



# AGENDA

## REGULAR MEETING OF THE BOARD OF ZONING APPEALS

Thursday, August 06, 2026

6:30 PM

Village Hall – 21 East Church Street, Lake Orion, MI 48362

(248) 693-8391 ext. 102

Each person wishing to address the BZA shall be afforded an opportunity to do so. Anyone that would like to make a public comment must first sign the "Sign In" sheet located near the main entrance door. If you wish to comment, please stand or raise a hand to indicate that you wish to speak. When recognized, give your name and address and direct your comments to the Chair. Members of the public shall be allowed a maximum of three (3) minutes for each person wishing to make a public comment.

1. **Call to Order**
2. **Roll Call and Determination of Quorum**
3. **Approval of Agenda**
4. **First Hearing of the Public for Non-Agenda Items Only (3 minute limit)**
5. **Approval of Minutes**
  - A. Approval of July 2, 2026, BZA Regular Meeting Minutes
6. **BZA Preface**
7. **Public Hearing**
8. **Action Items**
  - A. Training Session for BZA Members
9. **Unfinished Business**
10. **Second Hearing of the Public for Non-Agenda Items Only (3 minute limit)**
11. **Board Member Comments**
12. **Next Regular Meeting - September 3, 2026**

### **13. Adjournment**

*In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact the Village, at least three (3) business days in advance of the meeting, if requesting accommodations. The Village of Lake Orion will provide foreign language or hearing impaired interpretation services for those individuals who contact the village to request such services at least seven (7) days prior to the meeting.*

*En el espíritu de la observancia de la Ley de Estadounidenses con Discapacidades, las personas con discapacidad debe sentirse libre para ponerse en contacto con el pueblo, por lo menos tres (3) días hábiles de antelación a la fecha de la reunión, si se solicitan alojamiento. El municipio de Lake Orion proporcionará idioma extranjero o personas con problemas de audición servicios de interpretación para las personas que se ponen en contacto con el pueblo de solicitar dichos servicios con no menos de siete (7) días antes de la reunión.*



## BOARD ACTION SUMMARY SHEET

**MEETING DATE:** August 6, 2026

**TOPIC** Approval of July 2, 2026, BZA Regular Meeting Minutes

**RECOMMENDED MOTION:** To approve the July 2, 2026, Board of Zoning Appeals Regular Meeting Minutes, as presented.



# MINUTES

## REGULAR MEETING OF THE BOARD OF ZONING APPEALS

Thursday, July 2, 2026

6:30 PM

Village Hall – 21 East Church Street, Lake Orion, MI 48362

(248) 693-8391 ext. 102

**1. Call to Order**

The Thursday, July 2, 2026 Regular Meeting of the Lake Orion Board of Zoning Appeals was called to order by Chairperson Mathisen at 6:30 p.m.

**2. Roll Call and Determination of Quorum**

**PRESENT**

Chairperson Brad Mathisen  
Vice Chairperson Raymond Putz  
Secretary Brenton Bailo  
Board Member Henry Lorant

**ABSENT**

Board Member Mary Chayka-Crawford

**STAFF PRESENT**

Village Planning and Zoning Coordinator Jake VanBoxel  
Recording Secretary Danielle Smith

**3. Approval of Agenda**

Board Member Lorant moved, Board Member Mathisen seconded, to approve the July 2, 2026 regular meeting agenda of the Board of Zoning Appeals, as presented.

**AYES:** Mathisen, Putz, Bailo, Lorant

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

**4. First Hearing of the Public**

Timo Nicholaou, 8 S. North Shore Dr., expressed concerns regarding renovations that are being done at 358 W. Flint St. Mr. Nicholaou stated that the property is being converted from a single-family home to a multi-unit property and asked the Board if they were aware and to confirm whether that was the case. The Board stated that they would have either the Village Planner or clerk get back to him.

**5. Approval of Minutes**

**A. Approval of BZA Minutes – May 7, 2026**

Board Member Bailo moved, Board Member Lorant seconded, to approve the May 7, 2026 regular meeting minutes of the Board of Zoning Appeals, as presented.

**AYES:** Mathisen, Putz, Bailo, Lorant

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

**6. BZA Preface**

Chairperson Mathisen reviewed the meeting procedures.

**7. New Business**

**A. Public Hearing: A-26-003 (214 S. Broadway, Suite 300) Dimensional Variance Request**

Board Member Lorant moved, Board Member Bailo seconded, to open the public hearing for A-26-003 214 S. Broadway, Suite 300 at 6:35 p.m.

**AYES:** Mathisen, Putz, Bailo, Lorant

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

There being no public comment, Board Member Lorant moved, Board Member Bailo seconded, to close the public hearing for A-26-003 214 S. Broadway, Suite 300 at 6:35 p.m.

**AYES:** Mathisen, Lorant, Putz, Bailo

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

**B. A-26-003 (214 S. Broadway, Suite 300) Dimensional Variance Request**

The applicant is proposing to construct a sign on a multi-tenant commercial building and is requesting the following one (1) variance from the Sign Ordinance:

155.06 DISTRICT REGULATIONS. (D) CC and MU Districts: non-residential uses  
*Permanent wall sign: multi-tenant building (units with shared public entrance)*

|                 |           |                   |
|-----------------|-----------|-------------------|
| Wall Sign Size: | Required: | 12’0” ft. maximum |
|                 | Existing: | -                 |
|                 | Proposed: | 23’0” sq. ft.     |
|                 | Variance: | 11’0” sq. ft.     |

Planner VanBoxel presented the request, reviewed the findings of fact and was available to answer any questions of the Board.

FINDINGS OF FACT

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
  - The current regulations do not unreasonably prevent the owner from using the property for a permitted purpose. The proposed variance for increased signage would promote visibility to the business, though compliance with the standards would not create an unnecessary burden.
2. The variance will provide substantial justice to the applicant as well as neighboring property owners.
  - The variance would provide justice to the applicant by improving visibility to patrons and new customers of their business.
3. The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
  - The requested variance is not the minimum necessary to provide relief or would be consistent with justice to other tenants in the building.
4. The need for a variance(s) is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
  - The variance requested is due to some unique circumstances to the property since there is no public entrance on the south side of the building. Additionally, granting the variance may set a precedence.
5. The problem and resulting need for the variance has been created by strict compliance with the zoning ordinance, and not by the applicant or applicant’s predecessors; it is not self-created.
  - The need for the variance is not self-created by the applicant, however strict compliance with the ordinance is possible without the granting of the variance.

6. Granting the variance will not impair the public health, safety, comfort or welfare of the inhabitants of Lake Orion.
  - Granting the variance would not impair public health, safety, comfort or welfare of the inhabitants of the Village of Lake Orion.

Board Member Lorant stated that a letter was sent by the Village to neighboring property owners after the sign was already up. Planner VanBoxel explained that was because the sign was erected without any approval or permit.

Discussion was had amongst the Board Members regarding whether to fine the applicant for installing the sign without proper approvals, table the request or approve or deny the variance request. Planner VanBoxel recommended either the Board approve or deny the variance request based on the information presented and the findings of fact. He further shared that the Board has no authority to fine an applicant and postponing the request until the applicant could be in attendance may set a precedence.

