

Kalamazoo Area Building Authority Construction Board of Appeals Guidelines

Construction Board of Appeals Hearings are to be held in accordance with 1976 PA 267 (Open Meetings Act)

Prior to each hearing the Construction Board of Appeals (CBA) members are to select a member to Chair that meeting. Once selected, the Chairperson shall open the meeting, declare the date and time, and take roll call. The Chairman shall additionally circulate among the designated CBA members any written documents or exhibits provided by appellant or the building official relative to the appeal.

1. Meeting Procedures

- a. Following roll call the Chairperson shall announce the name of the appellant and the nature of the appeal. The Chairperson shall further notify the appellant and Building Official or their representatives the amount of time allotted to present the appeal.
- b. The Chairperson shall then give the floor to the appellant or its representative to give a more detailed description of the nature of the appeal request and the relief sought.
- c. The Board may ask questions of the appellant or its representative as necessary to clarify the request of the appellant including the type of relief requested and any alternatives to same.
- d. Once the board is satisfied with the description of the appeal request, the Board shall then give the floor to the Code Official or its representative to explain his or her reasoning for the decision appealed including his or her interpretation and determination of the relative Michigan Code giving rise to the appeal request.
- e. The Board may ask questions of the Code Official or its representative as necessary to clarify the decision.
- f. The Board may then open discussion and ask additional questions of the parties involved, in order to make a determination.
- g. All discussions related to the appeal shall be held during the open hearing unless otherwise allowed by the Open Meetings Act.

2. Guidelines for decision

125.1515 Specific variance from code; requirements; breach of condition; permissible variance.

Sec. 15.

(1) After a public hearing a board of appeals may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

(a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety, and welfare of the people of this state.

(b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(2) A board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety, and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

R112.2 Limitations on Authority

An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

3. Opinion and Notice to Appellant

Once the board is satisfied that it has received sufficient information to make a determination, the Chairperson or a CBA board member designated by the Chairperson shall within 30 days of the hearing render a written opinion outlining its reasons for the decision and file same with the KABA office. A copy of the decisions and statement of reasons for the decision shall be mailed by first class mail to the appellant or its representative at the address appearing on the appeal. The notice of decision shall also provide notice of the appellant's rights related to the decision including the right to appeal to the State Construction Code Commission. KABA shall maintain copies of any CBA decisions in accordance with its retention policy and Michigan Law.