

ARTICLE 11

ADMINISTRATION

Section 11.01 Zoning Administrator

Arbela Township shall appoint a Zoning Administrator to act as its officer for the proper administration and enforcement of this Ordinance. The Zoning Administrator shall be appointed by the Township Board for such term, subject to such conditions, and at such rate of compensation as the Board shall determine.

Section 11.02 Permits

Section 11.02.1 Zoning Permit

- a. No building or structure of any kind that is greater than 120 square feet in area shall be erected, moved, enlarged, substantially altered, or demolished until the owner or occupant has applied for and obtained a Zoning Permit from the Zoning Administrator.
- b. No permit shall be issued to erect, move, enlarge, substantially alter, or demolish a building or structure unless the request is in conformance with the provisions of this Ordinance.
- c. No building or structure shall be used, or be subject to a change in use or occupancy, until the owner has applied for and obtained a Zoning Permit from the Zoning Administrator.
- d. The Zoning Administrator may revoke a Zoning Permit in the case of failure or neglect to comply with any of the provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application for the permit. The owner shall be notified of such revocation in writing.
- e. If construction is not started within one year of the date a permit is issued, the Zoning Permit shall become void and a new permit application must be filed with the Zoning Administrator.

(i) Application for Zoning Permit

In addition to the Zoning Permit application, the Zoning Administrator may require the applicant to submit one copy of a plot plan drawn to scale and showing:

- a. The location, shape, area, and dimensions of the lot involved.
- b. The locations of water and septic systems proposed and existing in the general area.

- c. The size, shape, dimensions, and location of any existing or proposed structures to be situated on the parcel.
- d. The existing and proposed use of the parcel and all structures upon it.
- e. The location and dimensions of any existing and proposed yard, open space, and parking areas.
- f. Proposed setbacks of structures from property lines, roads, lakes, and streams.
- g. Estimated construction costs.
- h. Any other information deemed necessary by the Zoning Administrator for the proper enforcement of this Ordinance.

(ii) Zoning Permit Required to Obtain Building Permit

The Zoning Permit shall be required to secure a required building permit issued by Arbelá Township.

Section 11.02.2 Other Permits and Approvals Required

The following permits or approvals, where required, shall be completed before a Zoning Permit may be issued:

- a. Wastewater disposal system permit, obtained from the County Health Department,
- b. Water well permit, obtained from the County Health Department,
- c. Soil erosion control measures approval, obtained from the County Soil Erosion Control Agency,
- d. Driveway permit, obtained from the County Road Commission, and
- e. Any other permits required by state or local laws.
- f. Health Department Approval Required

Zoning Permits shall not be issued for the construction or establishment of buildings or uses requiring water or wastewater systems unless and until an applicant provides copies of the appropriate well and septic permits issued by the District Health Department.

Section 11.02.3 Fees

The Township Board shall, by resolution, establish a schedule of fees for all permit applications required by this Ordinance. These fees shall be used for the purpose of defraying the cost of administering this Ordinance.

Section 11.02.4 Enforcement

The Zoning Administrator shall enforce the provisions of this Ordinance. Violations of any of the provisions of this Ordinance shall be a nuisance per se. Any action which is thought to be in violation shall be reported to the Zoning Administrator.

a. Inspection of Violation

The Zoning Administrator shall inspect each alleged violation and shall order a correction in writing for all conditions found to be in violation of this Ordinance.

b. Correction Period

All violations shall be corrected within sixty (60) days following the receipt of an order to correct from the Zoning Administrator. However, in those instances where, in the opinion of the Zoning Administrator, a longer time for correction is required, up to six months may be granted. Any correction period that extends beyond the standard sixty (60) day period shall be clearly stated in writing by the Zoning Administrator on the order for correction, along with the reason for the extended correction period.

c. Penalties

For each day that a violation continues beyond the correction period, a separate offense shall be declared. Any person who violates or refuses to comply with any provisions of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Zoning Board of Appeals, Planning Commission or the Township Board issued in pursuance of this Ordinance shall be guilty of a misdemeanor.

Upon conviction thereof before any court having jurisdiction, he or she shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or both, at the discretion of the court.

The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or other appropriate relief as may be provided by law.

