

City of Hastings
COUNTY OF BARRY, STATE OF MICHIGAN

ORDINANCE NO. 616

AN ORDINANCE TO AMEND CHAPTER 90 OF THE HASTINGS CODE OF 1970, AS AMENDED, BY AMENDING THE FOLLOWING: ARTICLE 90 - III, SECTION 90-87 VARIANCES PROHIBITED.

AS RECOMMENDED BY THE PLANNING COMMISSION ON JUNE 5, 2023

THE CITY OF HASTINGS ORDAINS:

SECTION I.

Section 90-87 is hereby amended to Chapter 90, Article 90 – III Variances Prohibited: Current in Italics. Text additions in **BOLD**

Sec 90-87 Variances Prohibited

No variance in the provisions or requirements of this chapter shall be authorized unless the board finds from reasonable evidence that such variance will not be of substantial detriment to adjacent property and the surrounding neighborhood; will not impair the public health, safety, welfare or the intent and purpose of this chapter; and that at least two of the following conditions exist:

- a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning classification.*

- b) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity, provided that the possibility of increased return shall not be deemed sufficient to warrant a variance.*

- c) That the condition or situation of the specific piece of property or the intended use of the property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situation as part of this chapter.*

Sec 90-87 Variance Standards and Conditions

The Zoning Board of Appeals shall have the authority to grant nonuse variances related to dimensional requirements of the Zoning Ordinance or to any other nonuse-related standard in the Ordinance where there are practical difficulties in the way of carrying out the strict letter of this Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured, and substantial justice done.

(a) Standards: In determining whether practical difficulties exist, the Zoning Board of Appeals shall consider the following factors:

- 1) That the variance will not permit the establishment within a zoning district of any use which is not allowed as a permitted or special land use within the district.**
- 2) That compliance with the strict letter of the Zoning Ordinance would unreasonably prevent the owner or occupant of the property from using the property for a permitted purpose or would render conformity with the Zoning Ordinance unnecessarily burdensome.**
- 3) That a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the surrounding area or, in the alternative, that a lesser relaxation than that applied for would give substantial relief to the owner or occupant of the property involved and be more consistent with justice to other property owners.**
- 4) That the hardship asserted by the applicant by way of justification for a variance is due to unique circumstances of the property.**
- 5) That the hardship asserted by way of justification for the variance is not self-created.**
- 6) That, in granting a variance, the Zoning Board of Appeals is ensuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.**

(b) Conditions: The Zoning Board of Appeals may attach conditions or limitations upon a variance, where such are necessary to insure that public services and facilities affected by a requested variance and the associated land use or activity will be capable of accommodating increased service and facility loads caused by the variance and associated land use or activity, and to protect the natural environment and conserve natural resources and energy, and to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Prior to attaching a condition or limitation to a variance, the Zoning Board of Appeals shall also specifically determine the following:

- (1) That the condition or limitation is designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity associated with the variance under consideration, residents, and land owners immediately adjacent to the land use or activity, and the community as a whole; and,**
- (2) That the condition or limitation is related to the valid exercise of the police power, and purposes which are affected by the proposed variance; and,**
- (3) That the condition or limitation is necessary to meet the intent and purpose of the zoning ordinance, is related to the standards established in the ordinance for the variance under consideration and associated land use or activity and is necessary to ensure compliance with those standards.**

Any such conditions and limitations may impose greater or more restrictions and requirements than are included in this Ordinance generally and may include the provision of reasonable financial security to guarantee performance. Violation of any such conditions or limitations shall be deemed a violation of this Ordinance.

SECTION II.

If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

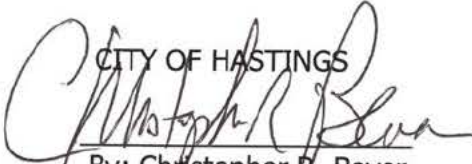
SECTION III.

This ordinance shall become effective upon its adoption and publication as provided by City Charter.

Moved by Member Furrow, with support by Member McLean, that **Ordinance No. 616** be adopted as read.

YEAS: Barlow, Bowers, Cary, Furrow, Jarvis, McLean, Nesbitt, Resseguie and Tossava.
NAYS: None.
ABSENT: None.

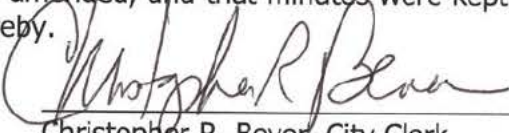
Adoption Date: June 26, 2023
Effective Date: June 30, 2023
First Reading: June 12, 2023
Second Reading: June 26, 2023

CITY OF HASTINGS

By: Christopher R. Bever
Hastings City Clerk

CERTIFICATE

The undersigned, being the duly qualified and acting Clerk of the City of Hastings, Michigan, does hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of Hastings, at a regular meeting of the City Council on the 26th day of June 2023, at which meeting a quorum was present and remained throughout, and that the original of said Ordinance is on file in the records of the City of Hastings. I further certify that the meeting was conducted, and public notice was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Dated: June 26, 2023


Christopher R. Bever, City Clerk