



Zoning Board of Appeals  
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**Zoning Board of Appeals Agenda**  
**January 24, 2024**

- I. Call to Order 6:00 pm**
  - A. Pledge of Allegiance
  - B. Roll Call
  
- II. Consent Items/Communications**  
Approval of agenda - **Action**
  
- III. Public Comment** – agenda items
  
- IV. New Business**
  - A. Officer Elections
  - B. Rules of Procedure
  
- V. Public Comment** – other items
  
- VI. Adjournment**

## **City of Hillsdale Zoning Board of Appeals Rules of Procedure**

### **1. Purpose**

- A. The following rules of procedure are hereby adopted by The City of Hillsdale Zoning Board of Appeals (hereinafter known as Appeals Board) to facilitate the performance of its duties as outlined in The City of Hillsdale Zoning Ordinance.

### **2. Membership**

- A. There is established an Appeals Board which shall perform its duties and exercise its powers as provided in section 5 of Public Act No. 207 of 1921 (MCL 125.585), and in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done. The Appeals Board shall consist of seven members, all appointed by the city council. Each member of the Appeals Board shall hold office for a three-year term. Two members of the Appeals Board shall be appointed, one each from the membership of the City Council and the Planning Commission. The Councilmember so appointed shall not be a member of the Planning Commission. Each member of the Appeals Board shall have been a resident of the city for at least one year prior to the date of his appointment and shall be a qualified and registered elector of the city on such date and throughout his term of office. Appointed members may be removed for cause by the city council only after consideration of written charges and a public hearing. Any appointive vacancies in the zoning Board of Appeals shall be filled by the city council for the remainder of the unexpired term. The Appeals Board shall annually elect its own chair, vice-chair and secretary (The City of Hillsdale ordinance, Division 3, section 36-81).

### **3. Attendance**

- A. If any member of the Appeals Board is absent without notice from three consecutive regularly scheduled meetings without written explanation, then that member may be considered delinquent. Delinquency may be grounds for the Council to remove a member from the Appeals Board for nonperformance of duty, or misconduct. The Appeals Board secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records and shall notify the Council whenever any member of the Appeals Board is absent

from three consecutive regularly scheduled meetings, so the Council can consider further action allowed under law or excuse the absences.

#### **4. Liaisons**

- A. The purpose of liaisons is to provide certain City of Hillsdale officials and quasi-officials the ability to participate in discussion with the Appeals Board in addition to speaking in public participation, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements pursuant to Section 3A of these Rules and Procedures. Liaisons are, if not already an appointed Zoning Board of Appeals member :
- a. Planning Department Staff, and their agents and consultants
  - b. Zoning Administrator
  - c. The Attorney appointed to work with the Appeals Board

#### **5. Training**

- A. Each member shall have attended at least four hours per year of training in planning and zoning during the member's current term of office. As provided in the ordinance creating the Appeals Board, failure to meet the training requirements shall result in the member not being reappointed to the Appeals Board. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, and Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University.

#### **6. Conflict of Interest and Incompatibility of Office**

- A. Conflict of Interest may be defined as a situation in which a person is in a position to derive direct or indirect personal benefit from actions or decisions made in their official capacity. Each member of the Appeals Board shall avoid and refrain from engaging in conflicts of interest. As used herein, a conflict of interest shall include by way of example and not limitation the following:
- a. Unless permitted by a majority vote of the remaining members of the Appeals Board determining that a conflict of interest does not exist, the actions of a member of the Appeals Board in deliberating on, reviewing, participating in, presenting, or commenting on any of the following shall constitute a conflict of interest:

- i. A case concerning or involving him or her.
  - ii. A case concerning land that he or she owns in whole or in part.
  - iii. A case concerning land that is adjacent to land that he or she owns in whole or in part.
  - iv. A case concerning land in or to which he or she has a direct or indirect financial interest or any other relationship from which he or she may stand to have financial gain, loss, or other benefit or detriment.
  - v. A case involving a corporation, company, partnership, or any other business or entity in which he or she is a sole or part owner or has any other relationship from which he or she may stand to have financial gain, loss, or other benefit or detriment.
  - vi. A case involving any issue the resolution of which will or might result in financial gain, loss, or other benefit or detriment to him or her.
  - vii. A case concerning or involving his or her spouse, or members of his or her spouse's family including, but not limited to children, step-children, parents, siblings, grandparents, and non-relative members of his or her household.
- b. When a case involves the possible existence of a conflict of interest, the affected member or any remaining member of the Appeals Board having knowledge of it shall immediately raise the question. Thereupon, the question shall be put to the remaining Appeals Board members as to whether a conflict of interest exists or not. Whether a conflict of interest exists or not shall be determined by a majority of the remaining Appeals Board members.
- c. Upon the discovery or determination of a conflict of interest, all of the following steps shall be taken:
  - i. The existence of the conflict of interest shall be declared on the record by the member declaration of it or the Appeals Board's determination of it, together with the underlying facts pertinent thereto.
  - ii. The affected member shall immediately cease any of his or her participation in the Appeals Board's deliberations, review, and determination of the involved matter.

- iii. During the Appeals Board's hearing and consideration of the matter, the affected member shall either leave the meeting or remove himself or herself from his or her seat at the Appeals Board's table until the involved matter is concluded.
  - iv. If the member does not leave voluntarily, the Chair shall order his/her removal.
- d. If a member of the Appeals Board is appointed to and accepts another office, which is an office that is incompatible with his or her membership on the Appeals Board, then the appointment to and acceptance of the other office shall result in and be deemed to be the member's automatic resignation from the Appeals Board as of its effective date. If a member of another office is appointed to the Appeals Board and accepts the appointment, and the appointment to the Appeals Board is incompatible with his or her membership in the other office, then the member's acceptance of the appointment to the Appeals Board shall be deemed to be his or her resignation from the other office as of its effective date.

## **7. Duties of all members**

### **A. *Ex Parte* contact**

- a. Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the Appeals Board whenever possible.
- b. Despite one's best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the Appeals Board at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

### **B. Site Inspections**

- a. Site inspections shall be done by the Zoning Administrator or other staff. A written report of the site inspection shall be orally presented to the Appeals Board at a public meeting or hearing on the site.
- b. If desired, no more than one member of the Appeals Board may accompany the Zoning Administrator or staff on a site inspection.

### **C. Not Voting On the Same Issue Twice**

- a. Any member of the Appeals Board shall avoid situations where they are sitting in judgement and voting on a decision which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:
  - i. When the appeal is of an administrative or other decision by Planning Commission, and the member of the Appeals Board sits both on the Planning Commission and Appeals Board.
  - ii. When the appeal is of an administrative or other decision by the Legislative Body, and the member of the Appeals Board sits both on the Legislative Body and Appeals Board.
  - iii. When the appeal is of an administrative or other decision by any committee of the Planning Commission, Legislative Body, or other committee, and the member of the Appeals Board sits both on that committee and Appeals Board.

#### D. Accepting gifts

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

#### E. Spokesperson for the Appeals Board

- a. Free and open debate should take place on issues before the Appeals Board. Such debate shall only occur at meetings of the Appeals Board.
- b. Once a vote is taken and an issue is decided by vote, the duty of each member of the Appeals Board 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 Appeals Board.
- c. From time-to-time, or on a specific issue the Appeals Board may appoint a spokesperson for the Appeals Board for all matters which occur outside of the meetings of the Appeals Board.

### 8. Officers

- A. Selection. At the regular meeting in January of each year, the Appeals Board shall select from its membership a Chair, Vice-Chair, Secretary, and Recording 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. In the event the office of the Secretary becomes vacant, the Deputy Secretary shall succeed to this office for the unexpired term. The Appeals Board or Secretary may also designate another person who is not a member of the Appeals Board to be the recording secretary.
- B. Tenure. The Chair, Vice-Chair, and Secretary shall take office upon election following their selection 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 Appeals Board. The Chair shall:
- a. Preside at all meeting with all powers under parliamentary procedure;
  - b. Shall sign all decisions of the Appeals Board pursuant to M.C.L. 125.3606(3);
  - c. Shall 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 Appeals Board;
  - d. Restate all motions as pursuant to Section 8.E of these Rules of Procedure;
  - e. Appoint committees;
  - f. Appoint officers of committees or choose to let the committee select their own officers.
  - g. May call special meetings pursuant to Section 5.B of these Rules of Procedure;
  - h. Appoint an Acting-Secretary in the event the Secretary is absent from an Appeals Board meeting.
  - i. Review with the Secretary or staff, prior to an Appeals Board meeting, the items to be on the agenda if he or she so chooses;
  - j. Act as the Appeals Board's chief spokesman and lobbyist to represent the Appeals Board at local, regional, and state government levels.
  - k. Represent the Appeals Board, along with the City of Hillsdale Appeals Board member, before the City of Hillsdale; and