#### **MOTION**

Board Member Mathisen moved, Board Member Bailo seconded, to deny Case A-26-003 requested dimensional variance sign with the findings of fact as listed in the McKenna letter and that this decision of denial does not set a precedence for any other case.

**AYES:** Mathisen, Lorant, Putz, Bailo

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

#### **C. Public Hearing: A-26-004 (96 Park Island Road) Dimensional Variance Request**

Board Member Lorant moved, Board Member Mathisen seconded, to open the public hearing for A-26-004 96 Park Island Road at 6:53 p.m.

**AYES:** Mathisen, Lorant, Putz, Bailo

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

Drew Ciora, 112 Park Island, spoke in favor of the variance request.

Brian and Nancy Bondarenko, 80 Park Island Drive, wrote a letter in favor of the variance request.

Christopher and Jamie Hoekstra, 104 Park Island Drive, wrote a letter in favor of the variance request.

Jeff Stelmach, 90 Park Island Drive, wrote a letter in favor of the variance request.

There being no further public comment, Board Member Bailo moved, Board Member Mathisen seconded, to close the public hearing for 96 Park Island Road at 6:54 p.m.

**AYES:** Mathisen, Lorant, Putz, Bailo

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

**D. A-26-004 (96 Park Island Road) Dimensional Variance Request**

The applicant is proposing to construct an addition to the existing single-family dwelling and is requesting the following three (3) variances from the Zoning Ordinance:

ARTICLE 12, SCHEDULE OF REGULATIONS, SECTION 12.02 TABLE – SUBSECTION (g) - RM ZONING DISTRICT

|                |                      |                   |
|----------------|----------------------|-------------------|
| Front Setback: | Required:            | 25.0 ft. minimum  |
|                | Existing (building): | 21’-7” ft.        |
|                | Proposed:            | 3’-6” ft.         |
|                | <b>Variance:</b>     | <b>21’6” ft.</b>  |
| Side Setback:  | Required:            | 10.0 ft. minimum  |
|                | Existing (building): | 12’-8” ft.        |
|                | Proposed:            | 5’-0” ft.         |
|                | <b>Variance:</b>     | <b>5’-0” ft.</b>  |
| Rear Setback:  | Required:            | 25.0 ft. Minimum  |
|                | Existing (building): | 0’-0” ft.         |
|                | Proposed:            | 0’-0” ft.         |
|                | <b>Variance:</b>     | <b>25’-0” ft.</b> |

Planner VanBoxel gave a synopsis of the request, reviewed the findings of fact and was available to answer any questions of the Board.

**FINDINGS OF FACT**

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
  - The applicant has provided a graphic demonstrating that most of the properties along the western side of Park Island Drive encroach the front yard setback or, in some cases, even the ROW. Section 12.04.M details the procedures on how the Zoning Administrator can determine an Established Front Setback Line by calculating the average of front setbacks of adjacent principal buildings. While this is one way of determining what is an appropriate setback based on historical build patterns, the Board of Zoning Appeals may use a similar



approach in determining whether the proposed location of the garage within the front setback is inconsistent with the surrounding properties located along the street.

The applicant is proposing a 5-foot side yard setback. The subject property is currently zoned for multi-family residential despite most of the properties appearing to be single family residential homes. Additionally, the Village's Future Land Use Map within the Master Plan indicates that all of the properties along the western side of Park Island Drive planned to be zoned as a Lake Single Family Residential. This would allow the proposed structure to exist at a 5-foot side yard setback without a variance.

Regarding the rear (waterfront) setback, the applicant is requesting to improve what has historically been on the property. If the property were to be rezoned (as supported by the Master Plan's Future Land Use Map), the applicant would be able to construct a larger accessory structure (boathouse) without the same restrictions that are placed on multi-family zoning districts. A boathouse would be the only structure permitted that is not subject to waterfront yard setback requirements, per Section 13.11.D.3.f. The applicant has confirmed that the accessory structure will not be a boathouse (which would be required to meet a 25-foot setback requirement from the water lot line). The Board of Zoning Appeals should consider all information and public feedback from the meeting to determine whether strict compliance to setback regulations should be considered unnecessarily burdensome for the property owner and unreasonably prevent the property owner from using the property for a permitted purpose.

2. The variance will provide substantial justice to the applicant as well as neighboring property owners.
  - Based on what has been the building pattern located along the western side of Park Island Drive and the Master Plan's Future Land Use Map, both the front and side yard setbacks could be viewed as appropriate and provide substantial justice to the property owner. It is (the planner's) understanding that the neighboring properties that abut the subject parcel intend to be in attendance during the July 2 BZA meeting and have expressed no concern with the proposed location of an accessory structure that would encroach on the rear/waterfront setback.
3. The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
  - It's unclear whether the front yard setback is the minimum needed, however, based on the property's nonconformance, any ability to construct a garage on the property would require a front yard setback variance.

The side yard variance request is not the minimum necessary as the applicant could request for the property to be rezoned. Rezoning the property is supported by the Master Plan and would eliminate the need for the variance request.

4. The need for a variance(s) is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
  - Currently, the majority of the properties located on the western side of Park Island Drive are nonconforming and/or have been granted a variance to exist with the current front yard setbacks. Additionally, there is not a single property along this stretch of Park Island Drive that conforms to the side yard setbacks, meaning they are either legally nonconforming or were granted a variance due to the historic placements and build patterns.

The rear setback variance is unique in nature because the variance would not be necessary if the property was zoned RL-Lake Single Family Residential, and the structure proposed was a boat house. Because the applicant proposed an accessory structure rather than a boathouse, the request does not qualify for the reduced setback provisions applicable to boathouses. The Board should determine whether the unique circumstances of the property justify a variance.

5. The problem and resulting need for the variance has been created by strict compliance with the zoning ordinance, and not by the applicant or applicant's predecessors; it is not self-created.
  - Considering that every dwelling structure on the street is nonconforming to current side yard setback standards, and most dwelling structures are nonconforming to the front yard setback standards, the need for the variance has not been self-created. Additionally, (the planner) believes that these properties are not zoned appropriately and would recommend these properties be considered for rezoning based on the planned classification of the Master Plan's Future Land Use plan.
6. Granting the variance will not impair the public health, safety, comfort or welfare of the inhabitants of Lake Orion.
  - (The planner) does not expect the granting of any of the proposed variance(s) to impact and/or impair public health, safety, comfort or welfare for the residents of Lake Orion.

Peter Stuhlreyer, architect, DesignHaus, 3300 Auburn Rd., Ste. 300, Auburn Hills, MI 48326, presented the request on behalf of the applicant and was available to answer any questions of the Board.

The Board asked for clarification regarding the proposed conforming structure and whether it was going to be used as a boathouse. Mr. Stuhlreyer explained that the foundation is a solid concrete slab and that it would not be used as a boathouse as the structure is not over water.

## **MOTION**

Board Member Bailo moved, Board Member Mathisen seconded, to accept the front yard setback from the existing 21'-7" ft. to the proposed 3'-6" ft., Case number A-26-004 96 Park Island Road 09-11-252-005 with the findings of fact according to McKenna Associates.

