



Board of Zoning Appeals Basic Training Session

Village of Lake Orion, Oakland County, Michigan

August 6, 2026

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“Good planning helps create communities that offer better choices for where and how people live. Planning helps communities to envision their future. It helps them find the right balance of new development and essential services, environmental protection, and innovative change.”

– American Planning Association

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Agenda

- Planning & Zoning Essentials
- Zoning Board of Appeals
 - ✓ Role
 - ✓ Responsibilities
 - ✓ Tools
- Managing Risk
- Question and Answer





Planning & Zoning Essentials

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Authority

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Authority and Responsibility

- **Michigan Planning Enabling Act (MPEA)** *enables* establishment of a planning commission.
- The **Michigan Zoning Enabling Act (MZEA)** *enables* the development and administration of a zoning ordinance.
 - ✓ Article 6 establishes the Zoning Board of Appeals

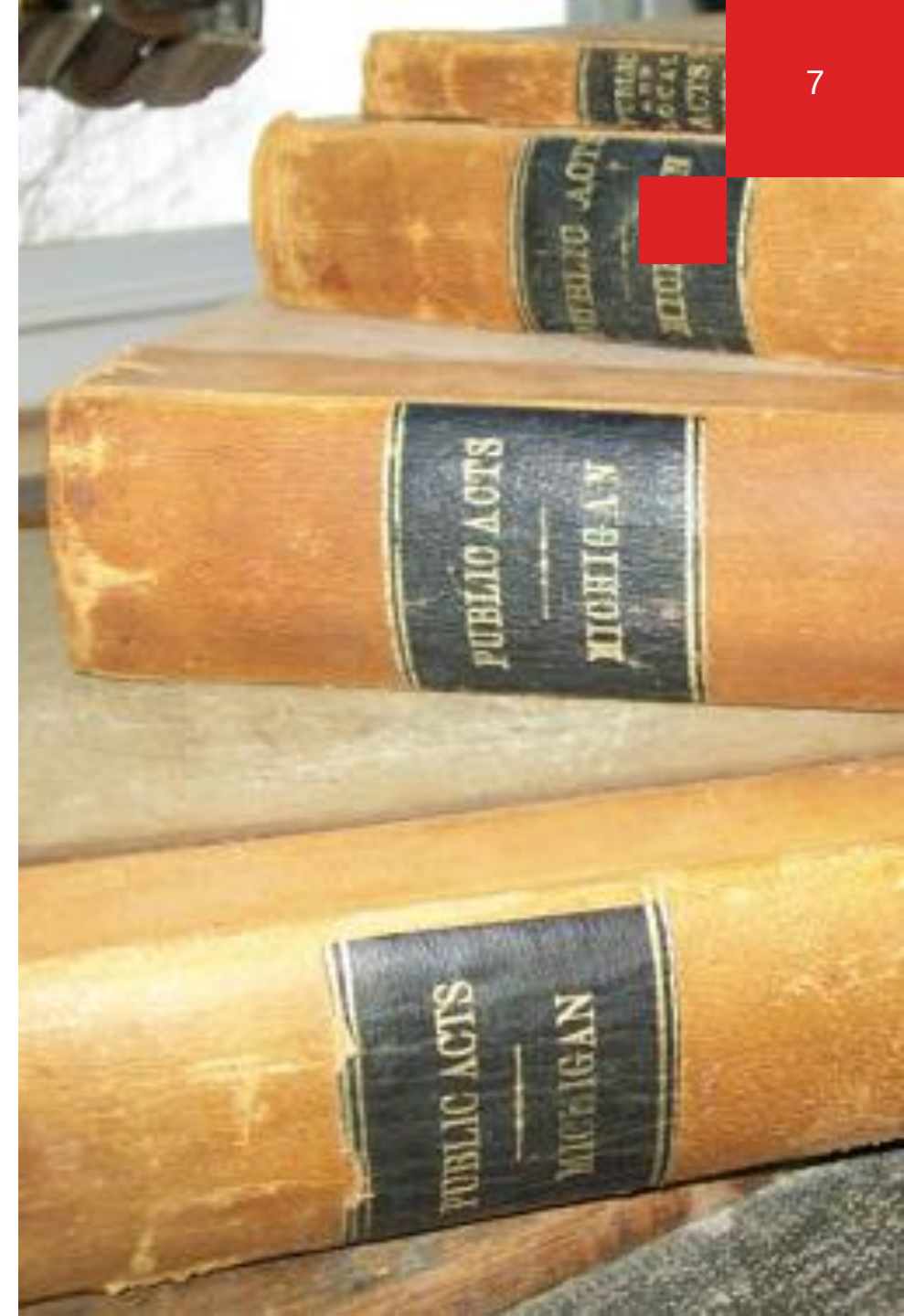


Michigan Planning Enabling Act

(P.A. 110 of 2006)

- **Master Plans**

- ✓ Community Data
- ✓ Policies and Objectives
- ✓ Future Land Use Map
- ✓ Zoning Plan



