

# *Charter Township of Oscoda*

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## Zoning Board of Appeals

### **AGENDA**

**October 17, 2022- 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 June 21, 2022
  - D. Agenda – Additions, corrections, and approval**
  - E. Public Comment – (Non-scheduled agenda items)**
  - F. Public Hearing – N/A**
  - G. Old Business –**
    - a. By-Law Review
    - b. Application Revisions
  - H. New Business –**
  - 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*

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## Zoning Board of Appeals

### Minutes

#### **Regular Scheduled Meeting**

June 21, 2022 6PM

Robert J. Parks Public Library

6010 Skeel Ave

Oscoda, MI 48750

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- 1) **Call to Order** - Mr. Biggar called the meeting to order on June 21, 2022 at 6:00 PM.
- 2) **Pledge of Allegiance**
- 3) **Member Roll Call** -  
**Present-**, Mr. Schulz, Mr. Rush, Mr. Hume, Ms. Schwedler, Mr. Biggar  
**Absent- N/A**  
**Quorum-** Mr. Biggar declared a quorum present.
- 3) **Approval of Meeting Minutes:**
  - i. Regular meeting minutes- April 14, 2022- Mr. Schulz made a motion to approve the minutes with a correction. Supported by Mr. Hume. Roll call vote. All in favor.
- 4) **Agenda** -No Additions or Corrections
- 5) **Public Comment (Non-scheduled agenda items)** -
  - i. No public comment.
- 6) **Public Hearing** – N/A
- 7) **Old Business** - N/A
- 8) **New Business** –
  - a. By-Law Review
    - i. Mr. Biggar stated that the annual By-Law Review is usually conducted at the June meeting every year and asked if the board had any comments or corrections.
    - ii. Ms. Schwedler asked if it was possible for the applicant to leave the room during board deliberation. Mr. Biggar stated that because of the Open Meetings Act, discussion has to happen in a way that it

remains public for everyone and advised against two board members speaking about the case before the meeting. Everything discussed about a case should be done in a Public Hearing. Ms. Vallette went over ex-parte communication as well.

- iii. Mr. Biggar stated that in Section 2(G) #4, he would like to see it changed to ask if anyone wants to comment in favor first and then comment on opposition next.
  - iv. Mr. Biggar had a question about Section 3 (C). He asked what other duties the Township Board would assign to the ZBA. He asked what the Township Board would ask from the ZBA that would be outside of the scope of what the ZBA is intended for (Variances, Interpretations and Appeals). That section will remain in the By-Laws due to other Ordinances referring to the ZBA.
  - v. Mr. Biggar pointed out that in Section 4, it needs to be changed to the Township Board approving members, not as approved by the ZBA.
  - vi. Ms. Vallette went over the other revisions. She clarified changing the alternate language, the intention of an alternate needed to be clearer. Ms. Vallette also put information into the By-Laws about Ex-parte communication.
  - vii. Mr. Biggar asked before he opens the Public Hearing if he should ask all board members if they have visited the site and if they have a conflict of interest so that it is on record. Ms. Vallette stated she didn't think it would hurt to for him to ask that. Members are not to be asked to leave the room if they have a conflict.
  - viii. The additional revisions will be made by Ms. Vallette and bring them back to the next ZBA meeting for final approval.
- b. Application Revisions
- i. Ms. Vallette stated that she added language to the application to let the applicant know that during a member's site visit to their property, the board member could not speak to the applicant until the Public Hearing and changed the six questions on the application to reflect what is in the Ordinance.
  - ii. The board went over Dimensional and Use variances. Use variances are not heard by our ZBA.
- ii. Mr. Biggar stated that in the application paperwork, Page 2 Section 8.3.3 Variances, the questions listed there are not the same as what Ms. Vallette changed the other questions to. Ms. Vallette will make that correction.
  - iii. Ms. Vallette went over what a permitted use is and how it is not the same as a Use Variance. Permitted use could mean in residential district, residents are allowed use their property to build a home and accessory structure, but it is possible they do not have room to follow setback requirements and that is when an applicant would apply for a Dimensional (Non-Use) Variance.
- c. Selection of Chair, Vice-Chair and Secretary
- i. Ms. Schwedler made a motion to appoint Jim Biggar as the Chairperson. Supported by Mr. Schulz. Mr. Biggar accepted the nomination. Roll call vote. All in favor.
  - ii. Ms. Schwedler made a motion to appoint Greg Schulz as the Vice-Chairperson. Supported by Mr. Hume. Mr. Schulz accepted the