**AYES:** Bailo, Putz, Lorant, Mathisen

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

Mr. Stuhlreyer said he would rescind the side and rear yard setback variance requests so the property owners could potentially move forward with a rezoning request.

**E. Public Hearing: A-26-005 (301 Park Avenue) Dimensional Variance Request**

Board Member Mathisen moved, Board Member Bailo seconded, to open the public hearing at 7:29 p.m.

**AYES:** Mathisen, Lorant, Putz, Bailo

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

Jason Verbrugghe, 305 Park Ave., spoke in opposition to the variance request and wrote a letter that was included in the board members' packets.

Christie Schiller, 305 Park Ave., spoke in opposition to the variance request.

Scott Gall, 559 Central Dr., wrote a letter in opposition to the variance request.

Paul Tracey, applicant, 301 Park Ave., spoke in favor of the variance request.

Board Member Lorant moved, Board Member Bailo seconded, to close the public hearing at 7:49 p.m.

**AYES:** Mathisen, Lorant, Putz, Bailo

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

**F. A-26-005 (301 Park Avenue) Dimensional Variance Request**

The applicant is proposing to construct an addition to the existing single-family dwelling and is requesting the following one (1) variance from the Zoning Ordinance:

**ARTICLE 17, SECTION 17.04 - NONCONFORMING STRUCTURES**

**B.2. Permitted Extension**

*A nonconforming structure may be extended if such extension does not increase the extent of the nonconformity. A nonconformity shall be considered increased if any of the following conditions exist: b) The vertical (height) dimension of a bearing wall is increased at a nonconforming setback, even if the same horizontal nonconformity is maintained.*

Planner VanBoxel gave a synopsis of the request, reviewed the findings of fact and was available to answer any questions of the Board.

#### FINDINGS OF FACT

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
  - The applicant is proposing only to build upward and will not expand or increase the nonconformity in any other way. The increase in livable floor area brings the subject structure further into compliance with the Village Zoning Ordinance requirements.
2. The variance will provide substantial justice to the applicant as well as neighboring property owners.
  - Whether granting the variance would provide substantial justice to both the applicant and neighboring property owners is a discretionary determination to be made by the Zoning Board of Appeals based on the evidence presented and the applicable variance standards. Approval of the request would allow the applicant to expand the existing dwelling vertically while maintaining the existing building footprint and would not increase the degree of the existing side setback encroachments.

Correspondence from the adjacent property owner at 305 Park Avenue has been included in the meeting packet for the Board's consideration. The correspondence raises concerns regarding trespassing, aerial encroachment, privacy, potential property damage, erosion, stormwater drainage, and fire safety. Several of these matters, including compliance with building and fire codes, stormwater management and soil erosion control, are addressed through separate permitting and regulatory processes rather than through the variance review.

(The planner) notes that both the applicant's property (301 Park Avenue) and the adjacent property (305 Park Avenue) contain dwellings that encroach into the required side setbacks. Based on the available records, these encroachments result from the age and placement of the structures, which predate the Village's current zoning regulations.

The Board should consider the evidence presented and determine whether the requested variance would provide substantial justice to the applicant while avoiding unreasonable impacts on neighboring properties.

3. The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
  - The applicant is requesting the minimum variance needed to proceed and is proposing only to build vertically (and within the 30-foot height requirement of the zoning district). There

will be no changes made to the footprint of the structure so nonconformity of the structure will not be expanded. Many properties within the Village are located on non-conforming lots due to the nature of being a waterfront community. If this property were located on a larger parcel, there would be no issue with the height at which the applicant is proposing. (The planner) recommend(s) the Board of Zoning Appeals and Planning Commission review this section of the ordinance for consideration of amendment.

4. The need for a variance(s) is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
  - Based on available property records and the original plat, (the planner) has determined that the need for the requested variance is not the result of a division of the property, as indicated in the applicant's statement. Rather, the existing dwelling predates the adoption of the current zoning regulations and associated setback requirements. The structure is therefore legally nonconforming with respect to the applicable setbacks.

The Board must determine whether the need for the variance arises from unique circumstances peculiar to the property, rather than conditions generally applicable to other properties within the zoning district. In making this determination, the Board may consider the age and existing placement of the dwelling, the property's dimensions and configuration, and any other site-specific characteristics relevant to the requested variance.

5. The problem and resulting need for the variance has been created by strict compliance with the zoning ordinance, and not by the applicant or applicant's predecessors; it is not self-created.
  - Based on the available information, the need for the requested variance appears to result from the location of the existing dwelling, which predates the current zoning regulations and setback requirements, rather than from an action taken by the current property owner or the applicant's predecessors. The proposed addition would be constructed vertically within the existing building footprint and would not further increase the existing setback encroachment.
6. Granting the variance will not impair the public health, safety, comfort or welfare of the inhabitants of Lake Orion.
  - Because the proposed addition would be constructed within the existing building footprint, the request would not increase the degree of the existing setback encroachments. Based on the information submitted, (the planner) has not identified evidence that granting the requested variance would impair the public health, safety, comfort or welfare of the inhabitants of Lake Orion.

Board Member Putz asked for clarification on why a variance would be needed. Planner VanBoxel explained that a variance is required because the property in question is a non-conforming structure and the applicant would like to expand vertically.

Eduarda Crain, 589 Central Dr., expressed concerns regarding the future of Lake Orion if variances are no longer required.

Paul Tracey, applicant, 301 Park Avenue, Lake Orion, MI 48362, presented the request and was available to answer any questions of the Board.

The Board discussed the challenges of having several non-conforming lots in one area with no air rights.

Board Member Mathisen stated that if the variance reasonably meets the zoning ordinance, everything else will come out during the permitting and plan review processes.

Board Member Lorant said this was a difficult case but is in favor of the variance request as the structure is only expanding vertically.

#### **MOTION**

Board Member Mathisen moved, Board Member Lorant seconded, to approve the dimensional variances for the increased height in Case A-26-005 with the first set of recommendations as stated in the McKenna letter on page 73.

**AYES:** Putz, Mathisen, Lorant

**NAYS:** Bailo

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

#### **G. Election of Officers**

Board Member Mathisen moved, Board Member Lorant seconded, to elect Brad Mathisen as Chairperson, Raymond Putz as Vice Chairperson and Brenton Bailo as Secretary of the Village of Lake Orion Board of Zoning Appeals.

**AYES:** Mathisen, Lorant, Putz, Bailo

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

#### **8. Unfinished Business**

None.

#### **9. Second Hearing of the Public**

None.

#### **10. Board Member Comments**

Board Member Bailo asked if training would be provided to the BZA in the near future. Planner VanBoxel asked for specifics regarding training topics. Additionally, Board Member Bailo asked

Planner VanBoxel to follow up with the resident concern mentioned in public comment regarding 358 W. Flint.

Board Member Lorant congratulated the BZA chair, vice chair and secretary for being reelected.

Planner VanBoxel shared that the Planning Commission will be reviewing potential changes to the zoning ordinance regarding standby generators.

