

CONSTRUCTION BOARD OF APPEALS

Rules and Procedures

The Construction Board of Appeals shall be established per STILLE-DEROSSETT-HALE SINGLE

STATE CONSTRUCTION CODE [ACT 230 of 1972](#), [Section 125.1514](#), as amended.

MEMBERSHIP

- A Construction Board of Appeals shall be created consisting of not less than 3 nor more than 7 members.
- A member of the Construction Board of Appeals shall be qualified by experience or training to perform the duties of the members of the Construction Board of Appeals.
- Appointments to the Construction Board of Appeals shall be made by the chief executive officer of a city, village, or township.
- Vacancies in the Construction Board of Appeals shall be filled in the same manner as original appointments.
- Members of the Construction Board of Appeals may be removed by the chief executive officer subject to the approval of the Executive Board or as otherwise provided by state law, for inefficiency, neglect of duty, or malfeasance in office.

MICHIGAN BUILDING CODE

The Construction Board of Appeals shall hear appeals for the following reasons:

1. That the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted
2. The provisions of this code do not fully apply or
3. An equally good or better form of construction is proposed.

The board shall not have authority to waive requirements of the applicable code.

MEETINGS

- Meetings shall be generally conducted in accordance with Robert's Rules.
- A meeting shall be called not more than 30 days after submission of the appeal unless a later meeting date is agreed to by the applicant.
- The Construction Board of Appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was sought.
- The business that the Construction Board of Appeals may perform shall be conducted at a public meeting held in compliance with the [Open Meeting Act, P.A. 267 of 1976](#), as amended. The meeting shall be posted at least 18 hours in advance of the meeting, per Section 15.263 of the Open Meeting Act, or as otherwise provided by State Law. The applicant shall be notified seven (7) days in advance of the meeting of the time, place, and date of the meeting by first class mail unless the applicant shall waive such notice in writing.

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- A simple majority of the appointed membership of the Construction Board of Appeals shall constitute a quorum.
- The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after submission of the appeal.

APPLICATION REQUIREMENTS – See Application

PUBLIC ACT

STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE [Act 230 of 1972](#)

[125.1515](#) **Specific variance from code; requirements; breach of condition; permissible variance.**

Section 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.

[125.1516](#) **Appeal to commission; time; hearing; quorum; effect of decision; copy of decision and statement of reasons; record of decisions; public inspection; referral of certain appeals to appropriate board; review of board's decision; petition.**

Section 16.

(1) An interested person, or the interested person's authorized agent, may appeal a decision of a board of appeals to the commission within 10 business days after filing of the decision with the enforcing agency or, in case of an appeal because of failure of a board of appeals to act within the prescribed time, at any time before filing of the decision. The hearing of an appeal based on the denial of a request for a variance by a board of appeals is within the sole discretion of the commission. If deciding an appeal, the commission may act either as a whole or by a panel of 3 or more of the commission members designated by the commission's chairperson to hear and decide

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the appeal. A majority of a panel constitutes a quorum and a decision by a panel requires concurrence of at least a majority of the panel's members. If an appeal has been presented to the commission within the time prescribed, the appeal shall be heard de novo by the commission. The commission may affirm, modify, or reverse a decision of the board of appeals or the enforcing agency. Except if modified or reversed by a court of competent jurisdiction, a decision of the commission made under this section is binding on the applicant and the affected board of appeals and enforcing agency. An appeal to the commission shall be decided within 30 days after receipt of the appeal by the commission. A copy of the decision and a statement of reasons for the decision shall be sent to the applicant and filed with the affected board of appeals and enforcing agency within 5 business days after the making of the decision. A record of decisions made by the commission under this section, properly indexed, shall be kept in the office of the commission, and be open to public inspection during business hours in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) Notwithstanding subsection (1), the executive director of the commission shall refer an appeal to the commission under subsection (1) which in the executive director's judgment relates principally to a mechanical, plumbing, electrical, or barrier free design matter to the appropriate board. The board shall hear and decide the appeal in the same manner as an appeal is heard and decided by the commission under this section, except that a board shall meet as a whole and not in a panel. A person aggrieved by a decision of a board on any appeal under this subsection may petition the commission to review the decision. The commission shall act on the petition within 5 business days after receipt, and may grant the petition at the commission's discretion except that the commission shall grant the petition if it appears that the appeal involves a question of major significance to the people of this state and that the case of the appellant has substantial merit. If the commission grants the petition, the commission acting as a whole shall review the decision in accordance with a procedure established by the commission's rules.

125.1517 Effect of appeal on orders, determinations, decisions, and actions.

Section 17.

An appeal to a board of appeals or the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, does not stay a stop construction order issued by an enforcing agency or prevent an enforcing agency from seeking an order in a court of competent jurisdiction enjoining the violation of a stop construction order. In other cases, an appeal to a board of appeals, or to the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, shall act as a stay upon an order, determination, decision or action appealed from, unless the enforcing agency establishes that immediate enforcement of the order, determination, decision or action is necessary to avoid substantial peril to life or property.