- nomination. Roll call vote. All in favor.
- iii. Mr. Biggar made a motion to appoint Jeff Rush as the Secretary. Supported by Ms. Schwedler. Mr. Rush accepted the nomination. Roll call vote. All in favor.

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

**10) Report of Planning Commission Representative -** Mr. Schulz stated that the Planning Commission did the final Holiday Inn Site Plan review, it was approved. The Planning Commission did the first read on the new Planned Development Ordinance. Jeff Linderman is the new Chairperson and Robert Tasior is the new Vice-Chairperson.

**11) Report of Planning and Zoning Director-** Ms. Vallette talked about a resolution the Planning Commission is going to adopt regarding Community Planning Principals through MAP. Ms. Vallette reminded everyone about the Planning & Zoning Essentials Workshop being held the following day at Warrior Pavilion. Ms. Vallette reminded the board that they are required 6 hours of training a year.

After declaring no further business, the meeting was adjourned at 7:02PM by Mr. Biggar, Chair.

\_\_\_\_\_  
James Biggar – Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Nichole Vallette– Planning and Zoning Director



# CHARTER TOWNSHIP OF OSCODA

## Zoning Board of Appeals

### By-Laws

The following By-Laws ~~are~~ hereby adopted by the Oscoda Township Zoning Board of Appeals (ZBA) to facilitate the performance of its duties as outlined in the ~~Township Michigan~~ Zoning Enabling Act, Public Act ~~184-110~~ of ~~1943~~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~~ 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 ordered by, and as deemed necessary by the Township Board~~ as necessary to fulfill its 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~~ 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 ~~Zoning Administrator~~ Planning & 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 ~~Zoning Administrator~~ Planning & Zoning Director shall be responsible for a ~~maintaining a~~ permanent record of the minutes of each meeting and shall ~~have them recorded in suitable permanent records~~ ensure they are ~~preserved~~ as required by the Township Clerk. The minutes shall contain a clear description of the meeting, including all motions and record of votes, ~~and any~~ conditions or recommendations made on any action and record of attendance.
  2. **Correspondence:** The ~~Zoning Administrator~~ Planning & Zoning Director shall be responsible for issuing formal written correspondence ~~with other groups or~~

~~persons,~~ 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 board member at the earliest opportunity.

3. **Submit:** Per Diem as required.

Commented [KK1]: Maybe expand on this a bit?

4. **First Yearly Regular Meeting:** ~~At T~~he first regular meeting of the year (January), ~~the board shall adopt its will include the~~ regular meeting ~~dates-schedule~~ for the upcoming year.

E. **Alternate Zoning Board of Appeals Member** – A Zoning Board of Appeals alternate is a full fledged member of the Zoning Board of Appeals, without voting rights, unless an opening occurs. ~~An Alternate may serve on any committee, as appointed by the Zoning Board of Appeals, without being vetted.~~

~~Alternates shall be required to attend all meetings and training sessions.~~

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, ~~or 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, ~~being the authoritative Board, has a~~ representative to the Zoning Board of Appeals, ~~which shall be appointed annually by the Planning Commission during their yearly June elections. He/she shall~~ reports the actions of the Zoning Board of Appeals to the Planning Commission, ~~and shall also~~ updates 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 ~~directed specifically indicated~~ otherwise in the public notice of the meeting, all meetings shall take place at the ~~Township Board Room~~ Robert J. Parks Library. ~~All meetings shall be conducted in compliance with the Open Meetings Act~~