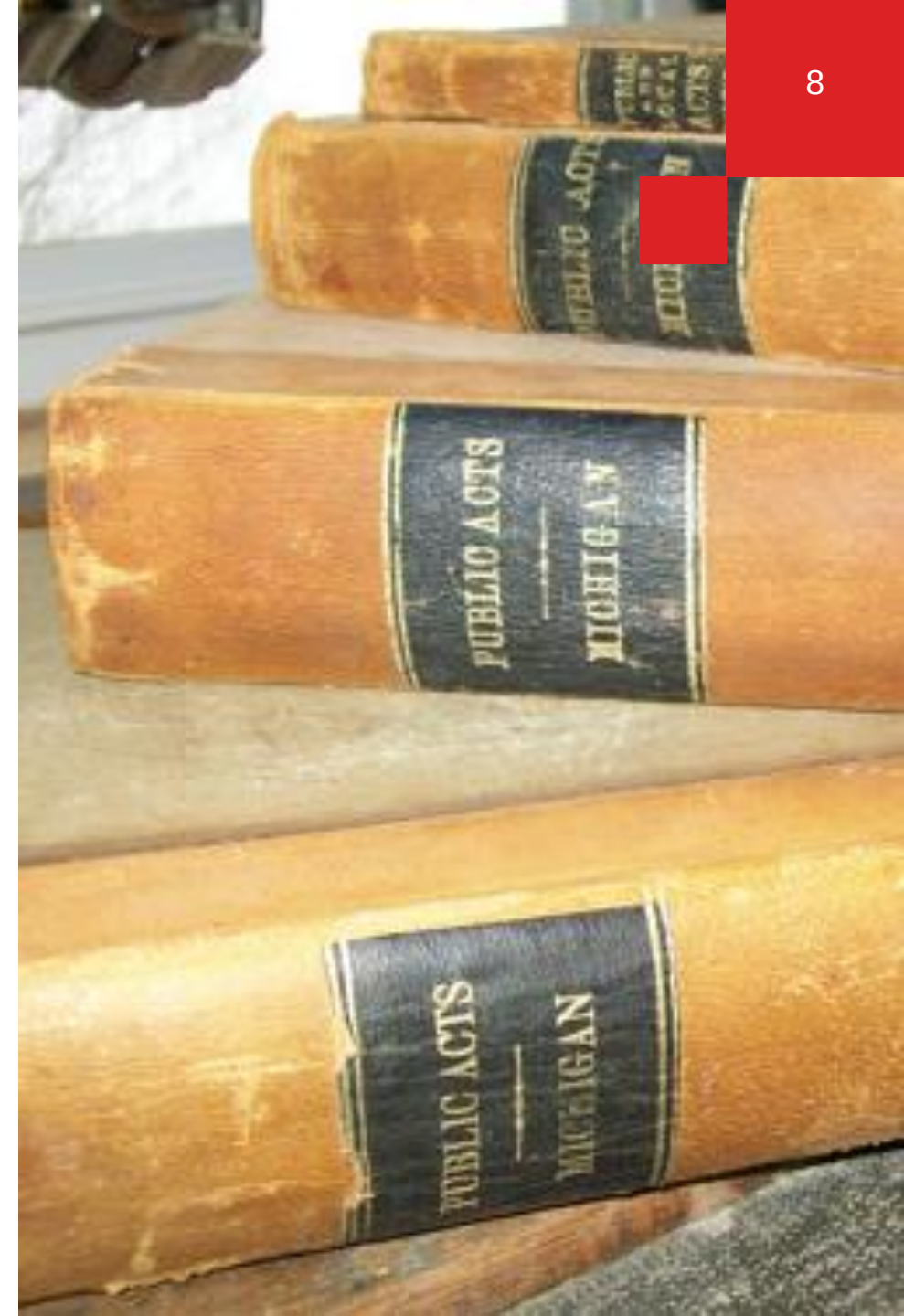
Michigan Zoning Enabling Act

(P.A. 110 of 2006)

- **Zoning Ordinances**

- ✓ Uses, structures, densities, and other development
- ✓ Amendments
- ✓ Variances
- ✓ Appeals
- ✓ Special Land Uses
- ✓ Zoning Map
- ✓ Planned Unit Developments

- **Case Law = Additional Guidance/Clarification**





Roles & Responsibilities

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The Planning & Zoning Team

- Village Council
- Planning Commission
- Board of Zoning Appeals
- Village Manager/Zoning Administrator
- Staff Professionals (Plan Reviewers)
 - ✓ Village Planner (McKenna)
 - ✓ Village Engineer (Nowak & Fraus)
 - ✓ Fire Department (Orion Twp)
- Planning & Zoning Coordinator (McKenna)
- Building Inspector (Orion Twp)
- Code Enforcement Officer

Roles and Responsibilities

Planning Commission

(Appointed)

- ✓ Master Plan
- ✓ Capital Improvement Plan
- ✓ ZO Recommendation
- ✓ Zoning Reviews
- ✓ Subdivision
- ✓ Site Plan Review
- ✓ Annual Report

Village Council

(Elected)

