

Zoning Ordinance Determination Appeals Table

This is an aid to track appeal events. Consult court rules and statutes as needed.

See the Michigan Judicial Institute's *Appeals & Opinions Benchbook*, Chapter 2.

This is an appeal of right. MCR 7.122(A)(3). MCR 7.101–MCR 7.115 apply unless MCR 7.122 provides otherwise. MCR 7.122(A)(1).

Case Number: _____

Lower Case Number: _____

Appellant: _____

Appellant's Attorney: _____

Appellee: _____

Appellee's Attorney: _____

| Task | Applicable Court Rule | Due Date (if applicable) | Compliance? |
|---|----------------------------------|--------------------------|-------------|
| Review date of decision being appealed. Appeal must be filed per applicable statute. If no statutory timeframe exists, must be filed within 30 days of board's or commission's certification of minutes or written decision, whichever is earliest. Refer to court rules to identify appellant and appellee. | MCR 7.122(B); MCR 7.122(C)(1) | | |
| Appellant must serve appeal on clerk of municipality and decision making entity and submit proof of service. | MCR 7.122(C)(5) | | |
| Record must be filed by municipal clerk within 28 days of service or notify court of estimated date of transmittal if record is not available within 28 days of service. Court may exercise superintending control over clerk to prevent delay. | MCR 7.122(E)(2)-(4) | | |
| Municipal clerk must notify appellant and appellee of record transmittal. | MCR 7.122(E)(5) | | |
| Unless otherwise ordered, appellant must file and serve its brief on all parties within 28 days after circuit court provides written notice that the record has been filed. The circuit court may extend time on motion, or time may be extended by 14 days on stipulation and order. | MCR 7.122(F); MCR 7.111(A)(1)(a) | | |
| If appellant fails to pursue appeal in conformity with court rules, circuit court sends notice of intent to dismiss unless deficiency rectified within 14 days. If appeal is dismissed, the circuit court must immediately send a copy of the order to the parties and the trial court or agency. Appellant may move for reinstatement within 14 days of dismissal. | MCR 7.113(A); MCR 7.113(C) | | |

| Task | Applicable Court Rule | Due Date (if applicable) | Compliance? |
|--|---|--------------------------|-------------|
| Appellee’s brief is optional, but if submitted, must be filed and served on all parties within 21 days after appellant’s brief was served. The circuit court may extend time on motion, or time may be extended by 14 days on stipulation and order. | MCR 7.122(F); MCR 7.111(A)(2) | | |
| Appellant may file a reply brief within 14 days after appellee’s brief was served. | MCR 7.122(F); MCR 7.111(A)(3) | | |
| Proceedings under MCL 125.3606: | MCR 7.122(G)(1) | | |
| Court may order further zoning board of appeals proceedings if record inadequate or material evidence not presented. Any supplementary record and decision must be filed with the court. See MCL 125.3606(2) . | MCR 7.122(G)(1)(b) | | |
| Determine whether either party properly requested oral argument and whether deliberation will be significantly aided by oral argument; if so, schedule. Oral argument is forfeited for failure to timely file a conforming brief unless the circuit court grants motion to reinstate oral argument. | MCR 7.111(A)(6); MCR 7.111(C); MCR 7.114(A) | | |
| Circuit court must decide appeal by oral or written opinion and issue order. The court must ensure zoning board decision was authorized by law, procedurally proper, supported by competent, material, and substantial evidence on the record, and was an exercise of reasonable discretion. See MCL 125.3606(1) . | MCR 7.114(B); MCR 7.122(G)(1)(a) | | |
| Court must serve order on parties. | MCR 7.122(H) | | |
| Circuit court must promptly send original record, certified copy of order, and any written opinion to (1) the clerk of the Court of Appeals, if timely application for leave is filed, or (2) the agency, if no timely application for leave to appeal filed. | MCR 7.109(H) | | |
| Other Appeals: | MCR 7.122(G)(2) | | |
| Determine whether either party properly requested oral argument and whether deliberation will be significantly aided by oral argument; if so, schedule. Oral argument is forfeited for failure to timely file a conforming brief unless the circuit court grants motion to reinstate oral argument. | MCR 7.111(A)(6); MCR 7.111(C); MCR 7.114(A) | | |
| Circuit court must decide appeal by oral or written opinion and issue order. The court must ensure zoning board decision was authorized by law and supported by competent, material, and substantial evidence on the whole record. | MCR 7.114(B); MCR 7.122(G) | | |

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| Court must serve order on parties. | MCR 7.122(H) | | |
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