B. **Notice:** All meetings notices shall ~~be noticed in accordance~~ 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 ~~meetings,~~ 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 ~~open-made available to the public inspection~~ in

accordance with the Freedom of Information Act, ~~except as may otherwise be provided by law.~~

D. A majority of the membership of the Zoning Board of Appeals shall constitute a quorum for transacting business ~~and taking official action for all matters. The Zoning Board of Appeals shall not conduct business unless a majority of the members are present.~~

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 Zoning Administrator Planning & 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. Zoning Administrator Planning & 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/her request if all ZBA members are not present (maximum: 5 seats).
2. Chairperson announces the subject, asks all members if they visited the site, if there are any 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. Unless otherwise directed by the Chairperson, **comments in favor of the applicant's request will be requested** ~~opposition to the applicant's request will be requested,~~ followed by **comments in opposition to the applicant's request.** ~~comments in favor of the 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. **Zoning Administrator Planning & 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 and conduct a roll call vote of the six (6) conditions as it pertains to the variance.
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. All public meetings by the Zoning Board of Appeals will be held in compliance with the Open Meetings Act.

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

- A. Act on applications for variances, appeals, interpretations, or other matters as required by the Zoning Ordinance. 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 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.

~~A.B.~~ Attend training sessions, conferences, or meetings as needed to properly fulfill the duties of a Zoning Board of Appeals member.

~~B.C.~~ Perform other duties and responsibilities as requested by the Township Board or as may be specified by Township Ordinances.

~~C.D.~~ Site Visits are required and are critical in rendering a proper decision. While visiting a site, some precautions should be used:

1. More than one board member visiting a site at the same time could constitute a quorum and must be avoided. However, the ~~Chairman~~ Chairperson may authorize a group site visit if necessary and 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 available-open to the public (such as a shopping center).
3. If ~~you a board member~~ cannot avoid contact with the applicant or neighbors, etc., you must share any information obtained must be shared with other members and the applicant (if applicable) during a public meeting. This will ~~avoid~~ negate the appearance of an improper “ex parte” (from one point of view) contact.

- i. For purposes of these rules, ex parte communication shall mean oral or written, off-the record communication made to or by Zoning Board of Appeals Members, without notice to parties, that is directed to the merits or outcome of a business item.

- ii. The Zoning Board of Appeals ~~desires~~ strives to conduct all proceedings fairly, to create a record that includes all of the evidence upon which recommendations and decisions were made, and to prevent the appearance of undue influence on its recommendations and decisions. ~~To this end, Zoning Board of Appeals Members shall avoid ex parte communication and if any such communications are received, Zoning Board of Appeals Members shall disclose the~~

~~details of the communication at the Zoning Board of Appeals meeting after the introduction of the item of which the ex parte communication pertained.~~

~~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.

**Commented [KK2]:** Three members would constitute a quorum. Should we update this language?

**Commented [KK3]:** This is redundant of the language above.

~~The Annual report will include (2)~~ the number of hours of attendance for training of each Zoning Board of Appeals member, which shall be ~~not less than a minimum~~ of 6 hours per year, ~~per the Township Board, the authoritative Board.~~

~~(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 ~~as approved~~ appointed by the ~~Zoning Board of Appeals Township Board.~~ The alternate shall take the vacant position while maintaining their tenure.

Commented [KK4]: I'm not sure what this means.