- ✓ Master Plan (optional)
- ✓ Capital Improvement Plan
- ✓ ZO Adoption
- ✓ Zoning Reviews
- ✓ Appointments
- ✓ Budgets
- ✓ Sets fees

Board of Zoning Appeals

(Appointed)

- ✓ Variances
- ✓ Appeals
- ✓ Interpretations
- ✓ Other Duties

Village Council

- Legislative Body
- Adopts Zoning Ordinance
- Adopts amendments to Zoning Ordinance text and Zoning Map
- May approve or deny Site Plan & Special Land Use applications
- Set permit and application fees
- Appoint Planning Commission and BZA members
- Approve proposed PUD and cluster housing upon PC recommendation
- If applicable, adopts Master Plan
- Adopts Capital Improvement Plan (CIP)

The Planning Commission

- 5, 7, 9, or 11 members appointed by Legislative Body
- Develop Zoning Ordinance and Zoning Map and make recommendations to Village Council
- Reviews Capital Improvement Plan (CIP)
- Hold public hearings on Special Land Uses, Zoning Ordinance amendments
- Makes recommendations to Village Council for Site Plan and Special Land Uses
- Review matters referred by the Legislative Body
- Prepare Annual Report
- Recommends Adoption of Master Plan

The Board of Zoning Appeals

- Members appointed by the Legislative Body (number specified in ZO – in Lake Orion 5)
 - ✓ Not fewer than 5 if pop. > 5,000 with up to 2 alternates
 - ✓ Legislative body may act as ZBA
- Hear and decide appeals of administrative decisions
 - ✓ May not review special land use and PUD appeals unless provided for in ZO.
- Authorize variances (dimensional and use)
- Grant expansions/extension for non-conforming uses; reconstruction of buildings damaged by fire etc. (*Article 17*)

The Zoning Administrator

- Administer and Enforce Zoning Ordinance
- Consult with applicants before application
- Issue Zoning Compliance permits and sign permits
- Write reports to Village Council, Planning Commission, and BZA
- Conduct site inspections
- Coordinate projects with Planning & Zoning Coordinator



Your Tools: Master Plan & Zoning Ordinance

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Master Plan

- **Powerful expression of the Village's intentions for the future**
- Basis for zoning and other land use regulation
- Identifies existing conditions & trends
- Sets goals with public input
- Considers alternatives
- Balance community rights and landowner rights
- Provides recommendations for future development, including Future Land Use Map
- Must review at least every 5 years

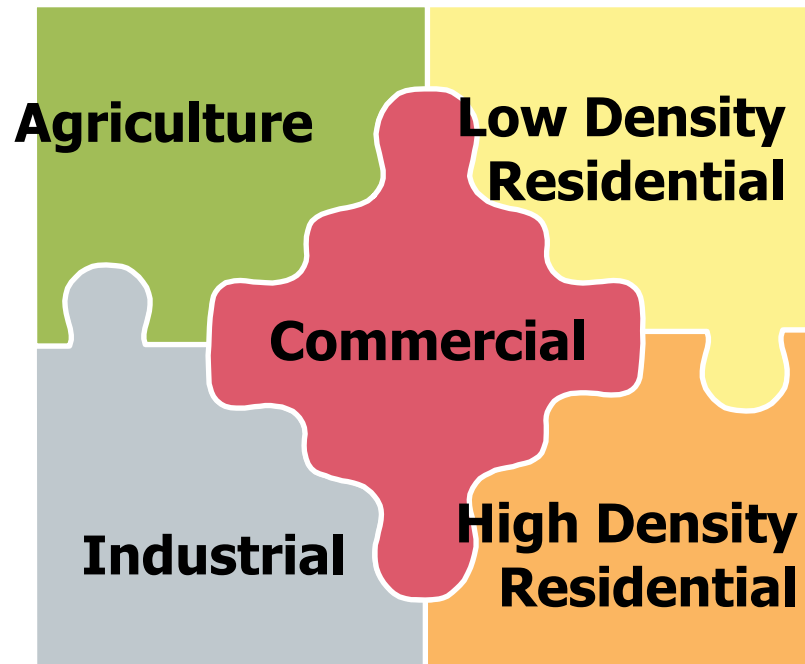
Zoning Ordinance

- **Protects public health, safety, and welfare**
- Ensures orderly development and growth
- Divides the municipality into zones
- Provides for administration and enforcement
- Includes regulations for:
 - ✓ Buildings, structures, uses
 - ✓ Area, setbacks, lot coverage, bulk, density
 - ✓ Design
 - ✓ Parking, landscaping, etc.

