

NORVELL TOWNSHIP

Board of Appeals Rules and Procedures

Purpose

The following rules of procedure are hereby adopted by Norvell Township Board of Appeals (herein known as the Zoning Board of Appeals, or ZBA) to facilitate the performance of its duties as outlined in Norvell Township Zoning Ordinance (Chapter 11).

General Rules

1. Membership: The membership of the ZBA shall comply with the Michigan Zoning Enabling Act section 125.3601.
 - a) The ZBA shall be composed of 5 members, one (1) of which shall be a member of the planning commission.
 - b) The remaining regular members of the ZBA shall be selected from the electors of the local unit of government residing within the zoning jurisdiction. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.
 - c) One of the regular or alternate members of the ZBA may be a member of the legislative body. Such a member shall not serve as chairperson of the ZBA. An employee or contractor of the legislative body may not serve as a member of the board of appeals.
 - d) The ZBA members are appointed by the Township Board.
2. Terms of Service: The terms of service shall comply with the Michigan Zoning Enabling Act section 125.3601.
 - a) The terms of office for an appointed member of the ZBA shall be 3 years, except for a member serving because of his or her membership on the planning commission or legislative body, whose term shall be limited to the time he or she is a member of that body.
 - b) When members are first appointed, appointments may be for less than 3 years to provide for staggered terms.
 - c) A successor shall be appointed not more than 1 month after the term of the preceding member has expired.
 - d) A vacancy on the ZBA shall be filled for the remainder of the unexpired term in the same manner as the original appointment.
3. Voting: The voting shall comply with the Norvell Township Zoning Ordinance Chapter 11.
 - a) A quorum of the ZBA is needed to vote on an item. A quorum is a majority of the total membership of the ZBA (3 members).
 - b) A quorum is required for the transaction of business and the taking of official action for all matters.
 - c) The concurring vote of a majority of the members of the ZBA present at the meeting is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the ZBA is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

- d) A member of the ZBA who is also a member of the planning commission or the Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the zoning commission, the planning commission, or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.
4. Conflict of Interest: Each member of the ZBA shall avoid situations that are conflicts of interest, and/or incompatibility of office.
- a) As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
 - i. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
 - ii. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
 - iii. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
 - iv. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.
 - v. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
 - vi. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is an applicant or agent for an applicant, or has a direct interest in the outcome.
 - b) When a conflict of interest exists, the member of the ZBA, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:
 - i. declare a conflict exists at the next meeting of the ZBA:
 - ii. cease to participate at the ZBA meetings, or in any other manner, or represent one's self before the ZBA, its staff, or others, and
 - iii. during deliberation of the agenda item before the ZBA leave the meeting, or remove one's self from the front table where members of the ZBA sit, until that agenda item is concluded
 - c) If a member of the ZBA is appointed to another office, which is an incompatible office with his or her membership on the ZBA, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the ZBA. If a member of another office is appointed to the ZBA, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the ZBA, that shall result in an automatic resignation from the other office.
5. Attendance: ZBA members should be available to attend scheduled meetings.
- a) If any member of the ZBA is absent from three consecutive scheduled meetings, that member shall be considered delinquent and the Township Board may consider removal of the member.
6. Training: Each member is encouraged to attend training sessions.

Duties of Members

1. Ex Parte contact

- a) Ex parte contact happens when a member the ZBA are contacted by someone outside of the meeting concerning a pending issue, such as approval of a special use permit, planned unit development, site plan, or appeal.
- b) Members shall avoid Ex Parte contact about cases where an administrative decision is before the ZBA whenever possible.
- c) Despite one's best efforts it is sometimes not possible to avoid Ex Parte contact. When that happens, the member should take notes on what was said and report to the ZBA at a public meeting or hearing on what was said, so that every member and other interested parties are made aware of what was said.

1. Site Inspections

- a) Site inspections shall be done by the ZBA members prior to the ZBA meeting on a item.
- b) If one member of the ZBA wishes to accompany another member of the ZBA on a site inspection it is acceptable, but a quorum of the ZBA may not attend a site inspection together.

2. Accepting gifts.

- a) Gifts shall not be accepted by a member of the ZBA or liaisons from anyone connected with an agenda item before the ZBA.
- b) As used here, gifts, shall mean cash, any tangible item, or service, regardless of value; and food valued over \$10.

3. Spokesperson for the ZBA.

- a) Free and open debate should take place on issues before the ZBA. Such debate shall only occur at meetings of the ZBA.
- b) Once a vote is taken and an issue is decided by vote, the duty of each member of the ZBA is to represent the position reflected by the outcome of the vote. Minority reports and requests for reconsideration may take place only at an open meeting of the ZBA.
- c) From time-to-time, or on a specific issue the ZBA may appoint a spokesperson for the ZBA for all matters which occur outside of the meetings of the ZBA.

