, or determination by an administrative official or body charged with enforcement of the Zoning Ordinance.
- B. Attend training sessions, conferences, or meetings as needed to properly fulfill the duties of a Zoning Board of Appeals member.
- C. Perform other duties and responsibilities as requested by the Township Board or as may be specified by Township Ordinances.
- D. Site Visits are required and are critical in rendering a proper decision. While visiting a site, some precautions should be used:

1. The presence of a quorum of Zoning Board of Appeals members at a site shall be avoided. However, the Chairperson may authorize a group visit if necessary, upon posting of the required public notice.
  2. Although applicants give members permission to inspect property, members must be cautious not to trespass on adjacent properties unless they are considered open to the public (such as a shopping center).
  3. If a board member cannot avoid contact with the applicant or neighbors, etc., any information obtained must be shared with other members and the applicant (if applicable) during a public meeting. This will negate the appearance of an improper *ex parte* (from one point of view) communication.
    - a) For purposes of these rules, *ex parte* communication shall mean oral or written, off-the-record communications made to or by Zoning Board of Appeals members, without notice, that is directed to the merits or outcome of matter pending before the ZBA.
- E. The Zoning Board of Appeals shall present the Township Board annually with a report of its activities. The annual report will include:
1. Attendance by Zoning Board of Appeals members for all meetings, work sessions, and training sessions.
  2. The number of hours of attendance for training of each Zoning Board of Appeals member, which shall be not less than of 6 hours per year.
  3. A list of the matters considered by the Zoning Board of Appeals and the outcome of each.

## **Section 4: Resignations and Vacancies**

A member may resign from the Zoning Board of Appeals by sending a letter of resignation to the Township Supervisor, Township Board or the Zoning Board of Appeals Chairperson.

Vacancies, which may be caused by the resignation or removal of a Zoning Board of Appeals member, shall be filled by an alternate appointed by the Township Board for the remainder of the unexpired term.

## **Section 5: Conflict of Interest**

- A. When a conflict of interest exists, the affected Zoning Board of Appeal member shall disclose to the Zoning Board of Appeals the nature of the conflict, abstain from voting,



and shall not participate in deliberations. For purposes of this section, a conflict of interest is defined as:

1. A relative or other family member being involved in any request for which the Zoning Board of Appeals is asked to make a decision;
  2. The Zoning Board of Appeals member having a business or financial interest in the property involved in the request or having a business or financial interest in the applicant's company, agency or association;
  3. The Zoning Board of Appeals member owning or having a financial interest in a neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the Zoning Ordinance or other applicable ordinance, or;
  4. A reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict;
  5. A reasonable appearance of a conflict of interest as determined by another Zoning Board of Appeals member, or another third party shall be discussed. A Zoning Board of Appeals member can be asked to abstain from voting at the discretion of the Chairperson.
- B. The Zoning Board of Appeals member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the Commission. The member should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. The member declaring a conflict should not make any presentations to the Zoning Board of Appeals as a proponent for the application.

## **Section 6: Amendments**

These By-Laws may be amended at any meeting by a vote of a quorum of the Zoning Board of Appeals and reviewed in its entirety at the first meeting of May each year and signed by the Chairperson.

Amended by the Oscoda Township Zoning Board of Appeals on October 17th, 2022

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James Biggar, Chairperson  
Oscoda Township Zoning Board of Appeals