



**VILLAGE OF SUTTONS BAY
ZONING BOARD OF APPEALS**
Wednesday, November 18, 2020 at 5:30 PM
Suttons Bay Village Hall
420 N. Front Street
Suttons Bay, MI 49682

Electronic Remote Access, in accordance with Public Act 228 of 2020 will be implemented in response to COVID-19 social distancing requirements and Michigan Health and Human Services restrictions of indoor gatherings. The public may participate in the meeting through Zoom access by computer and smart phone and can find the link on our website at www.suttonsbayvillage.org

AGENDA

1. Call to Order
2. Roll Call and Notation of Quorum
3. Approval of Agenda
4. Approval of Past Meeting Minutes October 21, 2020
5. Public Comment/Written Communications (concerning items not on the Agenda)
6. Review for Member Conflict of Interest
7. Old Business
 - a. Zoning Board of Appeals By-Laws
8. New Business
 - a. Report VSB-2020-52 2021 Budget
 - b. 2021 Meeting Dates
9. Adjournment



VILLAGE OF SUTTONS BAY
ZONING BOARD OF APPEALS
MEETING MINUTES OF OCTOBER 21, 2020

The meeting was called to order by Smith at 5:59 p.m.

Present: Bahle, Perkins and Smith

Absent: Jelenik and Popke

Staff present: Fay and Petroskey

Approval of Agenda

Bahle moved, Perkins seconded, CARRIED, to approve the Agenda as presented, by an affirmative unanimous roll call vote: Ayes: 3, No: 0.

Approval of Meeting Minutes

Bahle moved, Perkins seconded, CARRIED, to approve the ZBA meeting minutes of August 19, 2020 submitted by Fay, by an affirmative unanimous roll call vote. Ayes: 3, No: 0.

Announcements

The ZBA meeting scheduled for November 18th will consist of recommending the proposed 2021 ZBA budget to Council and any new business.

The ZBA meeting scheduled for December 16th will consist of setting the proposed 2021 meeting dates and times, election of officers, and any new business.

Bahle moved, Perkins seconded, CARRIED, to adjourn the meeting. The meeting adjourned at 6:10 p.m.

Meeting minutes submitted by Shar Fay, Village Clerk.

VILLAGE OF SUTTONS BAY

ZONING BOARD OF APPEALS BYLAWS

PRE-DRAFT

The following rules of procedure are hereby adopted by the Village of Suttons Bay Zoning Board of Appeals, to facilitate the performance of its duties as outlined in P.A.110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et seq.) and as stated in the Village of Suttons Bay Zoning Ordinance.

SECTION 1: OFFICERS & MEMBERS

- A. **Selection and Tenure** - At the first meeting in each fiscal year, the Zoning Board of Appeals shall select from its membership a chairperson, vice chairperson, and secretary. All officers shall serve a term of one year, or until their successors are selected and assume office. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. **Chairperson** - The chairperson shall preside at all meetings, appoint committees, and perform such other duties as ordered by the Zoning Board of Appeals or Village Council. An alternate member shall not serve as chairperson.
- C. **Vice Chairperson** - The vice chairperson shall act in the capacity of the chairperson in his/her absence. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of vice chairperson for the unexpired term.
- D. **Secretary** - The secretary or appointed designee shall execute documents in the name of the Zoning Board of Appeals and shall perform such other duties as the Zoning Board of Appeals may determine.
 - 1. **Minutes** - The secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the Village Clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions, or recommendations made on any action and record of attendance.
 - 2. **Correspondence** - The secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the Zoning Board of Appeals. All communications, petitions, reports, or other written materials received by the secretary shall be brought to the attention of the Zoning Board of Appeals.
 - 3. **Attendance** - The secretary shall be responsible for maintaining an attendance record for each Zoning Board of Appeals member and report those records annually to the Zoning Board of Appeals.
 - 4. **Notices** - The secretary shall assist Village staff in the issuance such notices as may be required by the Zoning Board of Appeals.

SECTION 2: MEETINGS

Any business the Zoning Board of Appeals may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. The Zoning Board of Appeals may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

- A. Regular Meetings** - The Zoning Board of Appeals shall schedule regular meetings each year and shall determine the time and place of such meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or upon a day resulting in a conflict, the Zoning Board of Appeals shall, if possible, select a suitable alternate meeting date in the same month as the originally scheduled meeting.

Notice of regular Zoning Board of Appeals meetings shall be posted at the Village office within 10 days after the Zoning Board of Appeals' first meeting in each fiscal year in accordance with the Open Meetings Act.

- B. Special Meetings** - Special meetings may be called by the Chairperson, the Village Manager or upon written request to the secretary by the least two other members of the Zoning Board of Appeals.

