

# *Fort Gratiot Charter Township*

## PROCEDURE GUIDE FOR SUBMITTAL TO THE ZONING BOARD OF APPEALS

This is an information guide to aid in the understanding of proper procedures for submittal of an APPEAL TO THE ZONING BOARD. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined by Township Ordinance and laws of the State of Michigan. An appeal may be taken to the Zoning Board of Appeals by any person, firm, or corporation, or by any officer, Department, Board or Bureau affected by a decision of the Zoning Administrator or the Planning Commission. Any person may appear and testify at the hearing either in person or by authorized agent or attorney.

1. The applicant obtains the necessary application for an appeal to the Zoning Board from the Township. The description of appeal must be completed. "Requirements" should list what the specific ordinance requires, i.e. 10' side-yard setback. "Proposed" should state what the applicant is requesting, i.e. 7' side-yard setback.
2. The application must be completed and submitted with the appropriate filing fee, as established by the Township Board, a professional survey of the property involved, a letter of approval from DTE Energy, and seven (7) drawings/renderings/etc. showing the proposed project. Attach only the original application; additional copies of the application are not required. See the attached checklist for the items which must be included on either the application or within the supporting documentation. If it is determined that one or more applicable item(s) are not included, the petitioner will be contacted, and the appeal will not be on the agenda until any deficiencies have been corrected.
3. The application and supporting documentation must be received at least thirty (30) days prior to the regularly scheduled Zoning Board of Appeals meeting if action is to be taken at that meeting. (Board meets the third Tuesday of each month at 7:00 p.m.).
4. Township departments and consultants shall submit written comments to the Zoning Board of Appeals and to the applicant prior to the meeting.
5. The Board shall make no recommendation except in a specific case and after a public hearing is conducted by the Board. It shall by general rule or in specific cases, determine the interested parties who, in the opinion of the Board, may be affected by any matter brought before it, which shall in all cases include all owners of record of property within three hundred (300') feet of the premises in question, such notices to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll, and published in a newspaper of general circulation at least fifteen (15) days prior to the hearing. The Board may require any party applying to the Board for relief to give such notice to other interested parties as it shall prescribe.
6. When an appeal is acted upon by the Zoning Board, two (2) copies of application and plans will be marked by the Chairperson for the following distribution:
  - a. One (1) copy returned to the file (upon final approval file is turned over to the Building Dept);
  - b. One (1) copy returned to the Applicant.
7. Upon approval, the order of the Board shall be valid for a period of one (1) year, unless a building permit is obtained within such period or the applicant files for an extension of the order.
8. Decisions of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the Zoning Ordinance may appeal to Circuit Court. Upon appeal, the Circuit Court shall review the record and decision of the Zoning Board of Appeals to insure the decision:
  - a. Complies with the constitution and laws of the State.
  - b. Is based upon proper procedure.
  - c. Is supported by competent material and substantial evidence on the record.
  - d. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

The Court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. If the Court finds the record of the Zoning Board of Appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the Zoning Board of Appeals, the Court shall order further proceedings before the Zoning Board of Appeals on conditions which the Court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the Court.

### THE FOLLOWING APPEALS MAY BE BROUGHT FOR REVIEW BEFORE THE ZONING BOARD:

**Administrative Review.** To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provision of this Ordinance.

**Variance.** To authorize, upon an appeal, a variance from the strict application of the provisions of this Ordinance whereby reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to or exceptional undue hardship upon the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this Ordinance. In granting a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the Board shall state the grounds upon which it justifies the granting of variance.

The Zoning Board of Appeals does not have the authority to grant "use" variances, except as is specifically provided for by this Ordinance. The authority to designate permitted uses and special approval uses is a legislative function and resides exclusively with the Township Board. The Zoning Board of Appeals may, however, interpret whether a proposed use (not expressly designated in a given district) falls under the definition of a stated permitted use.

Exceptions and other Appeals. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of the Zoning Map or Ordinance, appeals from the decision of the Zoning Administrator and on any provisions of this Ordinance that the Zoning Board of Appeals are required to pass. Also, the Zoning Board of Appeals shall hear and decide on any exceptions subject to such conditions as the Board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this Ordinance, including the following:

- a. Interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of this plan, as shown upon the Zoning Map fixing the use districts, accompanying and made a part of this Ordinance, where street layout as shown on the map aforesaid.
- b. Permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the Planning Commission.
- c. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purposes and intent of such requirements.
- d. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.
- e. Permit temporary buildings and uses for periods not to exceed six (6) months. Extensions may be granted for construction purposes. A cash deposit as designated by the Township Board, by resolution, shall be held for a temporary building with refund upon removal.
- f. Permit, upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed six (6) months with the granting of six (6) month extensions being permissible, uses which do not require the erection of any capital improvement of a structural nature, including mobile homes. A cash deposit as designated by the Township Board, by resolution, shall be held for a temporary use placement with refund upon removal.

The Zoning Board of Appeals, in granting permits for the above temporary uses, shall in no way constitute a change in the basic uses permitted in the district not on the property wherein the temporary use is permitted.

- (1) The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district not on the property wherein the temporary use is permitted.
- (2) The granting of a temporary use shall be granted in writing, stipulating all conditions as to time, nature or development permitted and arrangements for removing the use at the termination of said temporary permit.
- (3) All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the Charter Township of Fort Gratiot shall be made at the discretion of the Zoning Board of Appeals.
- (4) In classifying the uses as not requiring capital improvement, the Zoning Board of Appeals shall determine that they are neither demountable structures related to the permitted use of the land; recreation developments, such as but not limited to: golf-driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.
- (5) The use shall be in harmony with the general character of the district.
- (6) No temporary use permit shall be granted without first giving notice to owner of adjacent properties of the time and place of a public hearing to be held as further provided for in this Ordinance. Further, the Zoning Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.

#### THE FOLLOWING DATA SHALL BE SUBMITTED FOR REVIEW:

Professional survey must include the following, as per Ordinance 212, effective 08/23/15:

1. The actual shape, location, and dimensions of the property, utility lines, rights-of-way, public and private easements, fences, driveways, parking areas, and high risk erosion areas
2. The shape, size, and location of all existing and proposed buildings or other structures to be erected, altered, or moved
3. Setbacks from all property lines, the nearest fire hydrant, planned rights-of-ways, drains, ponds, the outermost point (including overhangs, gutters, chimneys, architectural features) of existing and proposed structures, and structures on adjoining lots
4. Existing and proposed elevations and finished grade
5. If the property is located within a flood zone, either proof of removal from the flood zone or a professionally prepared elevation certificate must be provided
6. The existing and intended use of the property and of all such structures upon it
7. Such other information concerning the property, and adjoining properties, as may be essential for determining whether the provisions of this chapter are being met

Additional required data for proposed construction variance:

1. Location of all existing and proposed streets, roadways, service drives, sidewalks and entrances or exits on site and within 50', including acceleration, deceleration or passing lanes, where appropriate
2. Size and location of utilities to serve the site water, fire hydrant, sewer and storm drainage
3. Elevations (front, side and rear views) of buildings
4. Typical floor plan(s)
5. Types and percentages of facing materials to be used on structures
6. DTE approval letter

Additional required data for sign variance:

1. Type of construction (steel poles, wood frame, brick, entrance sign, etc.)
2. Height of sign from average grade
3. Surface of the sign: material, dimensions and area
4. Method of illumination, if any
5. Permitted and proposed total square footage