

**CITY OF PLYMOUTH**  
**ZONING BOARD OF APPEALS BYLAWS**  
**Adopted March 3, 2022**

**1. Name and Purpose**

- A. The name of this Commission shall be the City of Plymouth Zoning Board of Appeals.
- B. These Bylaws are adopted by the Zoning Board of Appeals (herein known as Appeals Board) to facilitate the performance of its duties as outlined in the Zoning Ordinance. In any case where a provision of these Bylaws shall conflict with the Zoning Ordinance, the provision which is more restrictive shall govern.

**2. Membership**

- A. Members. Members of the Appeals Board are appointed by the City Commission pursuant to the City of Plymouth's Zoning Board of Appeals Ordinance, Chapter 78 Article XXVIII of 2003, as amended, and Public Act 110 of 2006, as amended, known as the Michigan Zoning Enabling Act.
  - 1. Each member shall represent and advocate for what is best for the City of Plymouth as a whole, putting aside personal or special interests.
  - 2. Membership shall be representative of important segments and geography of the City of Plymouth to the extent practicable.
    - i. The Commission shall consist of five (5) members and two (2) alternates.
    - ii. Members and alternates shall be city residents.
    - iii. One member or alternate shall be a member of the Planning Commission.
    - iv. Members and alternates should have experience, training, and/or interest in matters related to zoning. Important segments to consider include architecture, building construction, GIS/AutoCAD, historic preservation, land use planning, landscape architecture, real estate/development, and law.
    - v. Liaisons. The purpose of liaisons is to provide City of Plymouth officials and administration the ability to participate in discussions with the Appeals Board, in addition to speaking in public comment, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum, or be expected to comply with attendance requirements. Liaisons are:
      - 1. Community Development Department staff and their agents and consultants.
      - 2. City of Plymouth Attorney.
      - 3. City of Plymouth Planning Commission.
      - 4. City of Plymouth City Manager.
      - 5. Mayor of the City Commission, or other appointed Commissioner.
- B. Attendance. A member absent from three (3) consecutive regularly scheduled meetings shall be reported to the City Commission for delinquency. This attendance requirement shall not apply to alternates. Delinquency shall be grounds for the City Commission to remove member for nonfeasance or misconduct, after holding a public hearing on the matter. The ex-officio Secretary shall keep attendance records and report delinquent members to the City Commission for further consideration.
- C. Training. Each member shall have attended at least four hours of training in planning and zoning during the member's current term of office, which is provided by the City. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, American Planning Association, Michigan State Extension, Michigan Municipal League, or continuing education programs at a recognized Michigan university.

- D. Conflict of Interest. A member is disqualified from participating in a matter when a conflict of interest as defined in the Zoning Ordinance Section 78-403 and in the Ethics Ordinance Section 2-3 is present.
- E. Removal of Members. Any member of the Appeals Board may be removed by vote of the City Commission at a public hearing pursuant to Section 4.9 of Chapter 4 of the City Charter.

### 3. Duties of all Members

- A. Code of Conduct. Each member upon appointment, shall sign a code of conduct.
- B. Ex Parte Contact. Members shall avoid ex parte contact about cases before the Appeals Board whenever possible. If ex parte contact cannot be avoided, the member shall take detailed notes on what was said and report to the Appeals Board at a public meeting, so every member and other interested parties are made aware of what was said.
- C. Not Voting on the Same Issue Twice. Any member of the Appeals Board shall avoid situations where they are sitting in judgement and voting on a decision that they had a part in making. This shall include but not be limited to the following:
  - 1. When the appeal is of an administrative or other decision by the Planning Commission and the member of the Appeals Board sits both on the Planning Commission and Appeals Board.
  - 2. When the appeal is of an administrative or other decision by the City Commission and the member of the Appeals Board sits both on the City Commission and Appeals Board.
  - 3. When the appeal is of an administrative or other decision by any committee of the Planning Commission, City Commission, and/or other committee and the member of the Appeals Board sits both on that committee and the Appeals Board.

### 4. Officers

- A. Selection. At the first regular meeting of each year, the Commission shall select a Chairperson and Vice-Chairperson from its membership. All officers are eligible for re-election. Nominations shall be made from the floor as open nominations. A voice vote election shall take place to elect officers. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice-Chair for the unexpired term. The Community Development Director or his or her designee shall be the ex-officio Secretary.
- B. Tenure. The Chair and Vice-Chair shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.
- C. Chair's Duties. The Chair retains his or her ability to discuss and vote on issues before the Appeals Board. The Chair shall:
  - 1. Preside at all meetings.
  - 2. Rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanities; or other remarks which are not about the topic before the Appeals Board.
  - 3. Restate all motions as pursuant to Section 6.E of these Bylaws.
  - 4. Appoint sub-committees.
  - 5. Call special meetings pursuant to Section 6.B of these Bylaws.
  - 6. Act as an ex-officio member of all sub-committees of the Appeals Board.
  - 7. Review items on the agenda with staff prior to an Appeals Board meeting if he or she so chooses.
  - 8. Represent the Appeals Board, along with the City Commission Liaison, in front of the City Commission.
  - 9. Perform such other duties as may be ordered by the Appeals Board.
- D. Vice-Chair's Duties. The Vice-Chair shall:
  - 1. Act in the capacity of the Chair in the Chair's absence.
  - 2. Perform such other duties as may be ordered by the Appeals Board.

