

PLEASANTON ZONING ORDINANCE ARTICLE 96: ZONING BOARD OF APPEALS

9601. - ZONING BOARD OF APPEALS:

There is hereby established a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided by Act 184 of Public Acts of 1943, as amended, in such a way that the objectives of this Ordinance shall be enforced, the public health, welfare and safety secured, and substantial justice done.

- **A. NUMBER:**The Zoning Board of Appeals shall consist of three (3) members.

Members of the Zoning Board of Appeals shall be appointed by the Township Board in accordance with Public Act 184 of the Public Acts of 1943, as amended, and shall be governed in accordance therewith. The first member shall be a member of the Pleasanton Township Planning Commission. The remaining members shall be selected from the various intrusts in the Township. One (1) member may be a member of the Pleasanton Township Board; provided however, no elected official of Pleasanton Township shall serve as chairman of the Board of Appeals. An employee or contractor may not serve as a member or an employee of the Board of Appeals.

- **B. TERM:**The term of each member shall be for three (3) years, except that of the members

first appointed, two (2) years and the remaining members for three (3) years. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

- **C. DISQUALIFICATION AND REMOVAL:** A member of the Board of Appeals shall

disqualify him/herself from a vote in which he has a conflict of interest. Members of the Board of Appeals shall be removable by the Pleasanton Township Board for nonperformance of a duty or misconduct in office upon written charges and after a public hearing. Failure of a member to disqualify him/herself from a vote in which he/she has a conflict of interest shall constitute misconduct in office.

9602. - QUORUM AND PROCEDURE:

The Zoning Board of Appeals shall not conduct business unless a majority of the members are present. The Zoning Board of Appeals shall appoint one (1) of its members to be Chairperson, and one (1) to be Secretary, and shall establish rules and regulations to govern its procedures when acting upon appeals.

9603. - DUTIES OF THE ZONING BOARD OF APPEALS:

- A. The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Official Zoning Map. It shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The concurring vote of the majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, Decision or determination of the Zoning Administrator or decide in favor of the applicant any matter upon which it is required to pass under, or to effect any variation in, this Ordinance. Any person

aggrieved, by any officer, department, board or bureau of the township, county or state, may take an appeal.

- B. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule by the filing with the Zoning Administrator of a notice of appeal specifying the grounds therefore. The Zoning Administrator shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken.
- C. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any person may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination made by the Zoning Administrator and, to that end, shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit. Upon the hearing of an appeal from any order, requirement, decision or determination made by the Zoning Administrator, the Zoning Board of Appeals shall limit itself to a review and determination that the Zoning Administrator has correctly applied the relevant standards under this Ordinance, that the Zoning Administrator's order, requirement, decision or determination is based upon competent material and substantial evidence on the whole record and that the Zoning Administrator's order, requirement, decision or determination is consistent with constitutional requirements of due process and equal protection. Provided, however, that nothing contained herein shall be construed as preventing the Zoning Board of Appeals from construing an appeals as a request for a variance from the strict terms of this Ordinance and proceeding in accordance with the succeeding Section.
- D. Anyone with an interest in the property may apply for a Special Use Permit. A Special Use Permit application will be made on a form provided by the Administrator and submitted to the Administrator along with required information and the required fee. The Township Board will establish the fee from time to time. The applicant shall pay any additional costs incurred in processing the application, beyond that covered by the fee, before the permit is issued. No portion of the fee shall be refundable.

9604. - VARIANCES:

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Appeals Board shall have the power in passing upon appeals to vary or modify any of the rules or provisions of this Ordinance so that the spirit of the Ordinance is observed, the public health and safety secured, and substantial justice done. Specifically, the Zoning Board of Appeals shall find and determine:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same land use district.
 - 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same land use district under the terms of this Ordinance.
 - 3. That the special conditions and circumstances are not the result of actions of the applicant.
 - 4. That granting the variance will not alter the essential character of the area.

- B. The nonconforming use of neighboring lands, structures or buildings, in the same land use district, and the permitted use of lands, structures or buildings in other land use districts shall not be considered grounds for the issuance of a variance. Additionally, the Zoning Board of Appeals shall find and determine that the reasons set forth in the application justify the granting of the variance under the standards of this Section and that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- C. The Zoning Board of Appeals may require the applicant for a variance from the provisions of this Ordinance to submit such surveys, plans or other information, in addition to such information already contained in the record, as is necessary for the Zoning Board of Appeals may impose such conditions or limitations in granting a variance, not contrary to law, as it may deem necessary to comply with the spirit, intent and purpose of this Ordinance.

9605. - INTERPRETATION OF ORDINANCE TEXT:

• A. INTERPRETATION:

Interpretation pursuant to the requirements of MCL 125.197a; M.S.A.5.2963 (27a) nothing contained herein shall be construed as prohibiting the Zoning Board of Appeals from interpreting the text of this Ordinance in such a fashion that will allow in a land use district buildings, uses and structures which are sufficiently similar to the specifically delineated permitted in that land use district, under the same permitted use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance test.

• B. STANDARDS:

In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted use, the Zoning Board of Appeals shall consider the relevant policies for the Land Use District in question as set forth in the Land Use and Development Component of the Pleasanton Township Master Plan, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted use in any other Land Use District in the Township.

• C. PRECEDENT:

An earlier determination under this section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District.