4. Code of Conduct. Each member, upon appointment, shall sign a code of conduct.

5. Officers.

- a) Selection. At the regular meeting in January of each year, the ZBA shall select from its membership a Chair, Vice-Chair, and Secretary. All officers are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the ZBA shall select a successor to the office of Vice-Chair for the unexpired term
- b) Tenure. The Chair, Vice-Chair and Secretary shall take office following their selection at the January meeting 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, make motions and vote on issues before the ZBA. The Chair shall:
 - i. Prepare an agenda for ZBA meetings pursuant to The Meeting section item 5 of these Rules of Procedure;
 - ii. Preside at all meetings with all powers under parliamentary procedure;

- iii. Sign all decisions of the ZBA pursuant to M.C.L. 125.3606(3);
 - iv. 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; profanity; or other remarks which are not about the topic before the ZBA;
 - v. Appoint committees or let the ZBA appoint committees;
 - vi. Call special meetings if needed;
 - vii. Appoint an Acting-Secretary in the event the Secretary is absent from an ZBA meeting.
 - viii. Act as the ZBA's chief spokesman and lobbyist, or appoint another member of the ZBA, to represent the ZBA at local, regional, and state government levels.
 - ix. Represent the ZBA, or appoint another member of the ZBA or staff to represent the ZBA member, before the Norvell Township Board; and
 - x. Represent the ZBA, or appoint another member of the ZBA or staff to represent the ZBA, before the Planning Commission; and
 - xi. Perform such other duties as may be ordered by the ZBA.
- d) Vice-Chair's Duties. The Vice-Chair shall:
- i. Act in the capacity of Chair, with all the powers and duties found in Section 6.c of these Rules of Procedure, in the Chair's absence; and
 - ii. Perform such other duties as may be ordered by the ZBA.
- e) Secretary's Duties. The Secretary shall:
- i. Be responsible for the minutes of each meeting The Secretary may delegate this duty to staff if available.
 - ii. Review the draft of the minutes, sign them, and submit them for approval by the ZBA and shall have them spread in suitable volumes. Copies of minutes shall be distributed to each member of the ZBA prior to the next meeting of the ZBA.;
 - iii. Keep attendance records pursuant to Section 2.B of these Rules of Procedure.
 - iv. Perform such other duties as may be ordered by the ZBA; and
 - v. The township board or supervisor may hire or delegate on behalf of the ZBA staff to perform any of the duties of the Secretary.

Meetings

1. Regular Meetings. The ZBA shall meet at least once each year during the month of January. Any other meetings of the ZBA will be called as needed in response to receipt of a Demand for Appeal, so long as the meeting date is scheduled within 20 business days of the Demand for Appeal. The meeting can be called by the zoning administrator, the chairman of the ZBA, or, in the Chair's absence, the Vice-Chair.
2. Public. All meetings, hearings, records, and accounts shall be open to the public, and posted in compliance with P. A. 267 of 1976, as amended, (being the Michigan Open Meetings Act). All regular and special meetings, hearings, records, and accounts shall be open to the public. All public comment shall comply with the Norvell Township Public Comment Policy.
3. A meeting to review a Demand for Appeal shall be scheduled to occur within 60 days of the receipt of said Demand of Appeal.
4. When a petitioner fails to appear at a properly scheduled meeting of the ZBA, the Chair may entertain a motion from the ZBA to dismiss the case. However, in the absence of a motion to dismiss the case the ZBA may choose to act on the case even if the petitioner fails to appear at the meeting.

In those cases which are dismissed, the petitioner will be furnished written notice of the action by the Zoning Administrator. The applicant shall have seven (7) days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chair for good cause shown, and upon payment of a fee set from time to time by the governing body. In all cases reinstated in the above-described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.

5. Agenda.

- a. The Chair, or designee, shall prepare an agenda for each meeting and the order of business therein shall be as follows:
 - i. Call to Order
 - ii. Pledge of Allegiance
 - iii. Additions to Agenda
 - iv. Approval of Agenda
 - v. Public Comment/Communications for items without a public hearing
 - vi. Approval of Minutes
 - vii. Other Reports/Presentations (as needed)
 - viii. Public Hearings (as needed)
 - ix. Public Comment
 - x. ZBA Comment
 - xi. Adjournment
- b. Any member of the ZBA may request an item be added to the agenda by submitting a request in writing to the Chair stating the reason for the request along with a memo and supporting materials to be included in the packet for that proposed agenda item no later than seven (7) calendar days prior to the scheduled meeting. The Chair is not required to add that item. If the Chair rejects the requested item, they shall provide a written explanation for the rejection. In the event there is the need for a last-minute addition, or the Chair has rejected a request for the addition of an item, that addition will need to be approved by a majority vote of the Board.
- c. The agenda and board packet materials will be submitted to the Chair or designee no later than 12:00 noon, five (5) calendar days prior to the scheduled meeting. The Chair or designee will be responsible for the posting and distribution of the agenda, and the creating and distribution of the Board packets. In the event there are any last-minute items needed for the packets, the chair or designee will be responsible for distributing them as soon as they are available.

6. Public Hearings. A public hearing should be conducted as follows:

- a. Chair or designee, opens the public hearing
- b. Chair or designee (another member of the ZBA or staff) presents the project.
- c. The petitioner --through himself, his agent, his lawyer-- may present his case,
- d. Public comment on project, incompliance with the Norvell Township Public Comment Policy
- e. Chair of designee, Closes Public Hearing
- f. The ZBA reviews of the facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff

reports, hearing testimony). Discussion continues until a member is confident enough to propose a motion to approve, deny or table the project.

- g. A motion is proposed.
 - h. Discussion on the motion.
 - i. Vote on the motion, in compliance with General Rule item 3
7. ZBA packets will be available no later than five (5) calendar days prior to scheduled ZBA Meetings in either digital or hard copy format. Digital packets will be emailed to ZBA members. Hard copies will be available for pick-up at the Township office. For Special Meetings, Board packets will be available as early as possible prior to the meeting.