- l. Represent the Appeals Board, along with the Planning Commission member, before the Planning Commission; and
  - m. Perform such other duties as may be ordered by the Appeals Board.
- D. Vice-Chair's Duties. The Vice-Chair shall:
- a. Act in the capacity of Chair, with all the powers and duties found in section 8.C of these Rules of Procedure, in the Chair's absence; and
  - b. Perform such other duties as may be ordered by the Appeals Board.
- E. Secretary's Duties. The Secretary shall:
- a. Execute documents in the name of the Appeals Board;
  - b. Be responsible for the minutes of each meeting pursuant to section 9.A of these Rules of Procedure if there is not a recording secretary.
  - c. Review the draft of the minutes, sign them, and submit them for approval by the Appeals Board and shall have them spread in suitable volumes. Copies of minutes shall be distributed to each member of the Appeals Board prior to the next meeting of the Appeals Board (the Secretary may delegate this duty to Appeals Board staff);
  - d. Receive all communications, petitions and reports to be addressed by the Appeals Board, delivered or mailed to the Secretary in care of the Planning Department Office;
  - e. Keep attendance records pursuant to section 3.A of these Rules of Procedure;
  - f. Provide notice to the public and members of the Appeals Board for all regular and special meetings, pursuant to the Open Meetings Act, P.A. 267 of 1976, as amended, M.C.L. 15.261 *et seq.* (the Secretary may delegate this duty to Appeals Board staff); and
  - g. Perform such other duties as may be ordered by the Appeals Board.
- F. Recording Secretary's Duties. The Recording Secretary shall not be a member of the Appeals Board or any of its committees, and shall:
- a. At each meeting take notes for minutes and prepare a first draft of minutes pursuant to section 9 of these Rules of Procedure for review and signature by the Secretary; and
  - b. Perform such other duties as may be ordered by the Appeals Board or secretary.



## 9. Appeals

- A. An appeal may be taken to the Board of Appeals by any person, firm or corporation, or any officer, department, board or bureau affected by a decision of the Zoning Administrator. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals, by general rule, by filing with the Zoning Administrator and with the Board of Appeals notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
- a. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property; in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator, and on due course shown.
  - b. The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
  - c. A fee as currently established or as hereafter adopted by resolution of the City Council from time to time shall be paid to the Secretary of the Board of Appeals at the time that notice of appeal is filed, which the Secretary shall forthwith pay over to the City Treasurer to the credit of the general fund of the city.
- B. In hearing and deciding appeals, the Board of Appeals shall have the authority to grant such variance therefrom as may be in harmony with their general purpose and intent so that the function of this chapter is observed, public safety and welfare secured, and substantial justice done, including the following:
- a. Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made a part of the ordinance codified in this chapter, where

street layout actually on the ground varies from the street layout as shown on the map;

- b. Permit the reaction and use of a building or use of premises in any use district for the public utility purposes;
  - c. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements;
  - d. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification;
  - e. Permit temporary buildings and uses for periods not to exceed two years in undeveloped sections of the city and for periods not to exceed six months in developed sections.
- C. Where, owing to special conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties or cause unnecessary hardships, within the meaning of this chapter, the Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this chapter with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this chapter and so that public safety and welfare is secured and substantial justice done. No such variance or modification of the provisions of this chapter shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:
- D. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone;
- a. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity;
  - b. That the granting of such variance or modification will not be materially detrimental to the public welfare, or materially injurious to the property or improvements in such zone or district in which the property is located;

- c. That the granting of such variance will not adversely affect the purposes or objectives of the future land use plan of the city.
- E. In consideration of all appeals and all proposed variations to this chapter, the Board of Appeals shall, before making any variations from this chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city. The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirements, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision, except that a concurring vote of five members of the Board of Appeals is necessary to grant a variance for uses of land permitted in this chapter.