Board Member Mathisen asked Planner VanBoxel to email the June Planning and Zoning report to all the board members.

**11. Next Regular Meeting – August 6, 2026**

**12. Adjournment**

Board Member Bailo moved, Board Member Lorant seconded, to adjourn the meeting at 8:25 p.m.

**AYES:** Mathisen, Putz, Bailo, Lorant

**NAYS:** None

**ABSENT:** Chayka-Crawford

**MOTION:** Carried

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Dr. Brenton Bailo  
Secretary

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Sonja Stout  
Village Clerk/Treasurer

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Danielle Smith  
Recording Secretary

Date Approved: August 6, 2026



## BOARD ACTION SUMMARY SHEET

**MEETING DATE:** August 6, 2026

**TOPIC:** Training Session for BZA Members

### BACKGROUND BRIEF:

McKenna Planners will be hosting a training session for the members of the Board of Zoning Appeals during the regularly scheduled meeting.

The discussion will be centered on planning and zoning essentials and the roles, responsibilities, and rules of procedures for a quasi-judicial board.

### RECOMMENDED MOTION(s):

**No motion.** Discussion of training materials.





# Board of Zoning Appeals Basic Training Session

Village of Lake Orion, Oakland County, Michigan

August 6, 2026

MCKENNA



“Good planning helps create communities that offer better choices for where and how people live. Planning helps communities to envision their future. It helps them find the right balance of new development and essential services, environmental protection, and innovative change.”

– American Planning Association

MCKENNA

# Agenda

- Planning & Zoning Essentials
- Zoning Board of Appeals
  - ✓ Role
  - ✓ Responsibilities
  - ✓ Tools
- Managing Risk
- Question and Answer







# Planning & Zoning Essentials

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# Authority

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# Authority and Responsibility

- **Michigan Planning Enabling Act (MPEA)** *enables* establishment of a planning commission.
- The **Michigan Zoning Enabling Act (MZEA)** *enables* the development and administration of a zoning ordinance.
  - ✓ Article 6 establishes the Zoning Board of Appeals



# Michigan Planning Enabling Act

(P.A. 110 of 2006)

- **Master Plans**

- ✓ Community Data
- ✓ Policies and Objectives
- ✓ Future Land Use Map
- ✓ Zoning Plan

Section 8, Item A.



# Michigan Zoning Enabling Act

(P.A. 110 of 2006)

- **Zoning Ordinances**

- ✓ Uses, structures, densities, and other development
- ✓ Amendments
- ✓ Variances
- ✓ Appeals
- ✓ Special Land Uses
- ✓ Zoning Map
- ✓ Planned Unit Developments

- **Case Law = Additional Guidance/Clarification**





# Roles & Responsibilities

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# The Planning & Zoning Team

- Village Council
- Planning Commission
- Board of Zoning Appeals
- Village Manager/Zoning Administrator
- Staff Professionals (Plan Reviewers)
  - ✓ Village Planner (McKenna)
  - ✓ Village Engineer (Nowak & Fraus)
  - ✓ Fire Department (Orion Twp)
- Planning & Zoning Coordinator (McKenna)
- Building Inspector (Orion Twp)
- Code Enforcement Officer

# Roles and Responsibilities

## Planning Commission

*(Appointed)*

- ✓ Master Plan
- ✓ Capital Improvement Plan
- ✓ ZO Recommendation
- ✓ Zoning Reviews
- ✓ Subdivision
- ✓ Site Plan Review
- ✓ Annual Report

## Village Council

*(Elected)*

- ✓ Master Plan (optional)
- ✓ Capital Improvement Plan
- ✓ ZO Adoption
- ✓ Zoning Reviews
- ✓ Appointments
- ✓ Budgets
- ✓ Sets fees

## Board of Zoning Appeals

*(Appointed)*

- ✓ Variances
- ✓ Appeals
- ✓ Interpretations
- ✓ Other Duties

# Village Council

- Legislative Body
- Adopts Zoning Ordinance
- Adopts amendments to Zoning Ordinance text and Zoning Map
- May approve or deny Site Plan & Special Land Use applications
- Set permit and application fees
- Appoint Planning Commission and BZA members
- Approve proposed PUD and cluster housing upon PC recommendation
- If applicable, adopts Master Plan
- Adopts Capital Improvement Plan (CIP)

# The Planning Commission

- 5, 7, 9, or 11 members appointed by Legislative Body
- Develop Zoning Ordinance and Zoning Map and make recommendations to Village Council
- Reviews Capital Improvement Plan (CIP)
- Hold public hearings on Special Land Uses, Zoning Ordinance amendments
- Makes recommendations to Village Council for Site Plan and Special Land Uses
- Review matters referred by the Legislative Body
- Prepare Annual Report
- Recommends Adoption of Master Plan

# The Board of Zoning Appeals

- Members appointed by the Legislative Body (number specified in ZO – in Lake Orion 5)
  - ✓ Not fewer than 5 if pop. > 5,000 with up to 2 alternates
  - ✓ Legislative body may act as ZBA
- Hear and decide appeals of administrative decisions
  - ✓ May not review special land use and PUD appeals unless provided for in ZO.
- Authorize variances (dimensional and use)
- Grant expansions/extension for non-conforming uses; reconstruction of buildings damaged by fire etc. (*Article 17*)

# The Zoning Administrator

- Administer and Enforce Zoning Ordinance
- Consult with applicants before application
- Issue Zoning Compliance permits and sign permits
- Write reports to Village Council, Planning Commission, and BZA
- Conduct site inspections
- Coordinate projects with Planning & Zoning Coordinator



# Your Tools: Master Plan & Zoning Ordinance

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# Master Plan

- **Powerful expression of the Village's intentions for the future**
- Basis for zoning and other land use regulation
- Identifies existing conditions & trends
- Sets goals with public input
- Considers alternatives
- Balance community rights and landowner rights
- Provides recommendations for future development, including Future Land Use Map
- Must review at least every 5 years

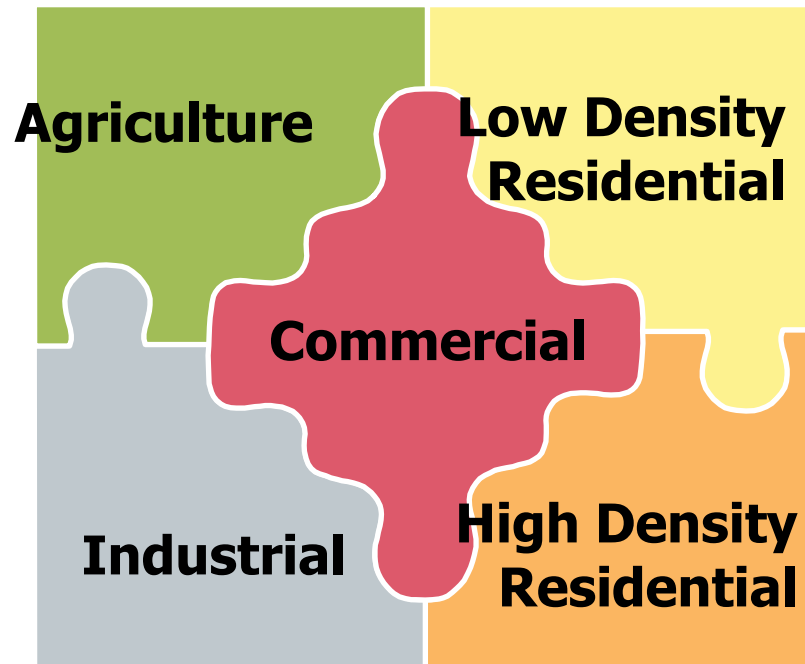
# Zoning Ordinance

- **Protects public health, safety, and welfare**
- Ensures orderly development and growth
- Divides the municipality into zones
- Provides for administration and enforcement
- Includes regulations for:
  - ✓ Buildings, structures, uses
  - ✓ Area, setbacks, lot coverage, bulk, density
  - ✓ Design
  - ✓ Parking, landscaping, etc.

