

Wexford	Hanover	Greenwood	Liberty
Springville	Antioch	Collfax no zoning	Cedar Creek zoned
Slagle	Boon	Selma	Haring zoned
South Branch	Henderson no zoning	Cherry Grove	Clam Lake zoned

■ Planning and zoning by the Wexford Joint Planning Commission

Wexford Joint Zoning Board of Appeals

% Cherry Grove Township
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 Cadillac, Michigan 49601-9332

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Proposed Minutes

Time, date: 6pm, Thursday, January 26, 2017

Meeting location: Wexford County Road Commission meeting room, 85 West Highway M-115, Boon, Michigan. Coordinates: 44° 19' 32.5" N, 85° 34' 53.4" W (44.325685, -85.581500)

- A. Call to order at 6:01pm by Schindler.
1. Pledge of Allegiance.
 2. Roll call:
 Members Present: 1 Beverly Monroe, 4 Bill Swank, 5 Tom Williams, 6 Beverly Brighton, 7 Ron Vaughan, 8 Terry Garbrecht, 9 Peggy Benz, 12 Phil Wendel.
 Alternate Members Present: [one vacancy]
 Members Absent: 2 Benedict "Ben" Fleis, 3 John "Jack" Preby, 10 Marjorie Bogart, 11 Carol Perrin, 13 Donna Taylor, 14 Beverly Walton 15 David Muddaugh
 Alternate Members Absent: Bill Wiersma.
 Others Present: Robert Hall, Wexford Joint Planning Commission Planner/Zoning Administrator; Kurt H. Schindler, AICP, MSU Extension; Louis G. Nichols, City of Cadillac Zoning Board of Appeals; Mike Coy, City of Cadillac Community Development Analyst; Sharon Ream, Springville Township.
- B. Matters pertaining to citizens present at the meeting, in the following order:
1. Advertised Public Hearings. The Chair will declare such a public hearing open and state its purpose. The petitioner, or proponent of the action advertised will be heard first.
 - a. None.
 2. Persons requested by the Appeals Board to attend the meeting.
 - a. None.
 3. Other public participation for items on this agenda.
- C. Housekeeping business.
1. Consent Business.
 - a. None.

2. Review and possible action on the Wexford Joint Zoning Board of Appeals Rules of Procedure. (Includes setting rules for per diem and travel, regular meeting dates, . . .)

Discussion: Review of the draft Rules of Procedure was conducted page by page, with questions, discussion, and changes made through consensus.

Moved by Vaughan, seconded by Wendel, to adopt the Wexford Joint Zoning Board of Appeals Rules of Procedure, attached to these minutes as exhibit "A". Motion passed after a voice vote.

3. Election of officers (must be an at large member [members one, two, three, or four]).

- a. Chair

Nomination: Vaughan nominated Monroe. No more nominations were offered.

Monroe elected chair after a voice vote.

Schindler turned the meeting over to Monroe who assumed the duties of Chair.

- b. Vice Chair

Nomination: Monroe nominated Swank. No more nominations were offered.

Swank elected vice chair after a voice vote.

- c. Secretary

Nomination: Swank nominated Fleis. No more nominations were offered.

Fleis elected secretary after a voice vote.

- d. Deputy Secretary

Nomination: Vaughan nominated Prebay. No more nominations were offered.

Prebay elected deputy secretary after a voice vote.

4. Other.

Discussion: None.

D. Unfinished business and reports (items considered here are taken up in the same order as established by the Appeals Board to fix a priority for consideration and work done in the planning office).

1. Any questions, discussion about the Wexford Joint Planning Commission Ordinance and Agreement.

Discussion: Beverly Brighton asked a number of questions concerning outdoor concerts, sporting events in conjunction with the Cadillac Snowmobile festival and its relocation to Boon Township.

2. Members signed the code of conduct/oath of office.

3. Discussion about Recording Secretary.

Discussion: Please help finding someone

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- E. New business (other business and communications).
 - 1. Zoning Board of Appeals Training for this appeals board and guests presented by Michigan State University Extension, Kurt H. Schindler, AICP.
Mr. Schindler provided the training for members and guests.
- F. Public participation for items not on this agenda.
Discussion: None.
- G. Adjournment.
Meeting adjourned at 8:40pm.