#### **10. Meetings.**

- A. Regular meetings. The Appeals Board shall meet at least once each year. Any other meetings of the Appeals Board will be called as needed in response to receipt of a Demand for Appeal. The meeting can be called by the zoning administrator, the chairman of the Appeals Board, or, in the Chair's absence, the Vice-Chair.
- B. Other meetings. Meetings shall be called by delivering meeting notice by first class mail or by personal delivery to members of the Appeals Board at least seven days prior to such meeting (so that members receive the notice prior to the weekend prior to the meeting date). The notice shall state the purpose, time, location of the meeting.
- C. 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.
  - a. All public comment on all agenda items should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, sometimes the Appeals Board may direct questions to members of the public. Public comment is

at the beginning of the meeting so the Appeals Board can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting, any written material shall be made available without cost for members of the public asking for a copy prior to the meeting.

- b. The Chair may limit the amount of time allowed for each person wishing to make public comment at an Appeals Board meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the Appeals Board meeting without time limit or an extended time limit.

#### D. Recess

- a. The Chair, or the Appeals Board, after the meeting has been in session for two hours (not including site inspections), shall suspend the Appeals Board's business and evaluate the remaining items on its agenda. The Appeals Board shall then decide to finish that meeting's agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year, and location the Appeals Board will reconvene. If more than 18 hours will pass before the reconvened Commission, public notice shall be given to comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding at the same point where they left off, without the addition of additional business.
- E. Quorum. Half the total membership of the Appeals Board, rounded up to the next whole number, shall be the quorum for the transaction of business and the taking of official action for all matters.
  - F. When a petitioner fails to appear at a properly scheduled meeting of the Appeals Board, the Chair may entertain a motion from the Appeals board to dismiss the case for want of

prosecution. In the absence of a motion by the Appeals Board, the chair shall rule. In cases which are dismissed for want of prosecution, the petitioner will be furnished written notice of the action by the Secretary. 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 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.

G. Order of Business, Agenda, The Secretary, or designee, shall prepare an agenda for each meeting and the order of business therein shall be as follows:

- a. Call to order, roll call, and Pledge of Allegiance
- b. Election of officers, if necessary
- c. Public Hearings. The Chairman will declare a hearing open and state its purpose.
  - i. The Chairman shall summarize, provide copies, or conspicuously post the procedure for public hearing as outlined in section 10.C, or 10.G of these Rules of Procedure for any members of the public in attendance, or provide copies.
  - ii. Case number
    1. The Zoning Administrator presents the petitioner's request, his action on the matter and reasons for his decisions plus a written copy of the petitioner's request.
    2. The Petitioner - through himself, his agent, his lawyer – may present his case, including presenting witnesses on his behalf. No time limit will be imposed on the petitioner.
    3. Members of the Appeals Board shall report on their site inspection and any conversations with the petitioner they may have had.
    4. Members of the public who support the petitioner speak and correspondence is read. At the chairman's option he may:

- a. Recess the meeting for a short time to allow those in support to caucus in order to have one speak on their behalf for an unlimited period of time if there are a large number of people present on an issue or for a set duration of time.
  - b. Allow many to speak in favor of the petitioner and can impose a time limit for the speaker that is three minutes or more per speaker.
5. Members of the public who oppose the petitioner speak and correspondence is read. At the chairman's option he may:
  - a. Recess the meeting for a short time to allow those in opposition to caucus in order to have one speak on their behalf for an unlimited period of time if there are a large number of people present on an issue.
  - b. Allow many to speak in opposition of the petitioner and can impose a time limit for the speaker that is three minutes or more per speaker.
6. Rebuttal. Anyone may ask the Chairman questions on presentations or speeches given at this hearing. The Chairman will seek an answer to the question. Answers shall be given to the Chairman. No discussion, questioning or answering shall take place between any two or more people except between the Chairman and the individual who has the floor.
7. Close the hearing. (At this point all public participation on the issue ends)
- d. Public Comment for items on this agenda but which are not items subject to a hearing at this meeting
- e. Recess to another night as provided in section 10.H in these Rules and Procedure (optional)
- f. Housekeeping Business
  - i. Approval of minutes from previous meeting
  - ii. Other