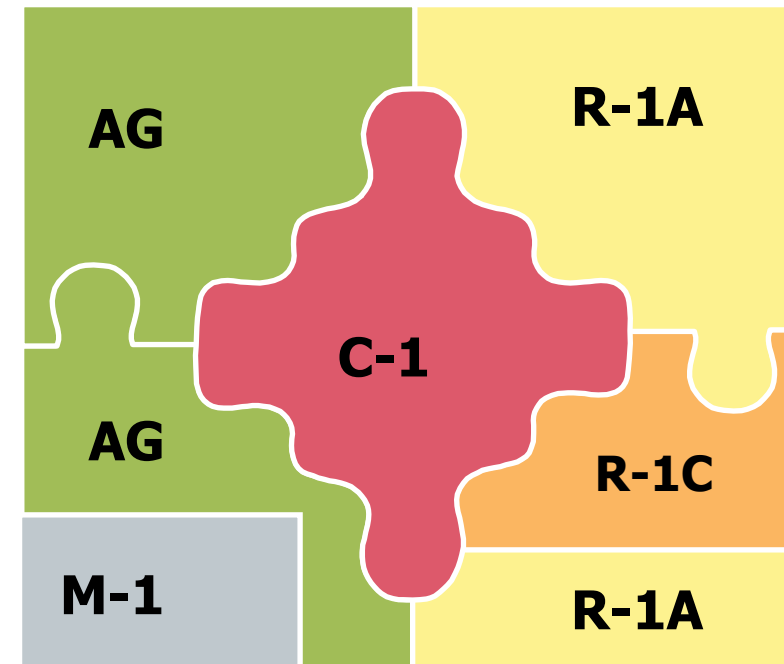
# Relationship of MP & ZO

| Master Plan                                                | vs | Zoning Ordinance                                                              |
|------------------------------------------------------------|----|-------------------------------------------------------------------------------|
| Guide for the <b>FUTURE</b>                                | -  | Regulation for <b>TODAY</b>                                                   |
| Policy                                                     | -  | Law                                                                           |
| Future land use maps may be general                        | -  | Zoning maps are specific and follow property lines                            |
| Flexible to respond to changing conditions                 | -  | Specific standards                                                            |
| Adopted/Amended by Planning Commission and Village Council | -  | Adopted by the Village Council upon recommendation by the Planning Commission |

# Relationship of MP & ZO (Cont'd)



**Master Plan**  
Future Land Use Districts



**Zoning Ordinance**  
Zoning Districts



# Planning Commission Actions

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# Planning Commission Actions within ZO

- Site Plan Reviews
- Special Land Use Permits
- Text Amendments and Map Amendments (Rezoning)
- Planned Unit Developments



# Nonconformities

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# Nonconformities

*“Nonconformities are uses, structures, buildings or lots that do not conform to one or more requirements of this Ordinance or a subsequent amendment, but were lawfully established prior to the time of adoption of the Ordinance or amendment”.*

For Lake Orion: Zoning Ordinance Article 17 addresses nonconformities.



# Nonconformities (Cont'd)

- **Nonconforming Buildings (e.g., a building located in a setback):**
  - ✓ In what circumstances, if any, can the building be expanded or extended?
  - ✓ Under what circumstance can a building be repaired or rebuilt?
- **Nonconforming Use (e.g., a single-family dwelling in a commercial district)**
  - ✓ If the home burns down, can it be rebuilt and reoccupied for residential use?
  - ✓ Can the nonconforming use be expanded or extended?
- **Nonconforming Lot (e.g., lot is smaller than min. lot size)**
  - ✓ If the owner owns 2 or more contiguous nonconforming lots, are they required to combine them as a condition of land use approval?



# Zoning Board of Appeals

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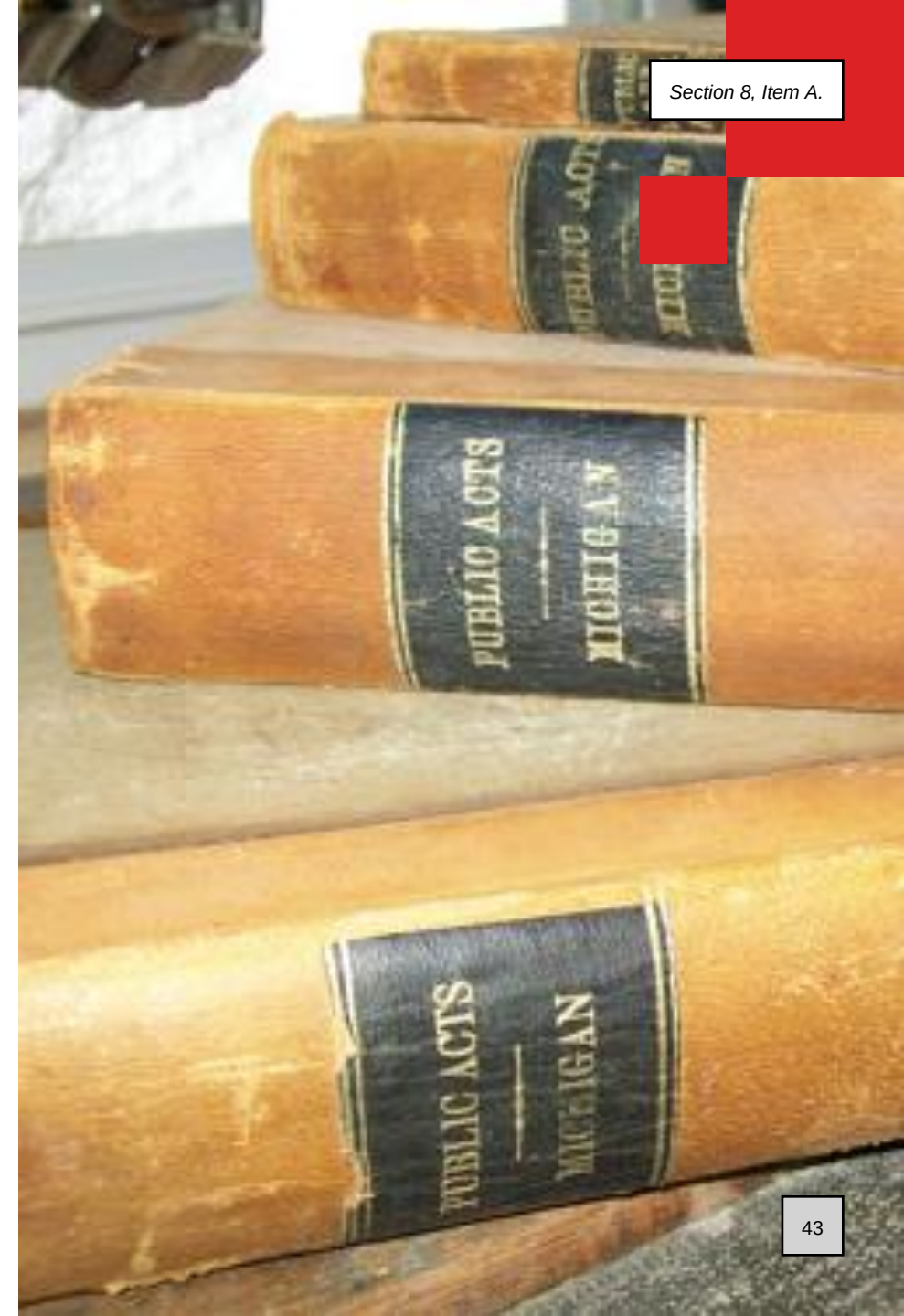
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# MZEA – Article VI