Section 11.03 Planning Commission

The Arbela Township Board has properly established a Township Planning Commission in accordance with the Township Planning Act (P.A. 168 of 1959, as amended). Furthermore, the Township Board has previously designated the Planning Commission as the organization to function in the capacity of the Zoning Commission identified in the Township Rural Zoning Act (P.A. 184 of 1943, as amended).

The Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance:

a. Site Plan Approval

The Planning Commission shall review site plans and recommend approval, conditional approval, or denial of same as provided by Article 5, Section 5.05.

b. Special Use Permits

The Planning Commission shall conduct a public hearing on any application for a Special Use Permit. Following a public hearing, the Planning Commission shall review the application and recommend approval, conditional approval, or denial of the application. The Planning Commission shall also initiate any necessary action to revoke a Special Use Permit.

c. Rezoning or Amendment

The Planning Commission shall conduct public hearings on proposals to rezone property or amend the text of this Ordinance as provided by Article 10, Section 10.02. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the Township Board. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing, and Township Board approval.

d. Legal Counsel

The Township Attorney shall act as legal counsel for the Planning Commission and shall be present at meetings as requested by the Commission.

Section 11.04 Zoning Board of Appeals

There is hereby established a Zoning Board of Appeals (ZBA), which shall perform its duties and exercise its powers as provided by the Township Rural Zoning Act (Act 184 of 1943, as amended) in such a way that the objectives of this Ordinance shall be attained, public safety secured, and substantial justice done.

11.04.1 Administration of the Zoning Board of Appeals

a. Continuation of Current ZBA.

Upon adoption of this Ordinance, the Zoning Board of Appeals previously created shall continue to function, and all its members shall remain in office.

b. Membership

The ZBA shall consist of five (5) regular members and two (2) alternate members:

- i. The first member shall be a member of the Township Planning Commission.
- ii. The remaining four (4) members must be selected from electors of the Township residing outside of incorporated cities and villages. One member may be a member of the Township Board, provided that an elected officer cannot serve as chairperson of the ZBA
- iii. The two (2) alternate members shall be selected and appointed in the same manner and for the same term of office as regular members. An alternate member may be called to serve in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the ZBA, or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as 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 shall serve in the case until a final decision is made. An alternate member has the same voting rights as a regular member of the ZBA.
- iv. An employee or contractor of the Township cannot serve as a member or employee of the ZBA.
- v. Members of the ZBA may be removed by the Township Board for non-performance of duty, or for misconduct in office upon written charges and after public hearing by the Township Board.

c. Membership Terms

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

d. Rules of Procedure

The ZBA shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its own chairperson and, in the chairperson's absence, an acting chair.

e. Meetings

The ZBA shall not conduct business unless a majority of its members are present. All meetings shall be open to the public, and shall be held at the call of the chairperson and at such other times as the ZBA may determine. The ZBA may declare any meeting or part of a meeting a workshop to pursue matters of business without comment from the public in attendance.

f. Records

Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. These minutes shall be filed in the office of the Township Clerk, and shall be made available to the public in accordance with Section 9 of the Open Meetings Act (P.A. 267 of 1976, as amended).

g. Legal Counsel

The Township Attorney shall act as legal counsel for the ZBA and shall be present at meetings as requested by the Board.

h. Hearings

The ZBA shall fix a reasonable time and place for the hearing of an appeal. Notice of the hearing shall be given to the parties concerned and placed in a newspaper of general circulation in the Township at least five (5) days prior to the hearing and not more than fifteen (15) days prior to the hearing. The notice shall contain the address, if available, and location of the property which is the subject of the appeal, as well as a brief description of the nature of the appeal.

i. Decisions

The ZBA shall return a decision on a case within ninety (90) days after a request or appeal has been filed, unless a further time is agreed upon by the parties concerned. Any decision of the ZBA shall not become final until the expiration of five (5) working days after the date of the decision, unless the ZBA certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights. No permit authorized by such a decision shall be issued until the decision has taken effect.

j. Majority Vote Required

The concurring vote of a majority of the members of the ZBA 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 the ZBA is required to pass, or to effect any variation in this Ordinance.

Section 11.04.2 Authority of the Zoning Board of Appeals

The Zoning Board of Appeals (ZBA) may grant variances, hear appeals of administrative actions, and make interpretations of this Ordinance as follows:

a. Variance.