## Section 5: Conflict of Interest

A. ~~When a conflict of interest exists, the affected Zoning Board of Appeals members shall declare and disclose to the Zoning Board of Appeals the nature of the conflict of interest, and may abstain from voting, and cannot shall not participate in deliberations but may still participate as a member of the Public in a hearing or deliberations on a request when: For purposes of this section, a conflict of interest is defined as:~~

1. A relative or other family member ~~is-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 ~~has-having~~ a business or financial interest in the property involved in the request or ~~has-having~~ a business or financial interest in the applicant's company, agency or association;
3. The Zoning Board of Appeals member ~~owns-owning~~ or ~~has-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. ~~There is 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 ~~representative of proponent for an~~ the ~~proposal~~ 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 ~~standing~~ Chairperson.

Amended by the Oscoda Township Zoning Board of Appeals on June 20, 2022

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~~Catherine Larive~~ James Biggar, Chairperson  
Oscoda Township Zoning Board of Appeals

# CHARTER TOWNSHIP OF OSCODA

## Zoning Board of Appeals

### By-Laws

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#### 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 a 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. 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.

**Commented [KK1]:** Do you want to put time limits in? Both for the applicant's presentation and for public commenters?

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 \_\_\_\_\_, 2022

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James Biggar, Chairperson  
Oscoda Township Zoning Board of Appeals

**CHARTER TOWNSHIP OF OSCODA**

110 S. State Street, Oscoda MI 48750  
Phone 989-739-3211 Ext. 250

Case # \_\_\_\_\_

**ZONING BOARD OF APPEALS**

Application for: (See back for descriptions)

Fee: \$\_\_\_\_\_

Rcpt. # \_\_\_\_\_

Variance    Interpretation    Administrative Review     Appeal

Property Address: \_\_\_\_\_

Property Owner:	Applicant (if not owner):
Name: _____	Name: _____
Address: _____	Address: _____
_____	_____
Phone: _____	Phone: _____
	Position: _____

Property Description: Parcel No. \_\_\_\_\_

Size: \_\_\_\_\_ Zoning: \_\_\_\_\_

Cross Streets: \_\_\_\_\_ and \_\_\_\_\_

Nature of Request: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Rationale for Request: (For variances, also fill out page 3 and 4 of this application)


\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(add additional pages as necessary)

**Read Carefully:** I am the owner of the property included in this application or am officially acting on the owners' behalf. I hereby attest that the information on this application form, the site plan and other attachment(s) is, to the best of my knowledge, true and accurate. By signing this application, applicant is giving their consent for a site visit by members of the ZBA. I hereby ~~grant~~ permission to the Township Staff and/or any appropriate  nship Official to access this property to review the accuracy of the information submitted.  Yes  No

**Please Note:** The applicant or their official representative should be present at the Zoning Board's Public Hearing to present the appeal and answer any questions Board Members may have. **Board members will not ask any questions during a site visit, communication with the property owner is prohibited until the Public Hearing.**

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**Ordinance 165, Section 8.3 Duties and Powers of Zoning Board of Appeals (Excerpts)**

**Section 8.3.1 Administrative Review**

The Board shall hear and decide appeals where it is alleged by the person objecting that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provision of this Ordinance.

**Section 8.3.2 Interpretations, Determinations, Classification**

The Board shall have the power to:

1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.
2. Determine the precise location of the boundary lines between Zoning Districts.
3. Classify a use which is not specifically mentioned as part of the use regulations of any Zoning District so that it conforms to a comparable permitted use, in accordance with the purpose and intent of each district. Where there is no comparable permitted use, the Zoning Board of Appeals shall so declare, the effect being that the use is not permitted in the Township until or unless the text of the Ordinance is amended to permit it.

**Section 8.3.3 Variances**

The Board shall have the power to authorize, upon an appeal, specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements.