g. Business Session

i. Action on pending case number

1. Discussion : Review of the facts based on all information presented. Discussion continues until a member is confident enough to propose a motion that includes a “finding of fact” and/or “conclusions”, and “rationale explaining why conclusions are reached” and “conditions” if any.
2. Motion is proposed on “finding of fact”
3. Discussing on the motion
4. Action on the motion
5. Discussion focusing on standards and requirements of the ordinance
6. Motion is proposed on “rationale, conclusions, conditions”
7. Discussion on the motion
8. Action on the motion

ii. Other business of the Appeals Board

h. Public comment for items not on this Agenda or subject to a hearing at this meeting

i. Adjournment

H. Placement of items on the Agenda

- a. The Zoning administrator shall be the office of record for the Appeals Board
- b. The Zoning administrator may receive items on behalf of the Appeals Board between the time of adjournment of the previous Appeals Board meeting and eight business days prior to the next regularly scheduled Appeals Board meeting
- c. Items received by the Zoning administrator between several business days prior to the next regularly scheduled Appeals Board meeting shall be set aside to be received by the Appeals Board at its next regularly scheduled Appeals Board meeting. The Appeals Board may act on those items of a minor nature or table action to the subsequent regular or special Appeals Board meeting. Those items of a major nature including all variances, ordinance, and map interpretations, items

normally receiving staff review, analysis, or recommendation shall be tabled until the subsequent regular or special Appeals Board meeting

- d. The deadline to add items to the Appeals Board's meeting agenda shall be seven business days prior to the next regularly scheduled Appeals Board meeting.
- I. Comments Out of Order. The chair shall rule out of order any irrelevant remarks; remarks which are personal, about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or any other remarks which are not about land use.
- J. Recesses. The Chair, or the Appeals Board, after the meeting had been in session for two hours, shall suspend the Appeals Board's business and evaluate the remaining items on its agenda. The Appeals Board shall then decide to finish that meeting's agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year and location the appeals board will reconvene. If more than 18 hours will pass before the reconvened appeals board meeting, public notice shall be given to comply with P.A. 267 of 1976m as amended, (being the Michigan Open Meeting Act M.C.L. 15.281 *et seq.*). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The appeals board shall resume with the same meeting agenda, proceeding at the same point where they left off, without the addition of additional business.
- K. Parliamentary Procedure. Appeals Board meetings shall then be governed by *Roberts Rules of Order Newly Revised*, (11<sup>th</sup> Edition, Perseus Publishing, New York, 2000) for issues not specifically covered by these Rules. Where these Rules of Procedure conflict, or are different than *Robert's Rules of Order*, then these Rules of Procedure control.
- L. Motions.
  - a. Motions shall be restated by the Chair before a vote is taken.
  - b. Findings of Fact. All actions taken in an administrative capacity (including but not limited to appeals, special use permits, subdivisions, zoning, site plan review, planned unit developments, variances, and determination of compliance with an adopted plan) shall include each of the following parts.



- i. A findings of fact, listing what the Appeals Board determines to be relevant facts (including parcel owner, parcel legal description, what is applied for) in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
- ii. Conclusions, listing reasons based on the facts for the Appeals Board's action.
- iii. The Appeals Board's action, recommendation or position, approval, approval with conditions, or disapproval.

c. Any other motion shall be stated in prose or in the form of a resolution.

M. Voting. Voting shall be by roll call vote, and shall be recorded by "yes" or "no".

Members must be present to cast a vote. A motion is only adopted if over half the total membership of the Appeals Board (regardless of the number actually present at the meeting) casts their votes in favor of the motion.

## **11. Records**

A. Preparation. The Appeals Board Secretary shall keep, or cause to be kept, a record of Appeals Board meetings, which, shall at a minimum include an indication of the following:

- a. A copy of the meeting posting as required in Section 9.D, 9.E, 9.F, 9.G of these Rules of Procedure.
- b. A signed statement indicating that notices, as required in Section 9.D, 9.E, 9.F, 9.G of these Rules of Procedure, were sent out, with a list of to whom, and an indication of by whom, and a copy of a newspaper notice, if one was published.
- c. A copy of the Demand for Appeal, including any maps, drawing, site plans, etc.
- d. The original of the minutes of the meeting (including the hearing and possible site inspection) which shall include, in chronological sequence of occurrence:
  - i. Time and place the meeting was called to order
  - ii. Attendance
  - iii. Indication of others present (listing names if others choose to sign in and/or a count of those present)
  - iv. Summary or text of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting and who gave

the report and in what capacity. An alternative is to attach a copy of the report if offered in writing.