- E. Secretary's Duties. The Secretary shall:
1. At each meeting of the Appeals Board take notes for minutes.
  2. Execute documents in the name of the Appeals Board.
  3. Be responsible for the minutes of each meeting.
  4. Review the draft of the minutes and submit them for approval to the Appeals Board.
  5. Receive all communication, petitions, and reports to be addressed by the Appeals Board.
  6. Keep attendance records pursuant to Section 2.B of these Bylaws.
  7. Provide notice to the public and members of the Appeals Board for all regular and special meetings, pursuant to the Open Meetings Act, Public Act 267 of 1976, as amended.
  8. Prepare an agenda for Appeals Board meetings pursuant to Section 6.J of these Bylaws.
  9. Perform such other duties as may be ordered by the Appeals Board.

## 5. Demand for Appeal

- A. Filing. The following may file for an appeal or zoning interpretation:
1. City property owner or their authorized agent.
  2. Interested party with property owner's permission provided in writing.
  3. Officer, department, board, or bureau of the State or local unit of government.
- B. The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the Community Development Department and application fees shall be paid at time of submission.
- C. The Community Development Department shall prepare copies of the below for inclusion in the package delivered to Appeal Board members:
1. Copies of the application and all provided supporting documentation.
  2. Previous zoning permits and records of Appeal Board action.
  3. Other relevant correspondence or permits by other applicable enforcement agencies.
  4. Anything else which is relevant.
- D. Notice. The notice shall meet the requirements of the Zoning Ordinance Sections 78-406 and 78-377.
- E. Deadline for Action. The Appeals Board shall decide on all matters brought before them within 90 days of the date of the filing of the appeal.
- F. Notice of Decision. The Secretary shall deliver notice of the Appeal Board's decision in-person or by mail to the zoning administrator, the petitioner or their authorized agent, and anyone else requesting a copy in writing.
- G. Variances expire if not acted upon within one year from the date of approval.

## 6. Meetings

- A. Regular Meetings. Meetings of the Appeals Board will be held the first Thursday of every month at 7:00p.m. at City Hall located at 201 S. Main Plymouth, MI 48170. When the regular meeting date falls on a legal holiday, the Appeals Board shall select a suitable alternate day in the same month. An annual notice of regularly scheduled meetings will be drafted and shall comply with Public Act 267 of 1967, as amended, known as the Open Meetings Act.
- B. Special Meetings. Special meetings shall be called in the following manner:
1. By the Chair.
  2. By any two members of the Appeals Board.
  3. By the Chair at the request of a non-member of the Appeals Board.
  4. Notices shall be given to each Appeals Board member at least forty-eight (48) hours prior to such meeting and shall state the purpose, time, day, month, date, year, and location of the meeting. Notices shall comply with the Open Meetings Act.
- C. Recess. The Chair, or the Appeals Board after the meeting has been in session for three hours shall suspend the Appeal Board's business and evaluate the remaining items on its agenda. The Appeals

- Board shall then decide to finish that meeting's agenda, may act to continue the meeting on another day, or complete some agenda items and postpone certain agenda items to the next regular meeting.
- D. Quorum. More than half the total number of seats for members of the Appeals Board, regardless of whether vacancies exist or not, shall constitute a quorum for the transaction of business. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day. If fewer than five members are present when hearing a case, the Appeals Board shall present the applicant the opportunity to postpone until a full Board is present.
- E. Motions.
1. Motions shall be restated by the Chair before a vote is taken.
  2. Motion Content. All actions taken shall include each of the following parts:
    - i. A finding of fact, listing what the Appeals Board determines to be relevant facts in the case to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
    - ii. The Appeals Board's action: approval, approval with conditions, or denial.
- F. Voting. Voting shall be by voice and shall be recorded as passing or failing. Roll call votes will be recorded only upon request by a member of the Appeals Board and shall be "yes" or "no". Members must be present to cast a vote. Voting by proxy shall not occur. The affirmative vote of a majority of those present or the majority of a quorum, whichever is greater, shall be necessary for the adoption of motions. Use variances require the affirmative vote of four members of the Appeals Board.
- G. Appeals Board Action. Action by the Appeals Board on any matter which requires a public hearing shall not be taken until the hearing has been concluded.
- H. Parliamentary Procedure. Parliamentary procedure in Appeals Board meetings shall be informal. However, if required to keep order, Appeals Board meetings shall then be governed by Robert's Rules of Order Newly Revised (12<sup>th</sup> Edition) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different from Robert's Rules, then these Bylaws prevail.
- I. Public Participation. All regular and special meetings, hearing, records, and accounts shall be open to the public.
1. All public comment that is pertinent to the Appeals Board, but unrelated to a specific item on the agenda may be presented during "Citizen Comments".
  2. The public will be given the opportunity to speak on each case after the applicant, owner, or agent has presented his or her case to the Appeals Board. If an agenda item or case does not have an applicant presentation, then public comment will occur after introduction by the Chair or presentation by staff or consultant.
  3. The Chair may limit the amount of time allowed for each person wishing to make public comment at a Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comments at the Appeals Board meeting with an extended time limit.
- J. Order of Business. The Secretary shall prepare an agenda for each meeting and the order of business shall be as follows:
1. Call to Order, roll call, and Pledge of Allegiance
  2. Citizen Comments
  3. Approval of the Minutes
  4. Approval of the Agenda
  5. Old Business (unfinished business)
  6. New Business
  7. Board Member Comments
  8. Reports and Correspondence
  9. Adjournment

