

VILLAGE OF CARO ZONING ORDINANCE

ARTICLE 28 BOARD OF APPEALS

Section 2800 CREATION AND MEMBERSHIP:

There is hereby established a Board of Zoning Appeals, which shall perform its duties and exercise its powers as provided in Section 5 of Act 207 of Public Acts of 1921 as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The Board shall consist of five (5) members appointed by the Village Council. Appointments shall be as follows: One (1) member appointed for a period of one (1) year; two (2) members appointed for a period of two (2) years; and two (2) members appointed for a period of three (3) years, respectively; thereafter, each member to hold office for the full three (3) year term. Any vacancies in the Board shall be filled by appointment by the Council for the remainder of the unexpired term. The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman and Secretary. The compensation of the appointed members of the Board of Zoning Appeals may be fixed by the Village Council.

Section 2801 MEETINGS:

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as such Board may determine. All hearings conducted by said Board shall be open to the public. The Village Clerk or his/her representative, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Three (3) members of the board shall constitute a quorum for the conduct of its business.

Section 2802 FEES:

The Village Council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. At the time the notice for appeal is filed, said fee shall be paid to the Secretary of the Board of Appeals, which the Secretary shall forthwith pay over to the Village Treasurer to the credit of the general revenue fund of the Village of Caro.

Section 2803 JURISDICTION:

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 Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, special permit and site plan 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, requirement, permit, decision or refusal made by the Building Inspector or any other administrative official in carrying out or enforcing any provisions of this Ordinance.

- a. An appeal may be taken to the Board of Appeals by any person, firm or corporation, or by any officer, Department, Board or Bureau affected by a decision on a Site Plan by the Planning Commission or a decision on a Special Condition Permit by the Village Council or Zoning Administrator. Such appeal shall be taken within thirty (30) days of issuance of the decision, such time as shall be prescribed by the Board of Appeals by general rule, by filing with the person or body whose decision is being appealed and with the Board of Appeals a notice of Appeal, specifying the grounds thereof. The person or body whose decision is being appealed shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the person or body whose decision is being appealed certifies to the Board of Appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise then by a restraining order, which may be granted by a court of record.

2. Variance:

In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance.

- a. Variances shall be classified as either use variances or non-use variances. A use variance shall be: any variance which permits a use not specifically permitted by this ordinance for the district in which it is located. Any other variance shall be a dimensional variance, including variances from regulations relating to signs and parking requirements. Use variances shall not be approved in the village.
- b. Dimensional variances shall be approved only upon a ZBA finding that strict application of the regulations would result in practical

difficulties to the owner of such property. Such a finding shall be made only when all of the following criteria are met:

- 1) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements unnecessarily burdensome or would unreasonably prevent the owner from using the property.
 - 2) The characteristics which make compliance with dimensional requirements difficult must be related to unique characteristics of the property.
 - 3) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
 - 4) The proposed variance would do substantial justice to the applicant as well as other property owners in the district and will be the minimum necessary, and no variance shall be granted where a different solution not requiring a variance would be possible.
- c. The ZBA must insure in issuing a variance that the spirit of the ordinance is observed, public safety secured and substantial justice done.
- d. Any variance which authorizes construction contrary to the requirements of this ordinance shall be void unless the construction so authorized is commenced within twelve (12) months of the granting of the variance and diligently pursued until completion.

3. Interpretation of Zoning Ordinance and Map

- a. The ZBA shall have the authority to interpret the provisions of this ordinance when a requirement, standard, or other text is unclear. When determining if a particular use is included in the definition of a type or group of uses permitted in a district, it shall not interpret a use specifically listed in one district as being inferred as permitted in another district.
- b. Interpretation of ZBA district boundaries. In interpreting the boundaries of zoning district boundaries, the ZBA shall assume, unless there is information indicating otherwise, that zoning district boundaries follow lot lines, the centerline of creeks, streets, or alleys, railroad right-of-ways, section lines one-quarter or one-

eight section lines, or corporate boundary lines as they existed when the zoning boundary line was established.

4. Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this Ordinance or the Zoning Map, such power and authority being reserved to the Village Council of the Village of Caro, in the manner provided by law.

Section 2804 ORDERS:

In exercising the above powers, the Board may reverse or affirm wholly or partly, or may modify the orders, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Building Inspector from whom the appeal is taken.

Section 2805 NOTICE:

Notices of all meetings of the ZBA shall be posted at least five (5) days prior to the meeting at the village hall. Any applicant for a variance, appeal, interpretation, or other review by the ZBA, shall receive notice by first class mail not less than five (5) or more than fifteen (15) days before the meeting. When an application deals with a specific parcel of land such as a variance, surrounding property owners within three hundred (300) feet shall receive notice not less than five (5) or more than fifteen (15) days before the meeting.

Section 2806 VOTING REQUIREMENTS:

The concurring vote of three (3) 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 Ordinance to render a decision.

Section 2807 TIME LIMIT:

No order of the Board permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with the terms of such permit.