

BROOKS TOWNSHIP ZONING BOARD OF APPEALS



Welcome To
**Brooks
Township**
Newaygo County

WELCOME!

Below is information on the Brooks Township **Zoning Board of Appeals (ZBA)** processes and procedures. If you have any questions that are not answered here, please feel free to contact the Township at the number below. ZBA applications are available at Brooks Township Hall, or you can call us to request that one be sent by mail or fax. Much of our zoning information, including our complete zoning ordinance, is also available on our website, at www.brookstownship.org. The information provided here is only a summary of the ZBA authority, hearing procedures, and requirements. It is the responsibility of each applicant to obtain and review the Zoning Ordinance in order to comply fully with its requirements and procedures.

The ZBA has been created to hear requests for relief from decisions and requirements of the Zoning Ordinance. While the ZBA has the authority to grant such relief, it is the burden of the applicant to prove his/her case. The ZBA is not a legislative body; it does not have the power to rezone or change uses. Any decision of the ZBA must comply with the basic spirit (intent) of the ordinance while maintaining the public health, safety and welfare of the area and the community at large.

ZBA applications must be filed with the Township Clerk within 30 days after the date of the action of the decision being appealed. Meetings are held as needed, within approximately 30 days after a complete application is approved by the Chairman of the ZBA and the fee has been received. At the meeting, the ZBA will hold a hearing, where any member of the public who wishes may speak on the case(s) being heard at that meeting. Many ZBA cases require notification to all neighbors located within 300 feet of the subject property at least 72 hours before the hearing. There are five members of the ZBA. If at the time of the hearing there are only 4 ZBA members present, the possibility of a tie vote exists. If a tie vote should occur, the request is not approved. However, you will be given the option at the beginning of your hearing of either continuing or bringing your case before the ZBA at a future hearing.

The Brooks Township's Zoning Board of Appeals hears three different types of cases:

- **Variance** – Variances are granted when a property cannot meet ordinance requirements, due to circumstances unique to that piece of property. A variance can only be granted if the request meets specific standards (listed and explained on page 2 of the variance application). All variance requests require public notification as described above and public hearings for these cases are held at the meetings. For a variance request, you are required to submit an application, a site plan, and fee. **A variance is permission to set aside the minimum standards of the Zoning Ordinance and should be granted only for reasons of an extreme nature, and under specific conditions stated in the Ordinance (See Article 20, 20.04).**

For all variance requests, you must prove to the ZBA that you meet all the standards. If there is any evidence that you can provide to support your case (survey, building plans, photos, etc.), please submit it in written form along with your application.

The Brooks Township Zoning Board of Appeals has been advised by the Township Attorney and the local judiciary that the granting of a zoning variance should be a rare exception, and that it should be the result of highly abnormal circumstances, such as exceptional topographic conditions, or other extraordinary situations of the land or building. A variance should not, and will not, necessarily be granted on the basis of financial hardship. It also will not necessarily be granted on the basis of precedent of surrounding property owners, nor of decisions made by previous Brooks Township Zoning Board of Appeals.

- **Administrative Appeal** – Any applicant has the right to appeal a decision of the Zoning Administrator or any other administrative official to the ZBA, except that the ZBA does not have the authority to hear appeals from a decision made in respect to any special land use or planned unit development. The ZBA will consider the facts of the case, the basis for the decision, and will decide to either uphold or overturn the decision. Some appeal requests may require public notification and public hearings. For an appeal request, you are required to submit an application as described above, along with a site plan and the appropriate fee. You also need to submit a statement explaining your grounds for appealing the administrative decision. An appeal request puts all other actions on hold until the appeal is decided, unless a hazardous condition must be corrected.
- **Interpretation** – In circumstances where a zoning boundary on the zoning map is unclear or where some provision of the ordinance is unclear, the Zoning Administrator or any applicant may ask the ZBA to interpret the zoning map or ordinance. Generally these cases do not require public notification, but for an interpretation request you are required to submit an application and fee, along with a description of the reasoning behind your request.