To obtain a variance, the applicant must show that the following conditions listed below are satisfied:

1. ~~Strict application of the letter of the regulation would unreasonably prevent the owner from using the property for a permitted use, or would render conformity but be unnecessarily burdensome.~~ Would strict adherence to the Charter Township of Oscoda Ordinance unreasonably prevent the owner from using the property for a permitted use, or make the use extremely difficult?
2. ~~A lesser relaxation of the regulation than requested could not be reasonably achieved that would give substantial relief to the property owner and be more consistent with justice to other property owners.~~ 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?
3. ~~The plight of the owner is due to unique circumstances peculiar to the property and not due to general conditions in the neighborhood or the zoning district.~~ Is the variance request due to unique circumstances related to the property, and not conditions that are common in the neighborhood or that particular zoning district?
4. ~~The problem is not self-created.~~ Is it true that the circumstances and conditions of the property and variance request are not a result of the actions of the applicant or previous owner?
5. ~~Granting the variance will not be of substantial detriment to adjoining property or the general welfare.~~ Is it true that granting the variance will not be detrimental to adjoining property or the general welfare?
6. ~~Granting the variance will not impair the intent or purpose of the Zoning Ordinance.~~ Will granting this variance be in harmony with the general purpose and intent of the Charter Township of Oscoda Ordinance?

**Section 8.3.5 Attachment of Conditions**

The Zoning Board of Appeals may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

**Section 8.6 Prohibited ZBA Actions**

1. No appeal shall be taken to the Zoning Board of Appeals with regard to a Planned Unit Development or Special Permit Use decision.
2. The Zoning Board of Appeals is without authority to grant a variance on the use of land.
3. The Zoning Board of Appeals may only act on those matters brought before it through the procedures described

in this Section. In no instance may they conduct business on matters outside the scope of the appeal.

Variance Application

Property Address: \_\_\_\_\_

To obtain a variance, the applicant must show that the following conditions listed below are satisfied. Please type or write legibly; use the back or add additional sheets as necessary.

1. Would strict adherence to the Charter Township of Oscoda Ordinance unreasonably prevent the owner from using the property for a permitted use, or make the use extremely difficult?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Would strict adherence to the Charter Township of Oscoda Ordinance deprives the applicants of rights commonly enjoyed by other properties in the same district, and is the variance request the minimum necessary?

\_\_\_\_\_  
\_\_\_\_\_

3. Is the variance request due to unique circumstances related to the property, and not conditions that are common in the neighborhood or that particular zoning district?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Is it true that the circumstances and conditions of the property and variance request are not a result of the actions of the applicant or previous owner?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Is it true that granting the variance will not be detrimental to adjoining property or the general welfare?

\_\_\_\_\_  
\_\_\_\_\_

6. Will granting this variance be in harmony with the general purpose and intent of the Charter Township of Oscoda Ordinance?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Property Owner's Signature \_\_\_\_\_

\_\_\_\_\_ Date





For official use:

Property Address: \_\_\_\_\_ Case #: \_\_\_\_\_

Application Submitted: \_\_\_\_\_ Accepted as Complete: \_\_\_\_\_ By: \_\_\_\_\_

Public Notice Mailing Date: \_\_\_\_\_ Publication Date: \_\_\_\_\_

Date of Public Hearing: \_\_\_\_\_ Materials to Board: \_\_\_\_\_

Zoning Board of Appeals Action:  Approved  Approved with Conditions  
 Denied

Conditions of Approval: \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Decision Certified: \_\_\_\_\_ Chairperson \_\_\_\_\_ Date \_\_\_\_\_

Letter Sent to Applicant: \_\_\_\_\_ Planning & Zoning Director \_\_\_\_\_ Date \_\_\_\_\_

**CHARTER TOWNSHIP OF OSCODA**

110 S. State Street, Oscoda MI 48750

Phone 989-739-3211 Ext. 250

Case # \_\_\_\_\_

Fee: \$ \_\_\_\_\_

**ZONING BOARD OF APPEALS**

**Application for:** (See back for descriptions)

Rept. # \_\_\_\_\_

Variance     Interpretation     Administrative Review     Appeal

**Property Address:** \_\_\_\_\_

Property Owner:

Applicant (if not owner):