- v. Summary of all points made in public participation or at a hearing by the applicant, officials, and guests and an indication of who made the comments. An alternative is to attach a copy of the public's statement, petition, or letter, if it is provided in written form.
- vi. Full text of all motions introduced, whether seconded or not, who made the motion, and who seconded the motion. For each motion, the following should be included:
  - 1. Who testified and a summary of what was said,
  - 2. A statement of what is being approved (e.g. special use permit, variance, conditional use permit, subdivision, land division, etc.)
  - 3. The location of the property involved (tax parcel number and description, legal description is best)
  - 4. What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes).
  - 5. What evidence was considered (summary of discussion by members at the meeting)
  - 6. The administrative body's findings of fact.
  - 7. Reasons for the decision made (if the action is to deny, then each reason should refer to a section of an ordinance which would be violated or with which not complied)
  - 8. The decision (e.g. approve, deny, approve with modification).
  - 9. A list of all required improvements (and if they are to be built up-front or name the type of performance security to be used), if any.
  - 10. List of all changes to the map/drawing/site plan that was submitted. (Sometimes it is easier to use a black flair felt pen and draw the changes on the map of what was applied for, rather than listing the changes. Do not use different colors. The map will most

likely be photo copied. Then colors on the copy will not show at all or will just be black)

11. Make the map/drawing/site plan part of the motion (e.g. "... attached to the original copy of these minutes as appendix 'A', and made a part of these minutes...").
- vii. A summary of all points made by members and staff in debate or discussion on the motion or issue.
  - viii. Who called the question
    1. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "the motion passed/failed after a voice vote."
    2. That a person making a motion withdrew it from consideration.
    3. All the Chair's rulings.
    4. All challenges, discussion, and vote/outcome on a Chair's ruling.
    5. All parliamentary inquiries or points of order,
    6. When a voting member enters or leaves a meeting.
    7. When a voting member or staff has a conflict of interest and when the voting member ceases or resumes participating in discussion, voting, and deliberations at a meeting.
    8. All calls for an attendance count, the attendance, and the ruling if a quorum exists or not.
    9. The start and end of each recess.
    10. All chair's rulings of discussion being out of order.
    11. Full text of any resolutions offered.
    12. Summary of announcements.
    13. Summary of informal actions, or agreement on consensus.
    14. Time of adjournment.
  - ix. The records of any action on the case by the zoning administrator.
  - x. The records of all past records regarding the property involved in a case (previous permit, special use permit, variances, and appeals).

- xii. Copies of any correspondence received or sent out in regard to a case.
- xiii. A copy of relevant sections, or a list of citations of sections of the zoning ordinance.
- xiv. A copy of any follow-up correspondence to or from the petitioner regarding the decision.

B. Retention. The record of each meeting shall be permanently kept on file and spread in suitable volumes, with a copy filed with the Clerk of the City of Hillsdale. All the pertinent documents and minutes for each case before the Board of Appeals shall be copied and filed with the Zoning Administrator's Office. Copies of the minutes shall be distributed to each member of the Appeals Board. Copies of the minutes shall be available to the public within seven days of the meeting.

## **12. Other Duties**

A. The Appeals Board may also formulate and provide advice and may advise policy to the Planning Commission, City of Hillsdale, or any committee thereof, on issues dealing with administration, text, map and enforcement of the zoning ordinance.

## **13. Adoption, Repeal, Amendments**

- A. Upon adoption of these Rules of Procedure on **[INSERT DATE]**, they shall become effective and all previous rules of procedure, as amended, shall be repealed.
- B. These Rules of Procedure may be amended at any regular or special meeting by a two-thirds (2/3) vote of the total members of the Appeals Board, so long as such amendment does not result in a conflict with state law, zoning ordinance or court decision.