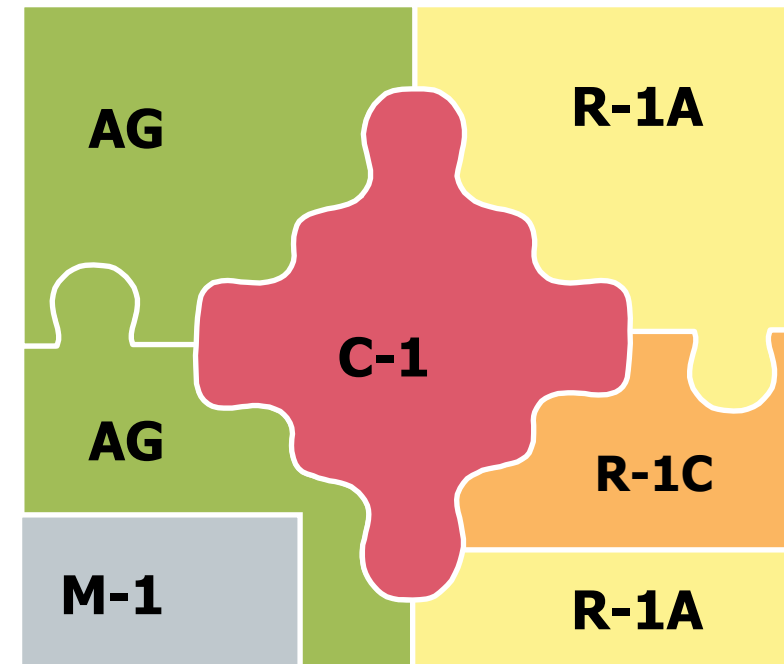
Relationship of MP & ZO

Master Plan	vs	Zoning Ordinance
Guide for the FUTURE	-	Regulation for TODAY
Policy	-	Law
Future land use maps may be general	-	Zoning maps are specific and follow property lines
Flexible to respond to changing conditions	-	Specific standards
Adopted/Amended by Planning Commission and Village Council	-	Adopted by the Village Council upon recommendation by the Planning Commission

Relationship of MP & ZO (Cont'd)



Master Plan
Future Land Use Districts



Zoning Ordinance
Zoning Districts



Planning Commission Actions

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Planning Commission Actions within ZO

- Site Plan Reviews
- Special Land Use Permits
- Text Amendments and Map Amendments (Rezoning)
- Planned Unit Developments



Nonconformities

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Nonconformities

“Nonconformities are uses, structures, buildings or lots that do not conform to one or more requirements of this Ordinance or a subsequent amendment, but were lawfully established prior to the time of adoption of the Ordinance or amendment”.

For Lake Orion: Zoning Ordinance Article 17 addresses nonconformities.

Nonconformities (Cont'd)

- **Nonconforming Buildings (e.g., a building located in a setback):**
 - ✓ In what circumstances, if any, can the building be expanded or extended?
 - ✓ Under what circumstance can a building be repaired or rebuilt?
- **Nonconforming Use (e.g., a single-family dwelling in a commercial district)**
 - ✓ If the home burns down, can it be rebuilt and reoccupied for residential use?
 - ✓ Can the nonconforming use be expanded or extended?
- **Nonconforming Lot (e.g., lot is smaller than min. lot size)**
 - ✓ If the owner owns 2 or more contiguous nonconforming lots, are they required to combine them as a condition of land use approval?



Zoning Board of Appeals

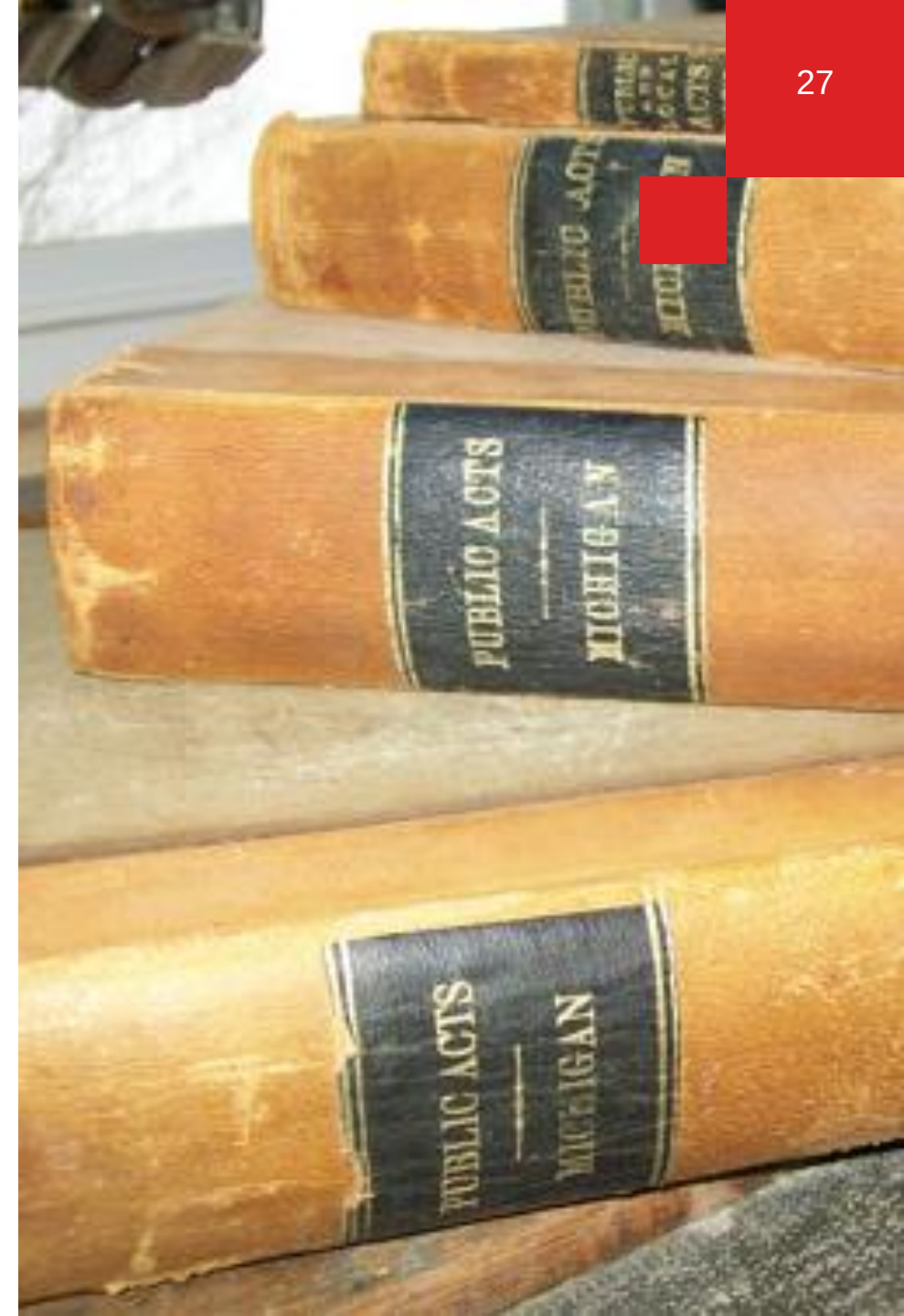
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MZEA – Article VI

