

ARTICLE 10

ZONING BOARD OF APPEALS

SECTION 1001 JURISDICTION

- A. The City of Laingsburg Zoning Board of Appeals (“Board of Appeals”) shall hear and decide questions that arise in the administration of this Ordinance. These questions generally fall into the following categories:
1. Interpretation of zoning district boundaries and provisions of this Ordinance.
 2. Hear and decide appeals from and review an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance.
 3. Authorize specific variances from the provisions of this Ordinance.
 4. For purposes of consideration under this Ordinance, review a petitioned or described use that is not specifically listed as a permitted use or as a use by special land use in one or more zoning districts. Such review shall take into account other uses permitted by-right and special land use in the underlying district and the purpose and intent of the available zoning districts.
 5. Hear and decide matters upon which it is required to pass under other provisions of this Ordinance.

SECTION 1002 INTERPRETATION

- A. The Board of Appeals shall have the authority to interpret the precise location of zoning district boundaries and any provision of this Ordinance upon request by the Planning Commission, City Council or person having vested interest in property affected by such district boundary or provision of this Ordinance.
1. Interpretation of the precise location of zoning district boundaries shall be in accordance with the provisions and direction outlined in Section 503 herein.
 2. Interpret provisions of this Ordinance when it is alleged that certain provisions of this Ordinance are not clear or could have more than one meaning.
 - a. In deciding upon such request the Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the provision in question is contained, and all other relevant provisions of this Ordinance.

- b. The Board of Appeals shall also review the requested interpretation and decisions made by other public bodies and officials in the administration of this Ordinance where the subject provision would have had effect.
- B. A request for interpretation shall be noticed pursuant to Section 306, herein. Please note that interpretations specifically related to a particular property will require public notice of owners and occupants of property pursuant to Section 306.C.

SECTION 1003 APPEALS

- A. The Board of Appeals shall hear and decide appeals from and review an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance unless otherwise noted herein.
 - 1. A notice of appeal shall be filed within thirty (30) days of occurrence of the action being appealed by the appellant with the Zoning Administrator. Such petition shall state the reasons for the appeal and the order or ruling appealed from and, where applicable, the legal description of the property involved shall be stated in the notice of appeal.
 - 2. Before such an appeal shall be processed, the fees shall be paid as established by the City Council. Fees shall be in the amount sufficient to cover reasonable costs incurred pursuant to the processing of any appeal, including but not limited to the costs of advertisements, investigations, professional review and any per diem amount established for members of the Board of Appeals.
 - 3. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the petition of appeal shall have been filed with the Zoning Administrator, that by reason of facts stated in the appeal petition, a stay would, in opinion of the Zoning Administrator, cause imminent peril to life and property.
 - 4. After an appeal has been scheduled for hearing, the Zoning Administrator shall cause notice of said hearing to be served personally or by first class mail addressed to the applicant at the address on the application at least five (5) days prior to the date of the hearing. Such notices shall state the time, place, and object of the hearing. The Zoning Administrator shall submit with the appeal all related information held in their record concerning the appeal.
 - 5. The Board of Appeals shall review and make final determination on properly filed appeals from action by the Planning Commission on Site Plan reviews. The Board of Appeals has the power to sustain, reverse or remand for further consideration the decision of the Planning Commission when it is found that

the decision is inconsistent with the provisions of this Ordinance or that there was an error of fact involved in the decision of the Planning Commission. In making this determination, the Board of Appeals shall examine the application and all accompanying data as well as the records of the Planning Commission.

6. The Board of Appeals shall not have jurisdiction to review the action of the Planning Commission and City Council in the approval or denial of special land uses or Planned Unit Developments.
- C. An appeal pursuant to this section shall be noticed pursuant to Section 306, herein. Please note that appeals specifically related to a particular property will require public notice of owners and occupants of property pursuant to Section 306.C.

SECTION 1004 VARIANCES

- A. The Board of Appeals may authorize specific variances from requirements of the Ordinance, with the exception of a use variance, provided that the basic conditions listed herein are substantially and satisfactorily satisfied.
1. Practical difficulties or unnecessary hardships prevent carrying out the strict letter of this Ordinance. These practical difficulties or unnecessary hardships shall not be deemed economic as related to the particular individual petitioning for such variance, but shall be evaluated in terms of the use of a particular parcel of land because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved.
 2. Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner or those having interest from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
 3. The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
 4. The circumstances causing the need for variance do not result from actions by the applicant.
 5. The request for variance shall be assessed for the possible precedents or affects that might result from the approval or denial of the appeal.
 6. The variance is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

7. The request for variance shall be consistent with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, use and enjoyment of property in the neighborhood or district.
 8. The request for variance will relate only to property owned by the applicant or where the applicant has legitimate and legal interest.
- B. An appeal pursuant to this section shall be noticed pursuant to Section 306, herein.
- C. The variance, if approved, shall not permit the establishment, within a district, of any use which is not permitted by right within that zoning district, or any use for which a Special Land Use is required.
- D. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, shall be deemed a violation of this Ordinance and shall automatically invalidate the permit.
- E. 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 commenced within six (6) months of granting of the variance.
 2. The occupancy of land, premises, or buildings has taken place within one (1) year after the granting of the variance.
- F. No application for a variance which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions or falsehood previously relied upon found upon inspection by the Board to be valid.

SECTION 1005 USES NOT LISTED IN DISTRICT

- A. A petitioned use of land, building, or structure not specifically listed under the provisions of any of the zoning districts described in the Ordinance as a permitted or special land use shall be considered by the Board of Appeals.
1. The Board of Appeals shall assess the characteristics of the petitioned use for its nature, class, similarity and compatibility to other uses listed in the district where the petitioned use is proposed.
 2. The Board of Appeals shall also assess if the petitioned use causes no greater negative impact than the other uses listed in the district where the petitioned use is proposed.

3. If the petitioned use is found not to have these characteristics as set forth above, the petitioner may then petition the Planning Commission to amend the text of the Ordinance pursuant to the necessary provisions and requirements of this Ordinance.

**SECTION 1006 OTHER RESPONSIBILITIES OF THE BOARD OF
APPEALS**

- A. The Board of Appeals shall hear and decide matters upon which it is required to pass under other provisions of this Ordinance.

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