

## Section 9.01 Creation and Membership

The Village of Central Lake Village Council has elected to serve as the Village Zoning Board of Appeals (ZBA) in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of Michigan of 2006, as amended. The Village Council as the Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, as amended, and in such a way that the objectives of this Ordinance may be achieved; that there shall be provided a means for competent interpretation and controlling flexibility in the application of this Ordinance; that the health, safety, and welfare of the public be secured.

The Village Council may appoint up to two (2) alternate members for three (3) year terms. An alternate member may be called on a rotating basis, to sit as a regular member of the ZBA in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular voting member of the board of appeals.

## Section 9.02 Organization and Procedures

### Section 9.02.1 Rules or Procedures

The Village Council shall adopt its own rules or procedures as may be necessary to conduct its meeting and carry out its function as a board of appeals. The Board shall choose its own chairperson, and in his/her absence, an acting chairperson.

### Section 9.02.2 Meetings

Meetings shall be held at the call of the chairperson and at such times as the Board of Appeals may determine. All meetings by the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.

### Section 9.02.3 Minutes

Minutes shall be recorded of all proceedings, which shall contain evidence and date relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the Village Clerk and shall be made available to the general public. The Village Clerk shall act as Secretary to the Board of Appeals, and all records of the Board's action shall be taken and recorded under the Clerk's direction.

#### **Section 9.02.4 Notice of Hearings**

Following receipt of a written request concerning an appeal of an administrative decision, a request for an interpretation of the zoning ordinance or a request for a variance, the Zoning Board of Appeals shall hold a public hearing, after giving the following applicable notice:

- A. For an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Village and shall be sent to the person filing the appeal and to the zoning administrator or other administrative agency or official whose decision is being appealed no less than fifteen (15) days before the public hearing.
- B. For a request seeking an interpretation of the zoning ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Village and shall be sent to the person requesting the interpretation no less than fifteen (15) days before the public hearing.
- C. For a variance request, a notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Village and shall be sent to the person requesting the variance no less than fifteen (15) days before the public hearing. In addition, a notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question.

#### **Section 9.02.5 Exercising Powers**

The Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken. The Board of Appeals shall return a decision on a case with all deliberate speed.

#### **Section 9.02.6 Majority Vote**

A majority concurring of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which they are required to pass, or to effect any variation in this Ordinance. A vote of 2/3 of the members shall be necessary to grant a variance for a use not otherwise permitted by the ordinance in a particular district.

#### **Section 9.03 Jurisdiction**

- A. An appeal concerning the administration of the provisions of this Ordinance may be taken to the Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be

filed within thirty (30) days of the decision of the Zoning Administrator from which the appellant seeks relief.

- B. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the Zoning Administrator.
- C. The ZBA may grant variances as provided for in *Section 9.05 Variances*.
- D. The ZBA may also interpret the location of zoning district boundaries and may interpret the provisions of this Ordinance.
- E. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Village . The appellant shall file with the Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal.
- F. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.
- G. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.
- H. The ZBA has no jurisdiction to hear appeals from Planning Commission decisions concerning special approvals.

#### **Section 9.04 Stay**

An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to circuit court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the circuit court. Provided, however, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this Ordinance.

#### **Section 9.05 Variances**

- A. Dimensional Variances: The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:
  - 1) The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties

in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

- 2) The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
- 3) That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
- 4) Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.
- 5) That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

B. Use Variances:

The ZBA may grant use variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in unnecessary hardship. To establish unnecessary hardship, the applicant must establish all of the following:

- 1) The building, structure or land cannot be reasonably used for any of the uses permitted by right or by special approval in the zoning district in which it is located.
- 2) The need for the requested variance is due to unique circumstances peculiar to the applicant's property and not due to general neighborhood conditions.
- 3) The proposed use of applicant's property will not alter the essential character of the neighborhood.
- 4) The need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

**Section 9.06 Miscellaneous:**

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and substantial construction has occurred.