Wexford Joint Zoning Board of Appeals
Rules of Procedure
Adopted January 26, 2017

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1. Purpose

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

2. Membership

A. The membership of the Appeals Board shall be the number and appointed according to the procedure as established in the Wexford Joint Zoning Ordinance of January 1, 2017 and section 601 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3601). The members shall be further known as:

1. First Member, the member whom is also a member of the Wexford Joint Planning Commission
2. Second, third, and fourth members whom are the members appointed at large.
3. All other members whom are the members which are also members which represent the respective participating municipality's legislative bodies.
4. First and second alternate members.

This subsection of these Rules of Procedure shall not be amended or otherwise changed without first amending section 9603. of the Wexford Joint Zoning Ordinance.

B. Attendance. If any first, second, third, or fourth member of the Appeals Board is absent from three consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the legislative body that appointed that member to remove that member from the Appeals Board for nonperformance of duty or misconduct after holding a public hearing on the matter. The Appeals Board secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records and shall notify the legislative body whenever any member of the Appeals Board is absent from three consecutive regularly scheduled meetings, so the legislative body can consider further action allowed under law or excuse the absences. This subsection of these Rules of Procedure shall not be amended or otherwise changed without first obtaining consent from the Wexford Joint Planning Commission.

C. Training. Each member shall have attended at least two hours per year of training in planning and zoning during the member's current term of office. If so provided by the zoning ordinance, 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, Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University. This subsection of these Rules of Procedure shall not be amended or otherwise changed without first obtaining consent from the Wexford Joint Planning Commission.

D. Liaisons. The purpose of liaisons is to provide certain officials 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 [2.B](#) of these Rules of Procedure. Liaisons are, if not already an appointed Appeals Board member, are:

1. Wexford Joint Planning Commission Staff, and their agents and consultants.
2. Zoning Administrator.
3. Wexford Joint Planning Commission's attorney.

3. Conflict of Interest and Incompatibility of Office.

A. Each member of the Appeals Board shall avoid situations that are conflicts of interest, and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:

- a. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
- b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
- c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
- d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.
- e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
- f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:
 - (1) an applicant or agent for an applicant, or
 - (2) has a direct interest in the outcome.

2. When a conflict of interest exists, the member of the Appeals Board, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

- a. declare a conflict exists at the next meeting of the Appeals Board;
- b. cease to participate at the Appeals Board meetings, or in any other manner, or represent one's self before the Appeals Board, its staff, or others, and
- c. during deliberation of the agenda item before the Appeals Board leave the meeting, or remove one's self from the front table where members of the Appeals Board sit, until that agenda item is concluded.

- B. If a member of the Appeals Board is appointed to another office, which is an incompatible office with his or her membership on the Appeals Board, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Appeals Board. If a member of another office is appointed to the Appeals Board, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Appeals Board, that shall result in an automatic resignation from the other office.

4. **Duties of all members.**

A. *Ex Parte* contact

- 1. Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the Appeals Board whenever possible.
- 2. 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

- 1. 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.
- 2. If desired, no more than one member of the Appeals Board may accompany the zoning administrator or staff on a site inspection.
- 3. Members of the panel hearing the case may individually (alone) visit the site to see it. In doing so the member shall avoid *ex parte* contact.

C. Not Voting On the Same Issue Twice.

- 1. 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:
 - a. When the appeal is of an administrative or other decision by Wexford Joint Planning Commission, and the member (first member) of the Appeals Board sits both on the Wexford Joint Planning Commission and Appeals Board.
 - b. When the appeal is of an administrative or other decision by any committee of the Wexford Joint Planning Commission, legislative body, other committee, and the member of the Appeals Board sits both on that committee and Appeals Board.

D. Accepting gifts.

- 1. 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.
- 2. 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.

- 1. Free and open debate should take place on issues before the Appeals Board. Such debate shall only occur at meetings of the Appeals Board.
- 2. 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.
- 3. 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.

F. Code of Conduct. Each member, upon appointment, shall sign a code of conduct, attached as appendix "A" of the Rules of Procedure.