(P.A. 110 of 2006)

- **Role and Responsibilities of the Board of Zoning Appeals**
  - ✓ **Membership**
  - ✓ **Powers**
  - ✓ **Procedures**
  - ✓ **Appeals to BZA Action**

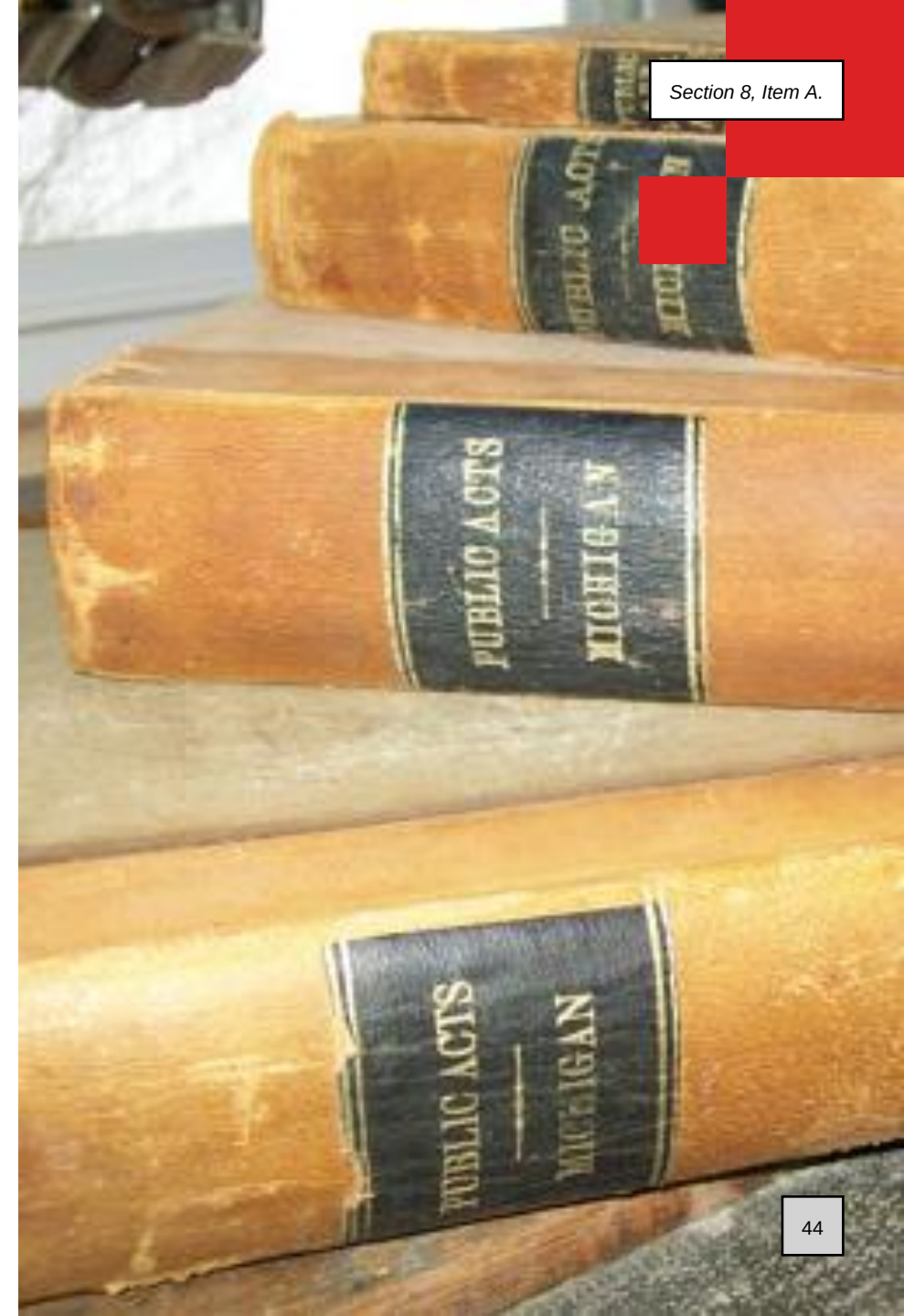
Section 8, Item A.



# ZBA Membership

(P.A. 110 of 2006, Sec 601)

- **Zoning Ordinance shall create a Board of Zoning Appeals**
  - ✓ Appointed by Village Council
  - ✓ Up to 5 members (with up to 2 alternatives)
  - ✓ Shall have 1 member from PC
  - ✓ Remaining members shall be from the electors of the Village
  - ✓ One regular or alternate may be a member of legislative body (but shall not serve as the chair)

