



From: Kristen Kapelanski, Manager of Planning
To: Zoning Board of Appeals
Date: October 14, 2020
Re: Ratifying Decisions Made at Virtual Meetings

As you are aware, on October 2, 2020, the Michigan Supreme Court determined that the Executive Orders issued by Governor Whitmer relating to the COVID-19 pandemic are invalid. As such, boards and commissions can no longer hold open meetings virtually.

At the advisement of City Attorney John Staran, attached is a draft resolution to ratify the Zoning Board of Appeals' decisions and actions made during virtual meetings held since April 30, 2020. In addition, there is an Exhibit listing the actions taken which do not need to be restated but can be referenced by file number. The Zoning Board of Appeals had one meeting, in September 2020, pertaining to this Resolution.

According to Mr. Staran, there is a bill in development in the State Legislature which, if enacted, may validate decisions made since April 30, but it is not the law yet, and it is unsure when or if it will be. It is his recommendation to proceed with the Resolution to ratify those decisions.

MOTION by _____, seconded by _____, the Rochester Hills Zoning Board of Appeals hereby approves the following Resolution dated October 14, 2020 to ratifying decisions made virtually:

Whereas, pursuant to and in accordance with Executive Orders issued by Michigan Governor Gretchen Whitmer during the COVID-19 pandemic, including, but not limited to Executive Orders 2020-15, 2020-48, 2020-75, 2020-129 and 2020-154, the Rochester Hills Zoning Board of Appeals held and conducted an electronic, remote-participation Zoning Board of Appeals meeting after April 30, 2020 and has undertaken various actions and made various decisions during that remote participation meeting; and

Whereas, the Michigan Supreme Court on October 2, 2020, issued its Opinion in *In re Certified Questions – Midwest Inst. Of Health v Governor* (Case no. 161492) determining, among other things, that the Executive Orders issued by Governor Whitmer after April 30, 2020 relating to the COVID-19 pandemic are invalid; and

Whereas, the Michigan Open Meetings Act, at MCL 15.270(5), authorizes the Zoning Board of Appeals to reenact and ratify the decisions made at the remote participation meeting held after April 30, 2020.

THEREFORE, IT IS RESOLVED that the Rochester Hills Zoning Board of Appeals:

1. Hereby reenacts, ratifies, reaffirms and readopts any and all decisions made by the Zoning Board of Appeals at the remote participation meetings held between April 30, 2020 and the present.

2. A complete listing of the decisions being reenacted, ratified, reaffirmed and readopted is attached hereto as an Exhibit.

I, WILLIAM CHALMERS, CHAIRPERSON OF THE ROCHESTER HILLS ZONING BOARD OF APPEALS DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND COMPLETE COPY OF A RESOLUTION, THE ORIGINAL OF WHICH IS ON FILE IN THE PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT OFFICE, ADOPTED BY THE ZONING BOARD OF APPEALS OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF HELD ON OCTOBER 14, 2020.

William Chalmers, Chairperson
Rochester Hills Zoning Board of Appeals