5. **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 Deputy Secretary from among the first, second, third, and fourth members. 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 and the Appeals Board shall select a successor to the office of Vice-Chair 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 and the Appeals Board shall select a successor to the office of Deputy Secretary 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 January at the time of 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:
- 1. Preside at all meetings with all powers under parliamentary procedure;
 - 2. Shall sign all decisions of the Appeals Board pursuant to M.C.L. 125.3606(3);
 - 3. 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;
 - 4. Restate all motions as pursuant to Section 5.E of these Rules of Procedure;
 - 5. Appoint committees;
 - 6. Appoint officers of committees or choose to let the committee select their own officers.
 - 7. May call special meetings pursuant to Section [7.B](#) of these Rules of Procedure;

8. Appoint an Acting-Secretary in the event the Secretary is absent from an Appeals Board meeting.
 9. 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;
 10. Act as the Appeals Board's chief spokesman and lobbyist to represent the Appeals Board at local, regional and state government levels.
 11. Represent the Appeals Board, along with the [legislative body] Appeals Board member, before the [legislative body]; and
 12. Represent the Appeals Board, along with the Planning Commission member, before the Planning Commission; and
 13. Perform such other duties as may be ordered by the Appeals Board.
- D. Vice-Chair's Duties. The Vice-Chair shall:
1. Act in the capacity of Chair, with all the powers and duties found in Section [5.C](#) of these Rules of Procedure, in the Chair's absence; and
 2. Perform such other duties as may be ordered by the Appeals Board.
- E. Secretary's Duties. The Secretary shall:
1. Execute documents in the name of the Appeals Board;
 2. Be responsible for the minutes of each meeting pursuant to section [8.A](#) of these Rules of Procedure if there is not a recording secretary.
 3. 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);
 4. 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;
 5. Keep attendance records pursuant to Section [2.B](#) of these Rules of Procedure;
 6. 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);
 7. Prepare an agenda for Appeals Board meetings pursuant to Section 5.K of these Rules of Procedure (the Secretary may delegate this duty to Planning Department staff);
 8. May hire on behalf of the Appeals Board for the local unit of government an Appeals Board recording secretary (who shall not be a member of the Appeals Board); and
 9. Perform such other duties as may be ordered by the Appeals Board.
- F. Deputy Secretary's Duties. The Deputy Secretary shall:
1. Act in the capacity of Secretary, with all the powers and duties found in Section [5.E](#) of these Rules of Procedure, in the Secretary's absence; and
 2. Perform such other duties as may be ordered by the Appeals Board.

- G. Recording Secretary's Duties. The Recording Secretary shall not be a member of the Appeals Board or any of its committees, and shall:
1. At each meeting take notes for minutes and prepare a first draft of minutes pursuant to section [8.A](#) of these Rules of Procedure for review and signature by the Secretary; and
 2. Perform such other duties as may be ordered by the Appeals Board or secretary.
6. Demand for Appeal
- A. Filing. The following may file for an appeal
1. Any aggrieved person, or the person's authorized agent;
 2. Officer, department, board, or bureau of the state; and
 3. Officer, department, board, or bureau of a local unit of government which is a participating municipality with the Wexford Joint Planning Commission
 4. The Wexford Joint Planning Commission.
- B. The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the zoning administrator, and upon payment of a fee as may be established from time to time by the Wexford Joint Planning Commission. Such *Demand for Appeal* shall be filed with the zoning administrator not more than 30 days from the date of the decision being appealed. A *Demand for Appeal* for a variance shall be filed with the zoning administrator at any time.
- C. Notification. Within 10 days from the date of the receipt of the *Demand for Appeal* which is found to be complete, the zoning administrator shall contact the Chair of the Appeals Board and set up a date(s) and time for the Appeals Board to meet to hold a hearing and a meeting to consider and act on the case, giving priority to hearing the case at a regularly scheduled meeting of the Appeals Board. Notice of such meeting(s) shall be made by the zoning administrator as specified in Section [6.D](#), [6.E](#), [6.F](#), [6.G](#) of these Rules of Procedure.
- D. The notice sent to members of the Appeals Board shall include:
1. Copies of the *Demand for Appeal* or request for a variance form;
 2. the entire content of the zoning administrator's file, and/or other file(s) on the case;
 3. other relevant correspondence, permits by other applicable enforcement agencies;
 4. previous zoning permits and record of appeals board actions concerning the property in question; and
 5. anything else which is relevant.
- E. The zoning administrator shall prepare copies of the above for inclusion in the package sent to Appeals Board members.
- F. The notice shall include the following information as required by the Wexford Joint Zoning Ordinance.
- G. The notices shall be given not less than 15 days before the date of consideration for approval. Notices shall be provided as required by the Wexford Joint Zoning Ordinance.