Notice of special meetings shall be given to the members of the Zoning Board of Appeals at least 48 hours prior to the meeting. Such notice shall state the purpose, time, and location of the special meeting and shall be posted in accordance with the Open Meetings Act.

- C. Notice** - Notice required for specific requests or actions will be given in accordance with the Michigan Zoning Enabling Act or other applicable statute.

- D. Public Hearings** - All public hearings held by the Zoning Board of Appeals must be held as part of a regular or special meeting of the Zoning Board of Appeals.

- E. Agenda** - The chairperson along with Staff's assistance shall be responsible for preparing an agenda for Zoning Board of Appeals meetings. The agenda may be modified by action of the Zoning Board of Appeals.

- F. Quorum** - A majority of the members of the Zoning Board of Appeals shall constitute a quorum for transacting business and taking official action for all matters. The Zoning Board of Appeals shall not conduct business unless a majority of the members are present.

- G. Voting** - The following procedures shall be followed when taking action on any request

1. Before taking action, the voting members of the Zoning Board of Appeals shall discuss each decision standard set forth in Article 17 of the Zoning Ordinance and any relevant past precedent. Each of the standards governing variance decisions presented in Article 17 of the Zoning Ordinance shall be considered independently and a consensus reached among the voting members as to how the case meets or fails to meet each standard. Such discussion shall be fully and accurately represented within the minutes.
2. A motion to approve or deny shall be based on detailed findings of facts and shall be made by one, and seconded by another voting member.
3. To approve or deny any dimensional variance, appeal or to rule on any other matter provided by the Zoning Ordinance, an affirmative vote of at least a majority of the total membership of the Zoning Board of Appeals is required. Voting shall be by voice vote; a roll call vote shall be required if requested by any voting member of the Zoning Board of Appeals or directed by the chairperson.
4. All Zoning Board of Appeals members shall vote on all matters, except members with a conflict of interest.
5. If a decision on a particular matter is postponed until a later meeting, only members present to hear the discussion on said matter at previous meetings shall be permitted to vote on said request.
6. In the event fewer than five members of the Board are in attendance at any meeting, the Chairperson shall advise all appellants that a majority of the total membership is required for the Board to act and, at the appellant's discretion, consideration of a matter may be postponed until the full Board is in attendance. If the applicant requests such postponement, any matter shall be tabled until the next meeting without consideration.

- H. **Public Records** - All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

SECTION 3: DUTIES OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall perform the following duties:

- A. Act on applications for dimensional variances, appeals, interpretations, or other matters as authorized or required by Article 17 of the Village of Suttons Bay Zoning Ordinance and the Michigan Zoning Enabling Act.
- B. Conduct site visits as deemed necessary to evaluate an application and supporting material.

SECTION 4: ABSENCES, REMOVALS, RESIGNATIONS, VACANCIES, AND ALTERNATES

- A. To be excused, Zoning Board of Appeals members shall notify the Village Zoning Administrator, Zoning Board of Appeals Chairperson or Village Clerk, when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence. In the event a member has three consecutive unexcused absences in a calendar year, that member shall be subject to removal from the commission by the Village President or Village Council.
- B. Members of the Zoning Board of Appeals may be removed by the Village Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
- C. A member may resign from the Zoning Board of Appeals by sending a letter of resignation to the Village Council.
- D. A successor shall be appointed as soon as practical after the term of the preceding member has expired. Successors shall serve out the unexpired term of the member being replaced, with the exception of the Planning Commission representative, whose term shall run consecutively with the term as Planning Commissioner.

SECTION 5: CONFLICT OF INTEREST

- A. Prior to casting a vote on a matter on which a Zoning Board of Appeals member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Zoning Board of Appeals. Failure of a member to disqualify him or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- B. Conflict of interest is defined as, and a Zoning Board of Appeals member shall declare a conflict of interest and abstain from participating in Zoning Board of Appeals deliberations and voting on a request, when:
 - 1. An immediate family member is involved in any request for which the Zoning Board of Appeals is asked to make a decision. "Immediate family member" is defined as a spouse, mother, father, sister, brother, son, or daughter, including an adopted child, or other individual residing within the same dwelling a single housekeeping unit.
 - 2. The member has a business or direct financial interest in the property involved in the request or has a business or direct financial interest in the applicant's company, agency, or association.
 - 3. The member owns or has a direct financial interest in neighboring property.
 - 4. The Planning Commission member has advocated for or against the application outside of the decision-making process that reasonably suggest they cannot remain impartial, or represent the Village in an impartial manner.
 - 5. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.

C. Determination

If there is a question of whether a conflict of interest exists or not, the question shall be put before the Zoning Board of Appeals to be determined by a majority vote of the remaining members of the Board.

