



## CITY OF SOUTH LYON

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### GUIDELINES FOR THE ZONING BOARD OF APPEALS

From City of South Lyon Code of Ordinances, Division 3. - Board of Zoning Appeals, Sec. 102-85. – Jurisdiction:

a) The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, nor to permit any use in a district in which it is not permitted, but does have power to act on these matters where this chapter provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the State of Michigan. Said powers include:

**(1) ADMINISTRATIVE REVIEW:** To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirements, permit, decision or refusal made by the building inspector or any other administrative official in carrying out or enforcing any provisions of this chapter.

**(2) VARIANCE:** To authorize, upon an appeal, a variance from the strict application of the provisions of this chapter where it is found:

- a. That there are circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning classification.
- b. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance.
- c. That authorization of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purpose of this chapter or the public health, safety and general welfare of the community.
- d. That the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situation, a part of this chapter.
- e. If a condemning agency seeks a variance pursuant to MCL 213.54(2), the potential benefits of the public use shall be considered.

**(3) EXCEPTIONS AND SPECIAL APPROVALS:** To hear and decide, in accordance with the provisions of this chapter, requests for exceptions, for interpretations of the zoning map, and for decisions on special approval situations on which this chapter specifically authorizes the board to pass. Any exception or special approval shall be subject to such conditions as the board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this chapter, including the following:

- a. Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.
- b. Permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the planning commission.
- c. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
- d. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.
- e. Permit temporary buildings and uses for periods not to exceed two years in undeveloped sections of the city and for periods not to exceed six months in developed sections.

- f. Permit, upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed 12 months with the granting of 12-month extensions being permissible: uses which do not require the erection of any capital improvement of a structural nature.

The board of appeals, in granting permits for the above temporary uses, shall do so under the following conditions:

- 1.) The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.
- 2.) The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
- 3.) All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the city shall be made at the discretion of the board of appeals.
- 4.) In classifying uses as not requiring capital improvement, the board of appeals shall determine that they are either demountable structures related to the permitted use of land; recreation developments, such as, but not limited to: golf driving ranges and outdoor archery court; or structures which do not require foundations, heating systems or sanitary connections.
- 5.) The use shall be in harmony with the general character of the district.
- 6.) No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this chapter. Further, the board of appeals shall seek the review and recommendation of the planning commission prior to the taking of any action.

(b) In consideration of all appeals and all proposed variations to this chapter, the board shall, before making any variations from the chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair health, safety, comfort, morals or welfare of the inhabitants of the City of South Lyon. The concurring vote of two-thirds of the members of the board shall be necessary to reverse any order, requirements, decision, or determination of the building inspector, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the City Council of the City of South Lyon, in the manner provided by law. (*Ord. of 2-13-95(2), § 5.730; Ord. of 10-11-04(3); Ord. of 4-14-08*)

## SIGNS

**From City of South Lyon Code of Ordinances, Chapter 70 Signs:**

**Sec. 70-13. - Appeals and variances.**

- a) Appeals. Appeal from the ruling of any officer, department, board or bureau of the city, including the building official, concerning the enforcement of the provisions, standards and regulations of this chapter may be made by any aggrieved party within 30 days of the ruling to the zoning board of appeals, sitting as an administrative appeal board under this chapter.
- b) Variances. With the exception of requests for variances for multi-tenant ground signs as contemplated in section 70-14, which shall be considered by the planning commission, the zoning board of appeals shall have the authority to grant variances from the requirements of this chapter according to the criteria in section 102-85(2). In making a decision on whether a practical difficulty exists, the board may also consider the following for sign variance requests:
  - 1) In determining whether a variance is appropriate, the zoning board of appeals shall study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the zoning board of appeals may decline to grant a variance even if certain of the circumstances are present.
  - 2) In granting a variance the zoning board of appeals may attach such conditions regarding the location, character, and other features of the proposed sign as it may deem reasonable. In granting or denying a variance, the zoning board of appeals shall state the grounds and findings upon which it justifies granting or denying the variance based

on the following criteria:

- a. Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
- b. Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the zoning board of appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
- c. Existing signs on nearby parcels would substantially reduce the visibility or identification impact of a conforming sign on the subject parcel.
- d. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.
- e. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.
- f. Variance from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.
- g. A sign which exceeds the permitted height or area standards of this chapter would be more appropriate in scale because of the large size or frontage of the parcel or building. (*Ord. No. 01-14, Pt. II, 2-10-14*)

#### **Sec. 70-14. - Ground sign variances for business centers.**

The dimensional requirements (height and area) of section 70-5, specific sign standards, may be modified by the planning commission for business center or shopping center ground signs with multiple tenants and over 20,000 square [feet] of gross floor area when the following criteria have been met:

- (a) Where the objectives and intent of this chapter are better served by such modifications, rather than through the strict application of the requirements contained therein.
- (b) The sign will provide clearer, uncluttered identification to passing motorists than would otherwise be possible under the dimensional requirements of this chapter.
- (c) The requested modification will improve the aesthetics of the site by minimizing the number of individual signs on the property.
- (d) For larger centers, the sign will identify anchor tenants as opposed to all businesses.
- (e) The area of a changeable message sign or gasoline price sign still cannot exceed one-third the total area of the sign for which a modification is granted. (*Ord. No. 01-14, Pt. II, 2-10-14*)

#### **CITY OF SOUTH LYON ZONING BOARD OF APPEALS PROCESS**

- 1) Discuss proposal with Building and Planning staff.
- 2) Submit application, fees and required information to the Building Department.
- 3) Notice sent to applicant, newspapers and adjacent property owners.
- 4) Public hearing.
- 5) Motions:
  - a) Denial → Appeal to Circuit Court
  - b) Approval → Site Plan Review (if required)
  - c) Table → Further Information
- 6) Apply for Building Permit

The Zoning Board of Appeals (ZBA) meets on the third Thursday of each month at 7:00 p.m. when they have agenda items. All required materials must be submitted at least 30 days prior to the agenda on which you want to be heard.



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**ZONING BOARD OF APPEALS APPLICATION**

**APPLICANT INFORMATION**

Name of Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Are you the owner of record for the property of the proposed project? \_\_\_\_ YES \_\_\_\_ NO

*If you are NOT the owner of record for the property of the proposed project, please complete the below section PROPERTY OWNER INFORMATION.*

**PROPERTY OWNER INFORMATION**

Name of Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**LOCATION OF PROPERTY FOR WHICH THIS APPEAL IS REQUESTED**

Property Address: \_\_\_\_\_

Parcel ID Number: \_\_\_\_\_ Lot Size: \_\_\_\_\_

Present Zoning Classification: \_\_\_\_\_

**APPEAL** (Circle one)      Administrative Review      Variance      Temporary Use

State the Article(s) and Section(s) of the Zoning Ordinance being appealed:

\_\_\_\_\_

State the reason for the appeal. (What are you attempting to do and why?)

\_\_\_\_\_

**SKETCH:** A minimum of 12 copies of a clear sketch must accompany this application (where required). This sketch must be a minimum of 8 1/2" X 11" and show the property dimensions, all buildings existing or proposed on the site, the size of all structures within 50 feet of the property, the location and size of other important property characteristics such as easements, septic fields, etc.

\_\_\_\_\_  
PRINT Name of Applicant

\_\_\_\_\_  
SIGNATURE of Applicant

\_\_\_\_\_  
Date

**FOR OFFICE USE ONLY**

Date Received: \_\_\_\_\_ Checked By: \_\_\_\_\_ Fee Collected: \_\_\_\_\_