- H. Deadline for Action. The above notwithstanding, the Appeals Board shall hear the case and render and file its decision with a statement of reasons for the decision with the zoning administrator not more than 30 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and Appeals Board.
- I. Notice of Decision. The Secretary, or designate, shall cause to have notices of the Appeals Board decision delivered in person or by first class mail to the zoning administrator; to the governing body's attorney's office; and to anyone else requesting a copy in writing. Further, a certified written notice of the decision to the petitioner, or his agent, filing the *Demand for Appeal* shall be sent by restricted registered mail with return receipt.

7. **Meetings.**

A. Regular Meetings.

- 1. The Appeals Board shall meet at least once each year during the month of January. The January meeting shall be for all members (at large and participating municipality representatives) and alternate members. Officers shall be selected and take office at this meeting. Meeting dates for the remainder of the year shall be established at this meeting.
- 2. Meetings shall be held the fourth Wednesday of each month at 6pm in the Wexford County Road Commission meeting room near Boon, Michigan.
- 3. Any other meetings of the Appeals Board will be called as needed in response to receipt of a *Demand for Appeal*, so long as the meeting is scheduled within 20 days of the *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. Special Meetings. Special meetings shall be called in the following manner:

- 1. By the Chair.
- 2. By any two members.
- 3. By the Chair at the request of any non member of the board, upon payment of a non-refundable fee to cover costs of the special meeting. The fee shall be calculated as follows: The current amount of per diem paid times the total number on the board, or pannel, regardless if they attend the meeting or not, plus the sum of travel reimbursement of each member, regardless if they each attend the meeting or not, plus the total Board, Joint Planning Commission's office budget, which represents the costs of operating the Board and office, divided by 365. Payment of the fee shall not be refundable. Payment of the fee does not guarantee or insure that a quorum will be present for purposes of the special meeting.
- 4. Notice of special meetings shall be given by the Secretary to members of the Commission at least forty eight (48) hours prior to such meeting and shall state the purpose, time, day, month, date, year and location of the meeting (the Secretary may delegate this function to staff). In addition notices shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act M.C.L. 15.261 *et seq.*).

- 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.

- 1. 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.
- 2. The Chair may limit the amount of time allowed for each person wishing to make public comment at a 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. Panels. Pursuant to the Wexford Joint Zoning Ordinance a panel of the Appeals Board shall sit to hear and act on an appeal. The panel shall be the first, second, third, fourth, and one of the remaining members whom are the members which are also members of the respective participating municipality's legislative body for the territory from which the appeal originates. In the case where any member of the panel is absent, an alternate member may step in to replace the member for the duration of that case. This subsection of these Rules of Procedure shall not be amended or otherwise changed without first amending section 9603. of the Wexford Joint Zoning Ordinance.

- E. Quorum. Three shall be the quorum for the transaction of business and the taking of official action for all matters. This subsection of these Rules of Procedure shall not be amended or otherwise changed without first amending section 9603.B. of the Wexford Joint Zoning Ordinance.

- F. When a petitioner or their representative 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. 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. *Site inspection, then recess (optional, if the meeting is posted to include a site inspection).*
- C. *Reconvene and roll call (if following a site inspection).*
- D. *Election of officers, if necessary.*
- E. *Public Hearings. The Chairman will declare a hearing open and state its purpose.*
 - (1) *The Chairman shall summarize, provide copies, or conspicuously post the procedure for public hearing as outlined in Sections 7.C, 7.G of these Rules of Procedure for any members of the public in attendance, or provide copies.*
 - (2) *Case Number _____.*
 - (i) *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.*
 - (ii) *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.*
 - (iii) *Members of the Appeals Board shall report on their site inspection and any conversations with the petitioner they may have had.*
 - (iv) *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 (3) minutes or more per speaker.*

(v) *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 (3) minutes or more per speaker.*