(P.A. 110 of 2006)

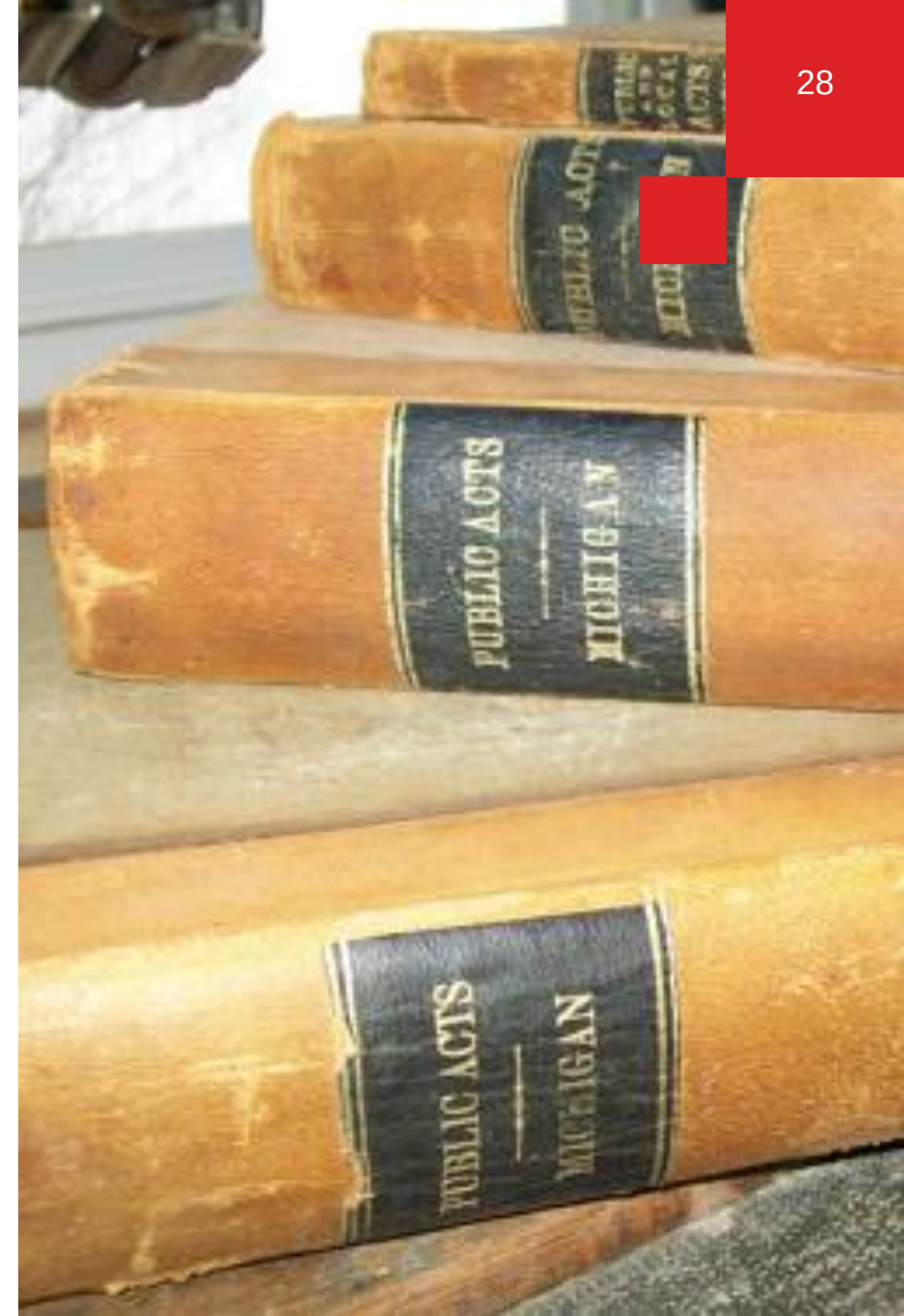
- **Role and Responsibilities of the Board of Zoning Appeals**
 - ✓ **Membership**
 - ✓ **Powers**
 - ✓ **Procedures**
 - ✓ **Appeals to BZA Action**