1. The Zoning Board of Appeals member declaring a conflict of interest should state the nature of the actual or potential conflict and whether he or she believes he or she could impartially consider the request before the Zoning Board of Appeals.
2. In the event the Zoning Board of Appeals makes the determination, the Zoning Board of Appeals shall apply, to the extent possible, Section 5, above.
3. In the case of a tie vote by the remaining members of the Board or if there is a question of whether a conflict exists, the Zoning Board of Appeals may suspend the decision until an opinion can be obtained by the township attorney.

D. Required Actions

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

1. Cease to participate in an official capacity, as a ZBA Representative or committee member, or in any other manner.
2. During deliberation of the agenda item before the ZBA, leave the meeting or remove one's self from the front table where members of the Zoning Board of Appeals or committee sit, until that agenda item is concluded.

SECTION 6: AGENDA

- A. The agenda and accompanying materials shall be mailed or delivered to Board members one week prior to the meeting date, if possible.
- B. All Applications shall be submitted at least 30 days in advance to the next regularly scheduled meeting to meet publication requirements of the OMA.

SECTION 7: DUTIES OF ALL MEMBERS

- A. Members shall avoid *Ex Parte* contact with an applicant and members of the public about cases where an administrative decision is or will be pending before the Zoning Board of Appeals. 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 Zoning Board of Appeals at a public meeting or hearing what was said, so that every member and other interested parties are made aware of the discussion.

B. Deliberation to Occur at Public Meetings

Deliberations by members of the Zoning Board of Appeals should not give the appearance that a Zoning Board of Appeals member is representing the applicant rather, representing the best interest of the community.

SECTION 8: AMENDMENTS

These Bylaws may be amended at any regular or special meeting by an affirmative vote of a majority of the total number of seats for members of the Board, regardless if vacancies exist or not, provided, that all members shall have been furnished a copy of the proposed amendment at least three days prior to that meeting.

SECTION 9: RESCISSION OF PREVIOUS BYLAWS, RULES OF PROCEDURE AND CONFLICT OF LAW

These Bylaws shall become effective immediately upon their adoption by the Zoning Board of Appeals and all previous Bylaws and Rules of Procedure are hereby repealed.

These Bylaws were adopted by the Village of Suttons Bay Zoning Board of Appeals on _____, 2020.

VILLAGE OF SUTTONS BAY
ZONING BOARD OF APPEALS

By: _____

Its: Chairperson

By: _____

Its: Secretary

MML – ZBA Conflict of Interest – Zoning Enabling Act

Conflicts of Interest; Knowing about conflicts of interest is important since the zoning act requires the use of an alternate when a member has a conflict. In some instances, failure to declare a conflict of interest may result in the removal of a ZBA member.

What Constitutes a Conflict of Interest? You probably have a conflict of interest if:

- you are the applicant;
- a close relative is the applicant;
- a business associate, lender or renter is the applicant;
- the proposal could allow you or a business associate to receive a financial gain or benefit;
- you are a planning commission representative to the zoning board of appeals and the matter to be heard is an appeal from a previous planning commission decision in which you participated; or

If you have to ask... chances are others are asking as well. If you are in doubt about whether or not you have a conflict, it is often advisable to take a conservative approach and declare a conflict. This helps to avoid a public appearance of unfairness. You may also consider the possibility of declaring a conflict of interest if your home falls within a notification radius used by your community for zoning board of appeals' actions. Since the sending of the notice automatically presumes some degree of interest, this fact should be recognized by declaring a conflict, particularly if a financial impact is likely. Ultimately, the declaration of a conflict of interest becomes a personal issue and one that should be honored by the other members. If in doubt about whether a conflict of interest is present, it will generally be better to avoid the perception of a conflict, even though an individual member may conclude that a conflict does not exist.

What To Do In order to maintain public trust and insure fairness, it is important to follow some simple steps if a conflict is present. The ZBA bylaws should address fully those actions to be taken in the event of a conflict of interest. Suggested actions are:

1. Declare the apparent conflict of interest. If a member is aware of a conflict prior to the meeting, the staff/chair should be notified in order to allow an alternate to be called. If an alternate is called in, he or she serves on that case until it is completed.

2. Generally, voting by the other members on a conflict of interest is not necessary. However, if the ZBA adheres strictly to Robert's Rules of Order for all meeting procedures (not just conflicts), members should be excused through a vote. However, declaring a conflict of interest should not be used as a means of avoiding a difficult or uncomfortable decision.

3. Abstain from voting and do not participate in deliberations, either as a member of the ZBA, or as a "citizen." Although no one can be prohibited from speaking as a "citizen," the comments from a fellow ZBA member will likely be viewed by the audience as being very influential and have the appearance of bias. This does not prevent the member from being represented by an attorney, family member or friend.