(vi) *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.*

(vii) *Close the hearing. (At this point all public participation on the issue ends.)*

F. *Public Comment for on this agenda but which are not items subject to a hearing at this meeting).*

G. *Recess to another night as provided in Section 7.J of these Rules of Procedure (optional).*

H. *Housekeeping Business.*

- (1) *Approval of minutes from previous meeting.*
- (2) *Other.*

I. *Business Session.*

(1) *Action on pending case number _____.*

- (i) *Discussion: Review of the facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff reports, hearing testimony). 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.*
- (ii) *Motion is proposed on "finding of fact".*

- (iii) Discussion on the motion.
- (iv) Action on the motion
- (v) Discussion focusing on standards and requirements of the ordinance.
- (vi) Motion is proposed on "rationale, conclusions, conditions".
- (vii) Discussion on the motion.
- (viii) Action on the motion.

(2) Other business of the Appeals Board.

- J. Public comment for items not on this agenda or subject to a hearing at this meeting.
- K. Adjournment.
- H. Placement of Items on the Agenda.
 - 1. The Wexford Joint Planning Commission's office of record shall be the office of record for the Appeals Board.
 - 2. The Office of Record may receive items on behalf of the Appeals Board between the time of the adjournment of the previous Appeals Board meeting and eight business days prior to the next regularly scheduled Appeals Board meeting.
 - 3. Items received by the Office of Record between seven business days prior to the next regularly scheduled Appeals Board meeting and 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.
 - 4. 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 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 meetings 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 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 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*, (11th Edition, Perseus Publishing, New York, 2011) 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.

- 1. Motions shall be restated by the Chair before a vote is taken.
- 2. 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, determination of compliance with an adopted plan, review of township zoning) shall include each of the following parts.
 - a. 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.
 - b. Conclusions, listing reasons based on the facts for the Appeals Board's action.
 - c. The Appeals Board's action, recommendation or position, approval, approval with conditions, or disapproval.
- 3. 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.

8. 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:
 - 1. A copy of the meeting posting as required in Section [6.D](#), [6.E](#), [6.F](#), [6.G](#) of these Rules of Procedure.
 - 2. A signed statement indicating that notices, as required in Section [6.D](#), [6.E](#), [6.F](#), [6.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.
 - 3. A copy of the *Demand for Appeal*, including any maps, drawings, site plans, etc.

4. The original of the minutes of the meeting (including the hearing and site inspection) which shall include, in chronological sequence of occurrence:
 - a. Time and place the meeting was called to order.
 - b. Attendance.
 - c. Indication of others present (listing names if others choose to sign in and/or a count of those present).
 - d. 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.
 - e. 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.
 - f. 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...").
- g. A summary of all points made by members and staff in debate or discussion on the motion or issue.
- h. Who called the question.
- i. 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."
- j. That a person making a motion withdrew it from consideration.
- k. All the Chair's rulings.
- l. All challenges, discussion, and vote/outcome on a Chair's ruling.
- m. All parliamentary inquiries or points of order.
- n. When a voting member enters or leaves the meeting.
- o. 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.
- p. All calls for an attendance count, the attendance, and the ruling if a quorum exists or not.
- q. The start and end of each recess.
- r. All chair's rulings of discussion being out of order.
- s. Full text of any resolutions offered.
- t. Summary of announcements.
- u. Summary of informal actions, or agreement on consensus.
- v. Time of adjournment.
5. The records of any action on a case by the zoning administrator.
6. The records of all past records regarding the property involved in a case (previous permit, special use permit, variances, appeals).
7. Any relevant maps, drawings, photographs, presented as evidence at a hearing.
8. Copies of any correspondence received or sent out in regard to a case.
9. A copy of relevant sections, or a list of citations of sections of the zoning ordinance.
10. 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 local unit of government. 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.

9. **Mileage and Per Diem**

A. Mileage and per diem may be paid to members of the Appeals Board at the same rate and terms established by the Wexford Joint Planning Commission for members of the Wexford Joint Planning Commission. No mileage or per diem is paid to any members unless authorized and budgeted by the Wexford Joint Planning Commission. This section of these Rules of Procedure shall not be amended or otherwise changed without first obtaining consent from the Wexford Joint Planning Commission.

