

CHARTER TOWNSHIP OF BREITUNG

ARTICLE XI  
ZONING BOARD OF APPEALS

Section 1101 Creation and Membership

***The Zoning Board of Appeals is hereby established in accordance with the Michigan Zoning Enabling Act, PA110 of 2006, as amended.*** The Board shall consist of five members: a member of the Planning Commission; and the remaining members appointed by the Township Board from the electors residing in the Township. The term of office for the member of the Planning Commission shall not exceed his term of office on the Commission. The Township Board may appoint a maximum of two (2) alternates to the Zoning Board of Appeals to serve in the absence or illness of regular members of the Board of Appeals. The term of the alternates shall coincide with the terms of the members appointed from the electors residing in the Township.

Section 1102 Procedures

- (A) The Zoning Board of Appeals may adopt rules and regulations to govern its procedures. The Zoning Board of Appeals shall appoint one of its members as Chairman. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to revise any order, requirements, decision or interpretation of the Zoning Administrator or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance.
- (B) Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as its rules of procedure may specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions, facts and other relevant factors, including the vote of each member upon any question, or if absent or failing to vote indicating such fact, and all of its official actions. All meetings and records shall be open to the public. All minutes shall be filed in the office of the Township Clerk.
- (C) The Zoning Board of Appeals shall fix a reasonable time and date for a hearing. The Board shall give due notice of the hearing by regular mail to the parties of interest and to owners of adjacent property in accordance with the provisions of Section 1002.

Section 1103 Duties and Powers

- (A) The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the ***Michigan Zoning Enabling Act, PA110 of 2006, as amended***, so that the objectives of this Ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done. The Zoning Board of Appeals shall hear and decide only those matters which it is specifically authorized to hear and decide as provided therein; administrative review, interpretation of the Zoning Ordinance, including the zoning map and variances.
- (B) The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have power to act on those matters specifically provided for in this Ordinance.

## CHARTER TOWNSHIP OF BREITUNG

### Section 1104 Administrative Review

- (A) The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decision or determination of the Zoning Administrator, with the exception of Site Plan appeals.
- (B) The Zoning Board of Appeals shall have the power to:
  - 1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance;
  - 2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator;
  - 3. Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in Section 409 or by an analysis of the specific needs.

### Section 1105 Variances

- (A) The Zoning Board of Appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in practical difficulties.
- (B) ***Practical difficulties standard-A variance shall not be granted by the Zoning Board of Appeals unless and until the following conditions are met. A written application for the variance shall be submitted, demonstrating:***
  - 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 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 district under the terms of this Ordinance;***
  - 3. ***That the special conditions and circumstances necessitating the variance did not result from the actions of the applicant; and***
  - 4. ***That granting the variance requested would not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.***
- (C) Any nonconforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.
- (D) The Zoning Board of Appeals shall make findings that the requirements of this Section have been met by the applicant.
- (E) The Zoning Board of Appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (F) The Zoning Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.

## CHARTER TOWNSHIP OF BREITUNG

- (G) In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this Ordinance.
- (H) Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- (I) In exercising the above mentioned powers, the Zoning Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination appealed from and may make such order, requirements, decision, or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal was taken.
- (J) Each variance granted under the provisions of this Ordinance shall become null and void unless the occupancy of land or buildings, or the construction authorized by such variance has commenced within 180 days after the granting of such variance.
- (J) Each variance granted under the provisions of this Ordinance shall become null and void unless the occupancy of land or buildings, or the construction authorized by such variance has commenced within 180 days after the granting of such variance.

### Section 1106 Appeals

- (A) Appeals concerning interpretation of the administration of this Ordinance or denial of Conditional Use Permit by the Planning Commission shall be made by filing a notice of appeal specifying the grounds thereof with the Zoning Administrator within a period of sixty (60) days from the occurrence of the contested action. The Zoning Administrator shall transmit to the Board copies of all papers constituting the record upon which the action appealed was taken from.
- (B) A fee shall be paid to the Township at the time of filing the notice of appeal. The appeal fee shall be established by the Township Board.
- (C) Any party or parties may appear at the hearing in person or by agent or attorney.
- (D) The Zoning Board of Appeals shall decide upon all matters within a reasonable time. The decision of the Board shall be in the form of a resolution containing a full record of its findings and determinations in each case.
- (E) An appeal shall stay all proceedings in furtherance of the action appealed, unless the Zoning Administrator certifies to the Board that a stay would in his opinion, cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order granted by the courts.

### Section 1107 Duties on Matters of Appeal

All questions concerning application of the provisions of this Ordinance shall first be presented to the Zoning Administrator. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Zoning Board of Appeals shall be to the Circuit Court of Dickinson County, as provided by law.