ZBA Membership

(P.A. 110 of 2006, Sec 601)

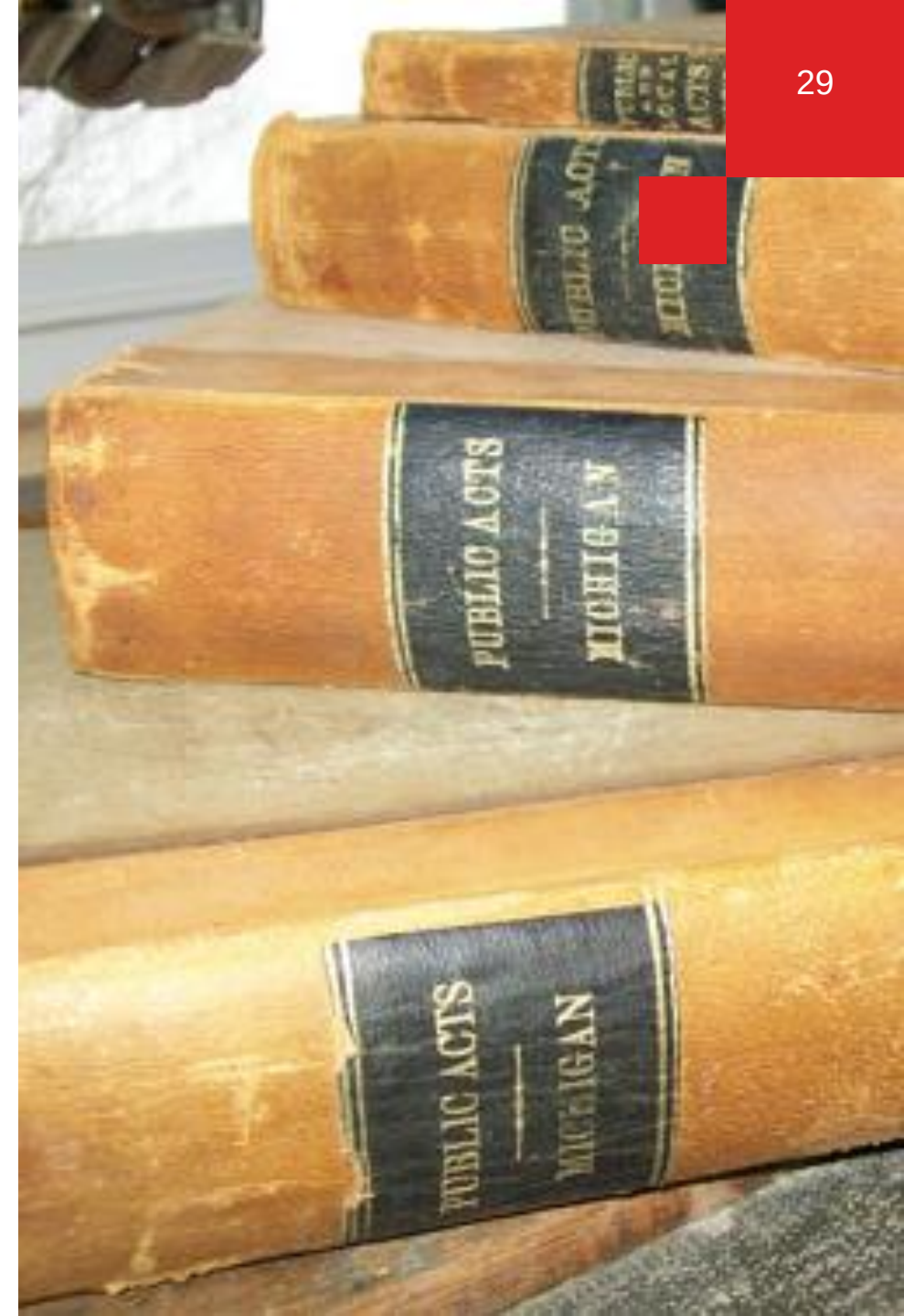
- **Zoning Ordinance shall create a Board of Zoning Appeals**
 - ✓ Appointed by Village Council
 - ✓ Up to 5 members (with up to 2 alternatives)
 - ✓ Shall have 1 member from PC
 - ✓ Remaining members shall be from the electors of the Village
 - ✓ One regular or alternate may be a member of legislative body (but shall not serve as the chair)



