

ARTICLE 18

SITE SPECIFIC RELIEF

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SECTION 18.01 INTENT

10 It is the intent of this Section to provide a site specific administrative remedy to allow reasonable use of property in those limited situations in which a property owner demonstrates to the Township Board certain factors contained in Section 18.02 below. If and when a property owner meets the threshold burden of proof, it is not intended that any use may be approved. Rather, this Section is intended to authorize relief to the minimum extent necessary to allow reasonable use of property on the particular site, taking into consideration the objective of achieving compatibility with surrounding land uses and the Master Plan, and high-quality development.

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SECTION 18.02 APPLICATION REQUIREMENTS

20 In addition to the general application requirements, an application for site specific relief shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support the following factors:

- 25 A. Applicant's property cannot be reasonably used for the purposes permitted in the zoning district.
- B. Applicant's problem in developing consistent with the zoning district and the Master Plan is due to unique circumstances peculiar to his or her property and not to general neighborhood conditions.
- 30 C. Applicant's suggested use would not alter the essential character of the area or the planned development for the area.
- D. Consideration of the origin or history that has allegedly created the problem in developing the property in a manner consistent with the zoning district and the Master Plan.
- 35 E. Factors that would encourage the use, reuse and improvement of an existing site or unique building in a manner that would preserve a significant character of the site or unique building in a compatible manner with surrounding uses.

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45 At the end of each statement (A through E) identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

SECTION 18.03 PRE-HEARING CONFERENCE

- A. Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference.
- B. The purposes of the pre-hearing conference shall be to:
 - 1. Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
 - 2. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
 - 3. Explore a means of providing relief to the applicant by way of non-use variance from the Zoning Board of Appeals.
 - 4. Discuss the need, desirability, and the terms of providing a verbatim record of the hearing.
- C. The Zoning Administrator shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant’s representative.
- D. The pre-hearing conference will be scheduled and conducted so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

SECTION 18.04 REVIEW AND RECOMMENDATION BY PLANNING COMMISSION; HEARING PROCEDURE

- A. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must submit evidence of the existence of the five factors set forth in paragraphs A through E of Section 18.02 above. Prior to submission to the Township Board for action, the application shall be referred to the Planning Commission for report and recommendation. In reviewing the application, the Planning Commission shall consider the five factors set forth in paragraphs A through E of Section 18.02 above. Following review and recommendation by the Planning Commission, the Township Board shall weigh and balance the five factors to be considered to grant site specific relief, and make a determination, in its discretion, if the applicant has submitted sufficient information to weigh in favor of granting the relief.
- B. **Manner of Presentation.**

1. Township representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue. Factors that would encourage the use, reuse and improvement of an existing site or unique building in a manner that would preserve a significant character of the site or unique building in a compatible manner with surrounding uses will also be taken into consideration.
2. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavit, however, the Township Supervisor may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the Township Board may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the Township Board to ask questions of such witnesses.
3. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
4. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentations shall be to ensure that a full picture, including all relevant information, is before the Township Board for consideration as it relates to the specific application presented.
5. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal presentation.
6. At the hearing, the Township Board may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the Township Board.

7. If a hearing is not completed at a given meeting within the time period allowed by the Township Board, the Township Board shall adjourn the hearing to a date certain for continuation.

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SECTION 18.05 DECISION OF THE TOWNSHIP BOARD

- A. The Township Board may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
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- B. At the conclusion of the hearing, the Township Board may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
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- C. If the Township Board determines to grant site specific relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law.
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- D. If the Township Board adopts a motion to grant site specific relief, such motion may be made as a tentative grant of relief, subject to review by the Planning Commission, planning director/consultant, engineer or other person or recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Township Board, in the same motion, should request the completion of all reviews by other boards, commissions or persons by a specific date, so that relief may be expeditiously finalized.
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- E. If the Township Board adopts a motion to grant site specific relief under this Section, the relief granted shall be in the form of a development plan and use, subject to all specifications, terms and conditions included on the plan and in the decision.
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- F. **Effect of Approval.**
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 1. Approval of site specific relief under this Section shall apply only to the specific plan and use granted, shall be subject to all specifications, terms and conditions included on the plan and in the decision granting the approval. An approval under this section shall not be final until such time as a Development Agreement, in a form acceptable to the Township Attorney, shall be signed by the applicant. The Development Agreement shall be recorded with the Oakland County Register of Deeds, at the cost of the applicant.
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 2. An approval under this section shall be effective for a period of one (1) year, and shall thereafter be void unless actual structural improvements have been commenced on the property pursuant to building permit.
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3. If the Township Board approves an application, the Planning Department shall place a notation on the zoning map providing notice that site specific relief has been approved on the property.

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