[Annotation: Section 11. of the Wexford Joint Planning Commission bylaws, September 26, 2016, on compensation read:

- A Mileage and per diem shall be paid to members of the Commission at rates established here.
1. Attending Commission meeting: Der Diem of \$25 plus automobile millage for travel at the current IRS rate.
 2. Attending Executive Committee meeting: Der Diem of \$25 plus automobile millage for travel at the current IRS rate.
 3. Attending Ad Hoc Committee meeting: Der Diem of \$25 plus automobile millage for travel at the current IRS rate.
 4. Attending Citizen Committee meeting: None
 5. Attending training: The registration fee plus automobile millage for travel at the current IRS rate.
 6. Attending the respective participating municipality's legislative body meetings: None.
- B. Payment occurs only if those Commission members bill the Commission for the same.]

10. **Other Duties**

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

11. **Adoption, Repeal, Amendments**

- A. Upon adoption of these Rules of Procedure of January 26, 2017, they shall become effective and all previous rules of procedure, as amended, shall be repealed.
- B. These Rules of Procedure may be amended, except where otherwise indicated in these Rules, at any regular or special meeting by an affirmative vote of four members of the Appeals Board, so long as such amendment does not result in a conflict with state law, zoning ordinance, or court decision.

**APPENDIX A
WEXFORD JOINT ZONING BOARD OF APPEALS
CODE OF CONDUCT and OATH OF OFFICE**

The Appointed Member of the Wexford Joint Zoning Board of Appeals agree to abide by this Code of Conduct. As a member I will:

1. Accept responsibility to represent the Wexford Joint Zoning Board of Appeals which I am appointed to with dignity and pride by being a positive role model.
2. Conduct myself in a businesslike manner, respecting the rights and opinions of other members and of the public. Abusive, insulting, profane or excessively argumentative language or conduct should not be tolerated.
3. Abstain from, and not tolerate, physical or verbal abuse.
4. Accept the responsibility to promote and support Wexford Joint Zoning Board of Appeals to develop an effective planning and zoning program.
5. Attend the meetings of the Wexford Joint Zoning Board of Appeals on a regular basis and provide prior notification of any necessary absences.
6. Read the plan, zoning ordinance, other ordinance, rules of procedure, bylaws, and other pertinent documents which pertain to the business of the Wexford Joint Zoning Board of Appeals and continue to gain knowledge (and understanding) through self-study, inquiries and attending appropriate training.
7. Attend training programs on planning and zoning in order to stay current on issues of concern for my community and in planning and zoning law.
8. Respect, adhere to, and help enforce the rules, policies, and guidelines established by the Wexford Joint Zoning Board of Appeals.
9. Read meeting packet materials ahead of time and otherwise be prepared for the meetings.
10. Refrain from deciding cases before the meeting discussion.
11. Participate in the Wexford Joint Zoning Board of Appeals deliberation at the meetings when appropriate.
12. Do not engage in criminal activities, and other activities including but not limited to situations of conflict of interest, incompatible office, *ex parte* contact, not voting on the same issue twice by virtue of serving on two different bodies, or accepting gifts as a form of influencing your vote.
13. In public forums, after a vote by the Wexford Joint Zoning Board of Appeals has been taken, I will represent the adopted majority position of the Wexford Joint Zoning Board of Appeals when speaking on behalf of the Wexford Joint Planning Commission.
14. I will follow, and will help my community follow the *Community Planning Principles* established by the Michigan Association of Planning (MAP), the Michigan Chapter of the American Planning Association. (For a copy: <http://www.planningmi.org/resources4560087.asp> or Michigan Association of Planning, 1919 W. Stadium Boulevard, Suite 4, Ann Arbor, Michigan 48103: (734)913-2000, fax: (734)913-2061).

It is important that all appointees comply with this Code of Conduct.

OATH OF OFFICE:

I, _____ solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Michigan, and that I will discharge the duties of the office of a member of Wexford Joint Zoning Board of Appeals in and for the participating municipalities to the best of my ability.

Signed:

Name:

Date:

[January 27, 2017; Wexford MSUE CED: C:\Users\Kurt\Documents\wp\OtherCounty\Wexford\WexfordJointPln\Ordinance-Rules\ZBA-RulesOfProcedure.wpd]