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Position: \_\_\_\_\_

**Property Description:** Parcel No. \_\_\_\_\_

Size: \_\_\_\_\_ Zoning: \_\_\_\_\_

Cross Streets: \_\_\_\_\_ and \_\_\_\_\_

**Nature of Request:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Rationale for Request:** (For variances, also fill out page 3 and 4 of this application)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(add additional pages as necessary)

**Read Carefully:** I am the owner of the property included in this application or am officially acting on the owners' behalf. I hereby attest that the information on this application form, the site plan and other attachment(s) is, to the best of my knowledge, true and accurate. By signing this Application, I hereby grant permission for Township Staff and/or any appropriate Township Official to access my property in order to affirm the accuracy of the information submitted.

**Please Note:** The applicant or their representative(s) must be present at the meeting at which their application is being considered to present the matter and answer any questions Zoning Board of Appeals members may have. Board Members shall refrain from communicating with an applicant or their representative(s) during a site visit.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**Ordinance 165, Section 8.3 Duties and Powers of Zoning Board of Appeals (Excerpts)**

**Section 8.3.1 Administrative Review**

The Board shall hear and decide appeals where it is alleged by the person objecting that there is an error in any order, requirement, permit, decision, or refusal made by the Planning and Zoning Director or by any other official in administering or enforcing any provision of this Ordinance.

**Section 8.3.2 Interpretations, Determinations, Classification**

The Board shall have the power to:

1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.
2. Determine the precise location of the boundary lines between Zoning Districts.
3. Classify a use which is not specifically mentioned as part of the use regulations of any Zoning District so that it conforms to a comparable permitted use, in accordance with the purpose and intent of each district. Where there is no comparable permitted use, the Zoning Board of Appeals shall so declare, the effect being that the use is not permitted in the Township until or unless the text of the Ordinance is amended to permit it.

**Section 8.3.3 Variances**

The Board shall have the power to consider specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements (“non-use variances”).

To obtain a variance, the applicant must establish the existence of a practical difficulty by demonstrating the following:

1. Adherence to the Charter Township of Oscoda’s Zoning Ordinance would unreasonably prevent the applicant(s) from using their property for a permitted use.
2. Strict adherence to the Charter Township of Oscoda’s Zoning Ordinance would deprive the applicant(s) of rights commonly enjoyed by other properties in the same district and that the variance requested is the minimum variance necessary.
3. The need for the variance was not created by the applicant(s).
4. Granting the variance will not be of substantial detriment to adjoining property or the general welfare of the Township.
5. Granting the variance will not impair the intent or purpose of the Zoning Ordinance.

**Section 8.3.5 Attachment of Conditions**

The Zoning Board of Appeals may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

**Section 8.6 Prohibited ZBA Actions**

1. No appeal shall be taken to the Zoning Board of Appeals with regard to a planned development or special permit use decision.
2. The Zoning Board of Appeals is without authority to grant a variance on the use of land.
3. The Zoning Board of Appeals may only act on those matters brought before it through the procedures described in this Section. In no instance may they conduct business on matters outside the scope of the appeal.

**Variance Application**

**Property Address:** \_\_\_\_\_

To obtain a variance, the applicant must show that the following conditions listed below are satisfied. Please type or write legibly; use the back or add additional sheets as necessary.

- 1. Explain how strict adherence to the Charter Township of Oscoda Zoning Ordinance would unreasonably prevent the applicant(s) from using their property for a permitted use.

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- 2. Explain how strict adherence to the Charter Township of Oscoda’s Zoning Ordinance would deprive the applicant(s) of rights commonly enjoyed by other properties in the same district and that the variance requested is the minimum variance necessary.

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- 3. Explain how the need for the variance was not created by the applicant(s).

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- 4. Explain how granting the variance will not be of substantial detriment to adjoining properties or the general welfare of the Township.

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- 5. Explain how granting the variance will not impair the intent or purpose of the Zoning Ordinance.

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\_\_\_\_\_  
Property Owner’s Signature

\_\_\_\_\_  
Date