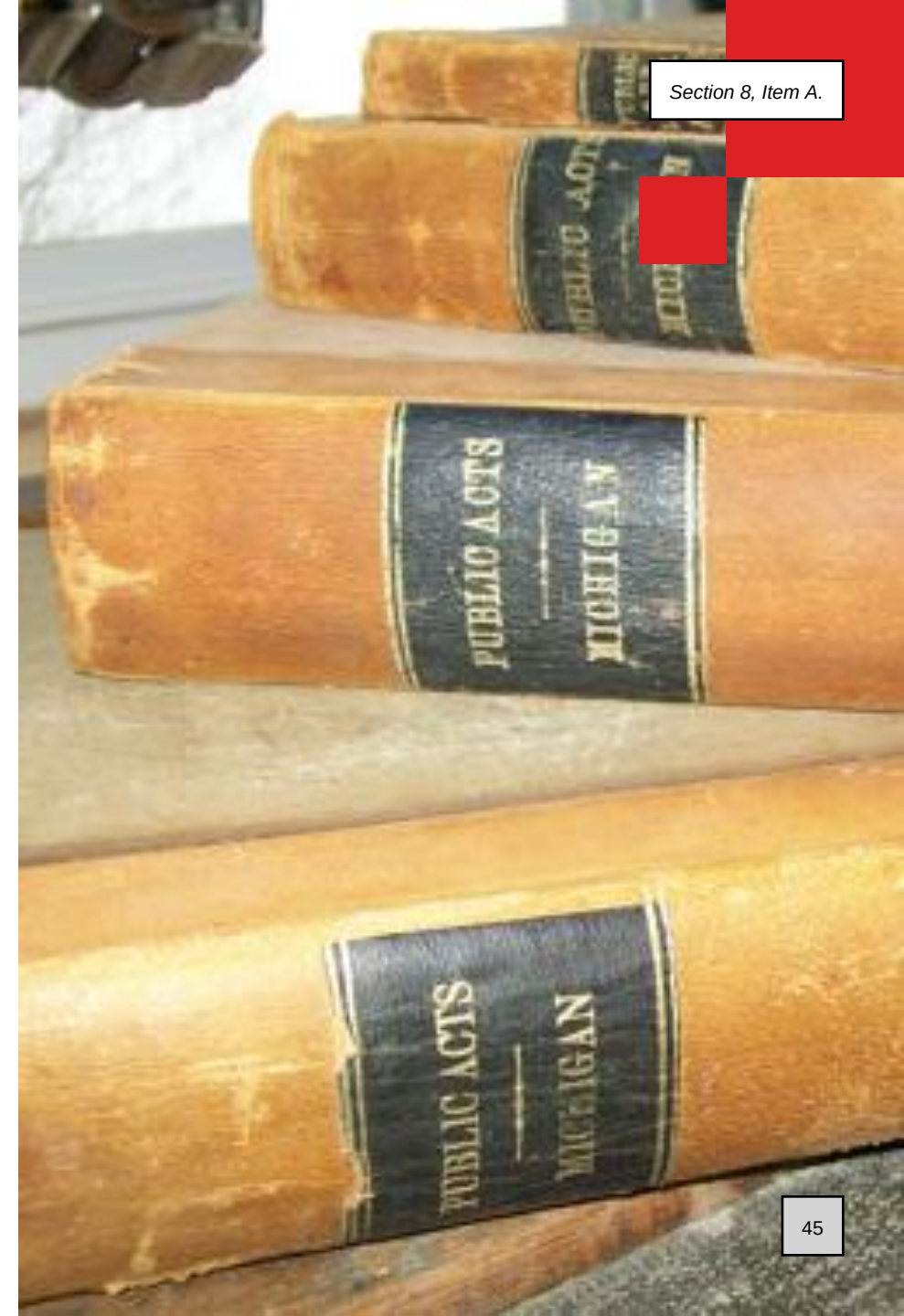




# ZBA Membership

(P.A. 110 of 2006, Sec 601)

- Members shall have a 3-year term (unless on PC/Council)
- May be removed for Nonfeasance, Misfeasance or Malfeasance
- PC Member and Board Member:
  - ✓ Shall not participate in a public hearing or vote the same matter that they voted on as a member of the PC or Board



# BZA Powers

(P.A. 110 of 2006, Sec 603 and 604)

- **SHALL** hear questions on administration of ordinance
- **SHALL** conduct interpretation of zoning maps
- **SHALL** hear matters referred to BZA or which the BZA are required to pass under the zoning ordinance
- **MAY** hear appeals of a person aggrieved by an officer, department, or board of the local unit of government
- **MAY** grant a nonuse variance

# BZA Powers: Appeals

- Appeals of an administrative official based on a person being aggrieved by any order, requirement, decision, or determination
- **Typical standards of review:**
  - ✓ Was the administrative decision arbitrary or capricious?
  - ✓ Was the administrative decision based on an erroneous finding of material fact?
  - ✓ Was the administrative decision based on erroneous interpretation of the Zoning Ordinance?
  - ✓ Does the administrative decision constitute an abuse of discretion?

# BZA Powers: Dimensional/Nonuse Variances

- Dimensional Variances: Allow an area, dimension, setback, size, height, lot coverage that does not comply with the Zoning Ordinance
- A variance is a permanent and officially-approved deviation from the ZO
- Variance granted in perpetuity (runs with the land)
- **Standards of review:**
  - a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
  - b) The variance will provide substantial justice to the applicant, as well as other property owners.
  - c) The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
  - d) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
  - e) The problem and resulting need for the variance has been created by strict compliance with the Zoning Ordinance, and not by the applicant or applicant's predecessors; it is not self-created.



# BZA Powers: Use Variances

- Use Variances: A use variance is a variance that permits a use that is otherwise not permitted in a zoning district.
- A variance is a permanent and officially-approved deviation from the ZO
- Variance granted in perpetuity (runs with the land)
- **Standards of review:**
  - a) The property cannot be reasonably used for any purpose permitted in the zoning district without a variance.
  - b) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
  - c) The variance will not alter the essential character of the area. In determining the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
  - d) The problem and resulting need for the variance has not been self-created by the applicant.
  - e) The spirit of the Ordinance will be observed, public safety secured, and substantial justice done, if the variance is approved.

# BZA Procedures

(P.A. 110 of 2006, Sec 604 and 604)

- BZA can reverse or affirm, wholly or partly or modify an administrative order or decision
- BZA may grant a variance so spirit of ZO observed, public safety secured and substantial justice done. May impose conditions. (Can't negotiate)
- Vote of a majority of the BZA membership required to reverse a decision or grant a variance
- BZA decision final action at local level – Appealed to Circuit Court

# BZA Procedures

## Sample Motion to Approve the Variance:

*The following is an example of a motion that can be used to approve a variance request.*

I make the motion to approve of and grant Parcel #\_\_\_\_\_, more commonly known as 123 Main Street, a \_\_\_\_\_ variance from the Village of Lake Orion Zoning Ordinance, Article \_\_, Section \_\_, \_\_\_\_\_ requirement. This variance is granted based on the Board of Zoning Appeals making the determination that the site meets the approval criteria of Section 19.04.D.1. Specifically, we find the follow criteria have been met:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

# ZBA Procedures

## Sample Motion to Deny the Variance:

*The following is an example of a motion that can be used to deny a variance request.*

I make the motion to deny Parcel #\_\_\_\_\_, more commonly known as 123 Main Street, a \_\_\_\_\_ variance from the Village of Lake Orion Zoning Ordinance, Article \_\_, Section \_\_, \_\_\_\_\_ requirement. This variance is denied based on the Board of Zoning Appeals making the determination that the site meets the approval criteria of Section 19.04.D.1. Specifically, we find the follow criteria have not been met:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

# Q: Variances

**Which of the following are reasons to approve a variance?**

- A. The neighbors support it
- B. It's the only sign they make
- C. The ordinance is too strict
- D. It will make the area better
- E. The variance was granted before
- F. It's already built
- G. We know he will do a good job
- H. The variance is minimal

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*Trick question – none!*



# Managing Risk

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# Risk Management

You **CAN'T** always avoid litigation, but you **CAN** manage risk and liability by:

- ✓ Following all rules and procedures
- ✓ Using Sound Decision-Making Principles
- ✓ Avoiding Conflicts of Interest







# Making Good Decisions

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# Making Good Decisions

- Good decision-making starts with knowledge:
  - ✓ Before Meetings
  - ✓ During Meetings
- Should be based on the **standards of the ordinance** and **facts**, **NOT** opinions!