All ZBA meetings are held at the Township Hall. When your case is heard, you will be given a chance to speak and present any facts or evidence that you wish the ZBA to consider when deciding your case. It is recommended that you attend the meeting, or have someone represent you if you are unable to make the meeting yourself, so that any questions the ZBA may have can be answered. A majority of the ZBA needs to concur in order to grant any request. A decision will be made on the appeal or application within a reasonable time after the hearing and a record is kept of all decisions. All decisions become final 5 days after the date of entry of an order, unless the order needs to take immediate effect in order to preserve property or personal rights. The decision of the ZBA is final, but may be appealed to the Circuit Court. No request decided by the ZBA can be resubmitted for reconsideration until after a year has passed from the date of the original application, unless conditions have changed or new circumstances exist which change the nature of the original request. The ZBA may impose reasonable conditions on any approval that they grant.

Note: The fee for ZBA cases are set by the Township Board and help cover the Township's costs for the mailings and staff time that each case requires. All fees are nonrefundable, and will not be returned if your case is denied or if you withdraw your request.

PROCEDURES

Step One – Applicant

1. Obtain variance request packet from the Township Clerk.
2. Read all information in the packet thoroughly. The Township's Zoning Administrator is available for assistance upon request and can be contacted at the number below.
3. Complete the Variance Application in full.
4. Provide 6 copies of a detailed site plan drawing (as described below).
5. Mail or deliver the completed application, site plan copies, any supporting evidence or documents, and fee (check or money order only) to the Township Clerk at the address below.

Step Two – Brooks Township ZBA

1. Hearing held approx. 30 days after application is approved (not earlier than 15 days).
2. Send notice of the time, place and purpose of the hearing to all property owners (at last known address on most recent tax list) within 300 feet of the property to be affected, at least 72 hours before hearing.
3. Possible on-site inspection of the property to be affected by ZBA members.
4. ZBA conducts public hearing at published time and place.
5. ZBA must render its decision and notify applicant and Zoning Administrator in writing within a reasonable amount of time after hearing. Decision becomes final 5 days after date of entry of the order.

REQUIREMENTS FOR DETAILED SITE PLAN DRAWING

- Date, north arrow and scale.
- Clearly identify lot location, size and parcel shape & dimensions.
- Distance from water, road or significant landmarks.
- Location and dimensions of primary structure and any accessory structures.
- Distance of all structures (at farthest exterior point) from lot lines and from other structures.
- Location of well and septic system, distance of well and septic from lot lines and structures.
- Immediate adjoining lot/parcel locations and sizes.
- Location of well, septic, structures, roads & driveways of adjoining lots/parcels.
- Drives, sidewalks, curbs, signs, lighting, parking and loading (if applicable).
- Additional plan detail such as additional information the ZBA may deem necessary in order to determine the impact of the proposed use on the public health
- If property is in Lakefront Overlay or River & Tributary Overlay, the ZBA also requests the drawing to show an alternate septic system site to meet Township Ordinance requirements if the present site is less than 100 feet from the water's edge. See Articles 9 & 10 of the Zoning Ordinance.
- Front, rear and side setbacks.
- All properties owned by applicant in the immediate area.
- Building height and total floor areas.
- Other agency reviews, regulations and approvals.
- Soil and groundwater details and surface water drainage.
- Sign size, height and number of signs (if applicable).
- Easements.
- Other uses as provided for in the Ordinance.

ADDITIONAL INFORMATION

1. A public hearing will not be scheduled if applicant has failed to completely and properly fill out the Variance Application, has not submitted a detailed site plan with all the requested information on it, and/or has not included the proper fee.
2. No construction, alterations or improvements to the property affected by the request may occur during the process if such construction, alterations or improvements are in present violation of the Township Zoning Ordinance (i.e., no presumption is to be made by property owners that their request will be granted).

Warning! Property owners who make alterations or improvements, or who begin construction to property affected by the ZBA process prior to the public hearing may be subject to fines and/or be required to tear down or remove said construction, alteration or improvement if in violation of the Township Zoning Ordinance.

Any questions about the Zoning Board of Appeals can be directed to the Zoning Administrator, who can be reached at:

Brooks Township Hall
490 Quarterline Road, P. O. Box 625
Newaygo, MI 49337
Phone: (231) 652-6763, ext. 14
Fax: (231) 652-6721
Email: contact@brookstownship.org

Brooks Township office hours are:
9:00 a.m. to Noon, Monday through Friday