The Zoning Board of Appeals is empowered to grant variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this Ordinance that can be expressed in terms of numbers may be brought before the Zoning Board of Appeals to be considered for a variance. The Board of Appeals may grant any variance it deems reasonable, subject to the rules outlined in Section 11.04.3.

b. Appeals of Administrative Actions

The Zoning Board of Appeals is empowered to review and reverse or modify any order, decision or determination made by the Zoning Administrator. The Board is also empowered to review decisions of the Township Board regarding Special Use Permits and Site Plan Review.

i. Request for Appeal.

An Administrative Review by the Zoning Board of Appeals may be requested by any aggrieved person, or by any officer, department, or board of the local government. Any such request must be made in writing not more than ten (10) days after the date of the Zoning Administrator's decision. The request shall be filed with the Zoning Administrator and shall specify the grounds for the review. The Zoning Administrator shall immediately transmit to the Chairperson of the Board of Appeals any papers constituting the record upon which the action being reviewed was taken.

ii. Appeal Stays Proceedings

An appeal shall stay all proceedings in furtherance of the action being reviewed, except as follows. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals, after a request for an appeal has been filed, that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.

iii. Interpretation

The Zoning Board of Appeals may interpret provisions of this Ordinance as outlined below. Each such interpretation shall establish the precedent for future treatment of the issue being addressed. To achieve the objective of consistent enforcement of this Ordinance, whenever an interpretation question arises which has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the Board. The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.

- a. The ZBA may determine the precise location of the boundary lines between zoning districts.
- b. The ZBA may classify any activity that is not specifically mentioned in the District Regulations (Article 6, Section 6.04) for any Zoning District as a Use by Right or Special Use within at least one Zoning District, provided that the classification shall be consistent with the classification of similar uses and with the purpose and intent of each Zoning District.
- c. The ZBA may determine the off-street parking and loading space requirements of any use for which these requirements cannot be readily determined using the information provided in this Ordinance.
- d. The Board may interpret any portion of this Ordinance when the Zoning Administrator is unable to clearly determine its intent or effect.

Section 11.04.3 Rules for Variances

- a. The ZBA may not, under any circumstances, grant a variance that permits the establishment of a land use or activity that is not permitted in the zoning district in which the applicant's property is located.

The ZBA may grant variances when the literal enforcement of the provisions of this Ordinance would result in practical difficulties or cause unnecessary hardships created by the lay of the land, or by the location of buildings and structures existing before the effective date of this Ordinance. These practical difficulties are to be evaluated in terms of the applicant's ability to physically locate a permitted use on the particular parcel of land. They must not have resulted from any act of the applicant or property owner.

- b. Prior to granting a variance, the ZBA must find that the following conditions and circumstances exist:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the surrounding neighborhood or area; (plight is due to circumstances unique to the property.)
2. That the requested variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
3. That the granting of a variance will not be detrimental to the public welfare, nor injurious to the property or improvements in the neighborhood or area in which the property is located.
4. That the granting of such variance will not adversely affect the purposes or objectives of this Ordinance.
5. Need for variance was not self created.
6. Not alter the essential character of the area.

a. Voiding of Variance

Each variance granted under the provisions of this Ordinance shall become null and void unless:

1. The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance and pursued diligently to completion;
2. The occupancy of land, premises, or buildings authorized by the variance has taken place within two (2) years after the granting of the variance.

b. Re-application

No application for a variance which has been denied wholly or in part by the ZBA shall be resubmitted for a period of one (1) year from the date of the last denial. However, if new evidence or changed conditions are found, the ZBA may elect to rehear a case.

Section 11.04.4 Conditions

The ZBA may attach any reasonable conditions to the approval of any request to secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate any permit granted pursuant to the Zoning Board of Appeals action. When it attaches any conditions to the approval of a request, the Board of Appeals may require that a bond of ample sum be furnished to ensure compliance with the conditions imposed.

Section 11.04.5 Filing Fee

Applications for hearings before the ZBA shall be accompanied by a fee as established by the Township Board.

Section 11.04.6 Appeals

A decision of the ZBA may be appealed by the owner to the State Court System, beginning with Circuit Court.