ZBA Membership

(P.A. 110 of 2006, Sec 601)

- Members shall have a 3-year term (unless on PC/Council)
- May be removed for Nonfeasance, Misfeasance or Malfeasance
- PC Member and Board Member:
 - ✓ Shall not participate in a public hearing or vote the same matter that they voted on as a member of the PC or Board



BZA Powers

(P.A. 110 of 2006, Sec 603 and 604)

- **SHALL** hear questions on administration of ordinance
- **SHALL** conduct interpretation of zoning maps
- **SHALL** hear matters referred to BZA or which the BZA are required to pass under the zoning ordinance
- **MAY** hear appeals of a person aggrieved by an officer, department, or board of the local unit of government
- **MAY** grant a nonuse variance

BZA Powers: Appeals

- Appeals of an administrative official based on a person being aggrieved by any order, requirement, decision, or determination
- **Typical standards of review:**
 - ✓ Was the administrative decision arbitrary or capricious?
 - ✓ Was the administrative decision based on an erroneous finding of material fact?
 - ✓ Was the administrative decision based on erroneous interpretation of the Zoning Ordinance?
 - ✓ Does the administrative decision constitute an abuse of discretion?

BZA Powers: Dimensional/Nonuse Variances

- Dimensional Variances: Allow an area, dimension, setback, size, height, lot coverage that does not comply with the Zoning Ordinance
- A variance is a permanent and officially-approved deviation from the ZO
- Variance granted in perpetuity (runs with the land)
- **Standards of review:**
 - a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
 - b) The variance will provide substantial justice to the applicant, as well as other property owners.
 - c) The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
 - d) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
 - e) The problem and resulting need for the variance has been created by strict compliance with the Zoning Ordinance, and not by the applicant or applicant's predecessors; it is not self-created.

BZA Powers: Use Variances

- Use Variances: A use variance is a variance that permits a use that is otherwise not permitted in a zoning district.
- A variance is a permanent and officially-approved deviation from the ZO
- Variance granted in perpetuity (runs with the land)
- **Standards of review:**
 - a) The property cannot be reasonably used for any purpose permitted in the zoning district without a variance.
 - b) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
 - c) The variance will not alter the essential character of the area. In determining the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
 - d) The problem and resulting need for the variance has not been self-created by the applicant.
 - e) The spirit of the Ordinance will be observed, public safety secured, and substantial justice done, if the variance is approved.

BZA Procedures

(P.A. 110 of 2006, Sec 604 and 604)

- BZA can reverse or affirm, wholly or partly or modify an administrative order or decision
- BZA may grant a variance so spirit of ZO observed, public safety secured and substantial justice done. May impose conditions. (Can't negotiate)
- Vote of a majority of the BZA membership required to reverse a decision or grant a variance
- BZA decision final action at local level – Appealed to Circuit Court

BZA Procedures

Sample Motion to Approve the Variance:

The following is an example of a motion that can be used to approve a variance request.

I make the motion to approve of and grant Parcel #_____, more commonly known as 123 Main Street, a _____ variance from the Village of Lake Orion Zoning Ordinance, Article __, Section __, _____ requirement. This variance is granted based on the Board of Zoning Appeals making the determination that the site meets the approval criteria of Section 19.04.D.1. Specifically, we find the follow criteria have been met:

1. _____
2. _____
3. _____
4. _____
5. _____

ZBA Procedures

Sample Motion to Deny the Variance:

The following is an example of a motion that can be used to deny a variance request.

I make the motion to deny Parcel #_____, more commonly known as 123 Main Street, a _____ variance from the Village of Lake Orion Zoning Ordinance, Article __, Section __, _____ requirement. This variance is denied based on the Board of Zoning Appeals making the determination that the site meets the approval criteria of Section 19.04.D.1. Specifically, we find the follow criteria have not been met:

1. _____
2. _____
3. _____
4. _____
5. _____

Q: Variances

Which of the following are reasons to approve a variance?

- A. The neighbors support it
- B. It's the only sign they make
- C. The ordinance is too strict
- D. It will make the area better
- E. The variance was granted before
- F. It's already built
- G. We know he will do a good job
- H. The variance is minimal

Q: Variances

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Trick question – none!



Managing Risk

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Risk Management

You **CAN'T** always avoid litigation, but you **CAN** manage risk and liability by:

- ✓ Following all rules and procedures
- ✓ Using Sound Decision-Making Principles
- ✓ Avoiding Conflicts of Interest





Making Good Decisions

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Making Good Decisions

- Good decision-making starts with knowledge:
 - ✓ Before Meetings
 - ✓ During Meetings
- Should be based on the **standards of the ordinance** and **facts**, **NOT** opinions!