- K. Delivery of Agenda. The agenda and accompanying materials shall be hand delivered and/or electronically delivered to Commission members so that members shall receive the packet of information by Friday of the week prior to the regular meeting date.
- L. Placement of Items on the Agenda.
  - 1. The Community Development Department shall be the office of record for the Appeals Board.
  - 2. The Community Development Department may receive requests for appeal and zoning interpretations on behalf of the Appeals Board in a timeline that is in accordance with the public hearing requirements and legal advertisement publishing deadlines. The Department's deadlines are published annually and are updated as necessary.
  - 3. Items received by the Community Development Department after the Department's published deadline shall be placed on the following month's agenda.
  - 4. The deadline to add all other items not requiring notice as a public hearing to the Appeals Board's meeting agenda shall be seven business days prior to the next regularly scheduled Appeals Board meeting.

## 7. Record

- A. Minutes and Record. The Secretary shall keep a record of Appeals Board meetings, which shall at a minimum include the following:
  - 1. Copy of the meeting notice.
  - 2. Affidavits of meeting notice postings.
  - 3. Copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence:
    - i. Time and place the meeting was called to order
    - ii. Attendance
    - iii. Indication of others present
    - iv. Summary or text of points of all reports given at the meeting, and who gave the report and in what capacity. Alternatively, a copy of the report may be attached, if offered in writing.
    - v. Summary of all points made in public participation by the applicant, officials, and guests and an indication of who made the comments. Alternatively, a copy of the report may be attached, if offered in writing.
    - vi. Full text of all motions introduced, whether seconded or not, who made the motion and who seconded the motion. For each motion, the following should be included:
      - 1. A statement of what is being approved (i.e., non-use variance, use variance, etc.)
      - 2. The location of the property involved (parcel number is best)
      - 3. What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes)
      - 4. What evidence was considered (summary of discussion by members at the meeting)
      - 5. The finding of fact
      - 6. Reasons for the decision made (If the decision is to deny, then each reason should refer to a section of an ordinance which would be violated, or with which not complied)
      - 7. The decision
      - 8. A list of all required improvement if any
      - 9. List of all changes to the elevation/drawing/site plan that was submitted
    - vii. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained, or a statement the vote was unanimous. If not a roll call vote, then simply a

statement: "Motion passed/failed number of votes in majority to number of votes in minority".

- viii. When a voting member enters or leaves a meeting.
- ix. When a voting member or staff member has a conflict of interest and when the voting member ceases and resumes participation in discussion, voting, and deliberations at a meeting.
- x. The attendance and ruling if a quorum exist or not.
- xi. The start and end of each recess.
- xii. Summary of announcements.
- xiii. Summary of informal actions or agreement on consensus.
- xiv. Time of adjournment.

4. Records of any action, support documents, elevations, site plans, photographs, correspondence received, attached as an appendix to the minutes.

B. Retention. Appeals Board records shall be preserved and kept on file according to the following schedule, as adopted by the State of Michigan:

- 1. Minutes, oaths of officials, other records of decisions, Appeals Board or department publications, correspondence: Permanent.
- 2. Bills and/or invoices, receipts, purchase orders: 7 years.

## **8. Appeals Board Staff**

- A. Authorization. The Appeals Board staff may consist of a Community Development Director and such other personnel as may be authorized after the budget for the same is approved by the City Commission.
- B. Advocacy. The Appeals Board staff shall not attempt to represent the views or comments of a member of the public at an Appeals Board meeting. Staff shall indicate a member of the public wishing to make their views known and they should do so directly to the Appeals Board in person, through an agent, or by providing written comment.

## **9. Adoption, Repeal, and Amendments**

- A. Upon adoption of these Bylaws of March 3, 2022, they shall become effective, and all previous Bylaws shall be repealed.
- B. The Appeals Board may suspend any one of these Bylaws, for a duration of not more than one agenda item or meeting.
- C. These Bylaws may be amended at any regular or special meeting by a two-thirds vote of the members present.