# Before Meetings

- Review the agenda and **all** packet materials
  - ✓ Applications, Site Plans, Supporting Materials, etc.
  - ✓ Planner, Engineer, and Fire Dept. Reports
- Review **all standards** that will be used for each decision
- Request information from staff if you have more questions
- **DO NOT** discuss the proposal with the applicant, neighbors, or other officials
- **DO NOT** disclose your opinion/decision in advance of the meeting, especially to members of the public!

# Open Meetings Act (OMA)

- All **meetings** of a public body must be **open to the public** and must be held in a **place available to the general public**.
- All **decisions** of a public body must be **made at a meeting** open to the public.
- All **deliberations** of a public body constituting a quorum of its members must **take place at a meeting** open to the public
- A meeting of a public body shall not be held unless **public notice is given** as provided in the act
- Each public body **shall keep minutes** of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. **Minutes are public records** open to public inspection.

# Open Meetings Act (OMA) (Cont'd)

- In practice - Decisions must be made by majority vote of a public body
- Must consider what information ***influences*** each member of the body. Such info. Must be presented at the meeting.

## **The decision must be based on evidence presented at the meeting**

- Meetings not duly noticed as an “open meeting,” e.g., a meeting at a property, may not serve as the basis for decision making.
- Discussion with an applicant or citizens outside a meeting may not serve as the basis for decision making, i.e., this does not represent evidence presented at the meeting.

# During Meetings

## DO

- Disclose potential conflicts of interest
- Direct comments through the Chair
- Conduct all deliberations in the open
- Participate in the deliberation
- Ask questions
- Ask for clarification

## DO NOT

- Act hastily just to move things along
- “Talk an issue to death”
- Vote without being clear on the content/intent of the motion

# Sound Decisions

- Make findings of fact
- Follow all rules and procedures
- Consistently apply standards
- Do not act based on emotion/  
public sentiments
- Resolve questions before taking action
- Rely on legal counsel, planning  
consultants, staff for advice



## Sound Decisions (Cont'd)

- Apply conditions only as appropriate
- Make clear motions
- Keep accurate and complete records
- Maintain/publish meeting minutes
- Correct any mistakes immediately





# Q: Making Sound Decisions

**Which of the following are reasons to approve or deny a request?**

- A. Many people came to object
- B. It's the only sign/building type/etc. they make
- C. It will make the area better/worse
- D. We know he/she will do a good/bad job
- E. I like/don't like the way it looks
- F. The ordinance is too strict/too lenient
- G. We'll get sued if we do/don't

# Q: Making Sound Decisions

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- D. We know he/she will do a good/bad job**
- E. I like/don't like the way it looks**
- F. The ordinance is too strict/too lenient**
- G. We'll get sued if we do/don't**

*Trick question – none!  
Except G. Why?*

# When turning down a request...

## Think about:

- The hundreds (or thousands) of property owners who ***did*** comply
- The amount of time and effort spent developing the Zoning Ordinance
- The effectiveness/enforceability of your Zoning Ordinance if you get into a pattern of making concessions, granting waivers, ignoring procedures, etc.



# Conflicts of Interest

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# Conflicts of Interest

- Members must abstain from discussion and voting when:
  - ✓ **Financial:** Employment, owns or leases property that is involved or that will have its value affected
  - ✓ **Personal:** A relative or a close friend
  - ✓ **Political:** Village officials representing applicants

# Q: Conflicts of Interest

**Which of the following may constitute a conflict of interest?**

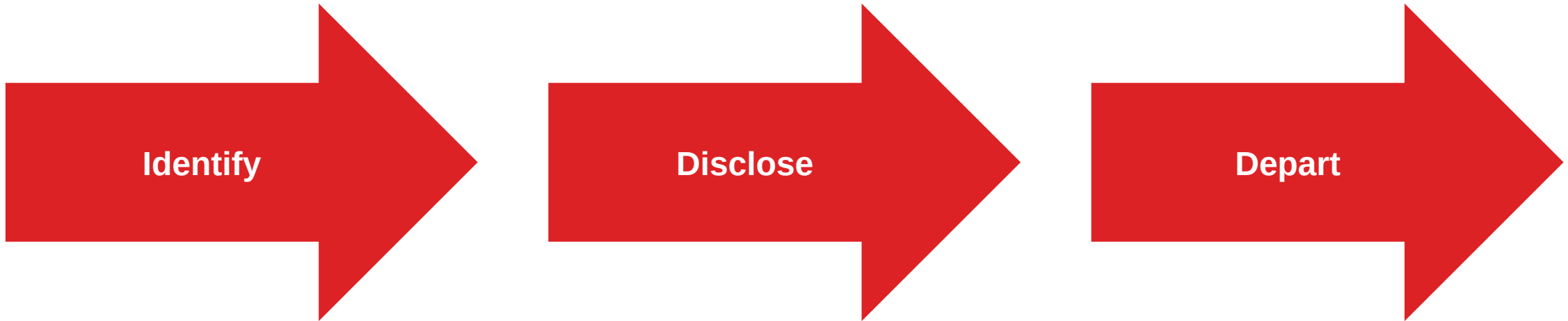
- A. You are the applicant
- B. Applicant is a relative
- C. Applicant is a neighbor
- D. Your firm works for the applicant
- E. Applicant is a business associate
- F. Business competitor
- G. You do not want to vote contrary to overwhelming public comment

# Q: Conflicts of Interest

**Which of the following may constitute a conflict of interest?**

- A. You are the applicant - YES**
- B. Applicant is a relative - MAYBE
- C. Applicant is a neighbor - MAYBE
- D. Your firm works for the applicant - MAYBE
- E. Applicant is a business associate - MAYBE
- F. Business competitor – YES**
- G. You do not want to vote contrary to overwhelming public comment - NO

# Conflict of Interest Procedures







# Ex Parte Communication

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# Public Hearings

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# Public Hearing: What is Required

- **All Public Meetings**
  - ✓ Open to the public
  - ✓ Public comment period
- **Public Hearings**
  - ✓ Public Notice of Request
  - ✓ Public Comment Period
- **ZEA Requirements:**
  - ✓ Notice in local paper
  - ✓ Mailed notices



# Public Hearings

**Land use discussions bring out strong opinions and the public should have the opportunity to be heard.**

- Be Fair
- Follow the Rules
- Control your emotions
- Listen!



# Public Hearings (Cont'd)

- There will always be differing opinions
  - ✓ **Remember:** *those who oppose a project are more likely to attend a hearing*
  - ✓ Public pressure should not be the only reason for approval or denial
- The master plan and zoning ordinance **reflect the community**
- **You must consistently follow the law and written rules of procedure**





Questions?

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