4. Once the conflict is declared, you may wish (but have no obligation) to leave the room. This will be a clear indication to the audience that the member has no part in the deliberation or decision, and it avoids any perception by the audience that the member is attempting to influence the others. By all means, the member with a conflict should vacate his or her seat during all proceedings involving the case.

Some Don'ts if you have a conflict of interest, • Don't discuss the proposal, either formally or informally with any of the other members. • Don't use inside knowledge and contacts. Make sure that minutes, staff materials, etc., are obtained through the same procedures as any other applicant. It is best to have someone else collect this information. • Don't represent yourself if you are the applicant. Have someone else perform that function. It is acceptable to have other family members, an attorney or a personal representative speak for the member.



VILLAGE OF SUTTONS BAY

REPORT VSB -2020- 52

Prepared:	November 1, 2020	Pages:	1 of 1
Meeting:	November 18, 2020	Attachments:	<input type="checkbox"/>
Subject:	Zoning Board of Appeals Budget 2021		

2021 Budget

Attached you will find the proposed 2021 budget for your review and approval. You will notice that the 2021 budget is in line with the 2020 budget.

The ZBA expenses are largely determined by the number of applications received for a variance and or interpretation. Please review the budget and I will be happy to answer any questions you might have.

Motion for Consideration:

MOTION THAT the 2021 Zoning Board of Appeals budget be adopted for approval to the Village Council.

	2017	2018	2019	2020	2020	2020	2021	
	Actual	Budget	Actual	Adopted	Requested	Requested	Proposed	
Planning & Zoning								
Administrative Wages	12,445	12,750	14,317	19,700	15,000	15,750		
Wages	0	0	1,881	0	4,775	5,013		
Wages - Planning Commission	2,920	4,804	2,520	4,825	4,825	4,825		PC per diem, pd annually in Dec
Wages - Zoning Board of Appeals	320	840	600	850	850	850		ZBA per diem, pd annually in Dec
FICA Contribution	952	976	1,221	1,600	1,512	1,600		
Medical Insurance	2,316	2,377	968	1,200	1,100	1,200		
Workers Compensation Insurance	103	106	65	125	125	125		
Retirement Contribution	596	638	1,423	1,375	2,150	2,076		additi for pr yr pymnt
Life, AD&D Insurance	165	78	162	150	150	150		
Unemployment Insurance	2	430	5	125	100	125		
Office Supplies	477	1,000	1,025	700	600	700		
Postage	200	200	0	200	200	200		
Professional Planning Services	2,000	3,000	0	500	500	500		
Zoning Ordinance - Planning	10,344	5,000	0	500	500	500		
Legal Fees	1,511	4,000	0	4,000	2,000	4,000		
Contractual Services	6,250	6,920	6,390	11,500	6,000	11,500		za increase in hours
Printing & Publishing	934	4,000	684	1,500	1,200	1,500		legal notices, mtg pubs
Education, Training & Dues	35	1,500	1,650	2,250	2,250	2,250		
Total Planning & Zoning	29,125	35,869	32,911	51,100	43,837	52,939		

2021 DRAFT MEETING SCHEDULE
FOR THE
VILLAGE OF SUTTONS BAY

PLANNING COMMISSION		
January	13	5:30
February	10	5:30
March	10	5:30
April	14	5:30
May	12	5:30
June	9	5:30
July	14	5:30
August	11	5:30
September	8	5:30
October	13	5:30
November	10	5:30
December	8	5:30

DDA		
February	10	9:00
April	14	9:00
September	8	9:00
November	10	9:00
Quarterly		

VILLAGE COUNCIL		
January	*19	5:30
February	*16	5:30
March	15	5:30
April	19	5:30
May	17	5:30
June	21	5:30
July	19	5:30
August	16	5:30
September	20	5:30
October	18	5:30
November	15	5:30
December	20	5:30

ZBA		
January	20	5:30
February	17	5:30
March	17	5:30
April	21	5:30
May	19	5:30
June	16	5:30
July	21	5:30
August	18	5:30
September	15	5:30
October	20	5:30
November	17	5:30
December	15	5:30

* Tuesday following

GENERAL SERVICE COMMITTEE		
February	2	8:10
April	6	8:10
May	4	8:10
June	1	8:10
July		8:10
September	7	8:10
October	5	8:10
December	7	8:10

ADMIN / PERSONNEL		
February	3	8:10
April	7	8:10
May	5	8:10
June	2	8:10
July		8:10
September	8	8:10
October	6	8:10
December	8	8:10

UTILITY / MARINA		
February	4	8:10
April	8	8:10
May	6	8:10
June	3	8:10
July		8:10
September	9	8:10
October	7	8:10
December	9	8:10

COMMITTEE OF THE WHOLE		
January	7	8:10 a.m.
March	4	8:10 a.m.
August	5	8:10 a.m.
November	4	8:10 a.m.