Before Meetings

- Review the agenda and **all** packet materials
 - ✓ Applications, Site Plans, Supporting Materials, etc.
 - ✓ Planner, Engineer, and Fire Dept. Reports
- Review **all standards** that will be used for each decision
- Request information from staff if you have more questions
- **DO NOT** discuss the proposal with the applicant, neighbors, or other officials
- **DO NOT** disclose your opinion/decision in advance of the meeting, especially to members of the public!

Open Meetings Act (OMA)

- All **meetings** of a public body must be **open to the public** and must be held in a **place available to the general public**.
- All **decisions** of a public body must be **made at a meeting** open to the public.
- All **deliberations** of a public body constituting a quorum of its members must **take place at a meeting** open to the public
- A meeting of a public body shall not be held unless **public notice is given** as provided in the act
- Each public body **shall keep minutes** of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. **Minutes are public records** open to public inspection.

Open Meetings Act (OMA) (Cont'd)

- In practice - Decisions must be made by majority vote of a public body
- Must consider what information ***influences*** each member of the body. Such info. Must be presented at the meeting.

The decision must be based on evidence presented at the meeting

- Meetings not duly noticed as an “open meeting,” e.g., a meeting at a property, may not serve as the basis for decision making.
- Discussion with an applicant or citizens outside a meeting may not serve as the basis for decision making, i.e., this does not represent evidence presented at the meeting.

During Meetings

DO

- Disclose potential conflicts of interest
- Direct comments through the Chair
- Conduct all deliberations in the open
- Participate in the deliberation
- Ask questions
- Ask for clarification

DO NOT

- Act hastily just to move things along
- “Talk an issue to death”
- Vote without being clear on the content/intent of the motion

Sound Decisions

- Make findings of fact
- Follow all rules and procedures
- Consistently apply standards
- Do not act based on emotion/
public sentiments
- Resolve questions before taking action
- Rely on legal counsel, planning
consultants, staff for advice



Sound Decisions (Cont'd)

- Apply conditions only as appropriate
- Make clear motions
- Keep accurate and complete records
- Maintain/publish meeting minutes
- Correct any mistakes immediately



Q: Making Sound Decisions

Which of the following are reasons to approve or deny a request?

- A. Many people came to object
- B. It's the only sign/building type/etc. they make
- C. It will make the area better/worse
- D. We know he/she will do a good/bad job
- E. I like/don't like the way it looks
- F. The ordinance is too strict/too lenient
- G. We'll get sued if we do/don't

Q: Making Sound Decisions

Which of the following are reasons to approve or deny a request?

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- B. It's the only sign/building type/etc. they make**
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- E. I like/don't like the way it looks**
- F. The ordinance is too strict/too lenient**
- G. We'll get sued if we do/don't**

*Trick question – none!
Except G. Why?*

When turning down a request...

Think about:

- The hundreds (or thousands) of property owners who ***did*** comply
- The amount of time and effort spent developing the Zoning Ordinance
- The effectiveness/enforceability of your Zoning Ordinance if you get into a pattern of making concessions, granting waivers, ignoring procedures, etc.



Conflicts of Interest

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Conflicts of Interest

- Members must abstain from discussion and voting when:
 - ✓ **Financial:** Employment, owns or leases property that is involved or that will have its value affected
 - ✓ **Personal:** A relative or a close friend
 - ✓ **Political:** Village officials representing applicants

Q: Conflicts of Interest

Which of the following may constitute a conflict of interest?

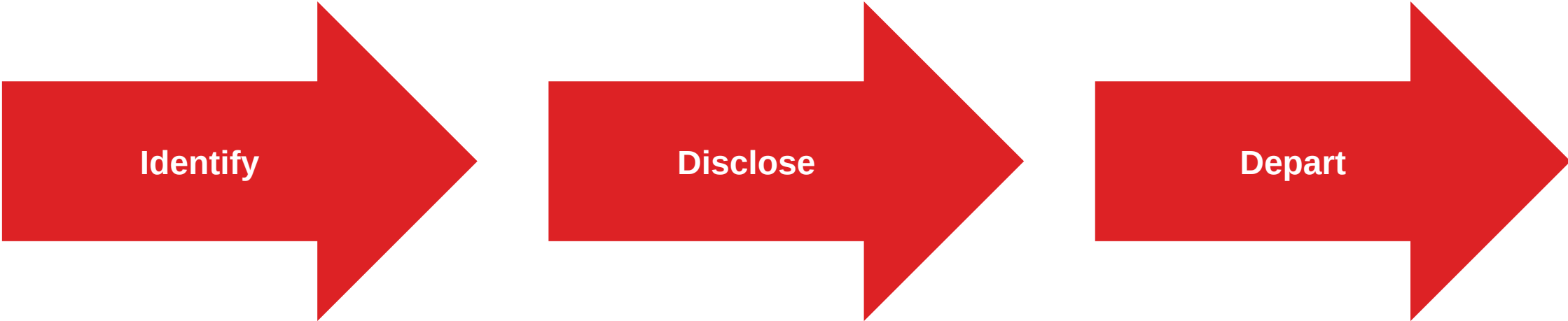
- A. You are the applicant
- B. Applicant is a relative
- C. Applicant is a neighbor
- D. Your firm works for the applicant
- E. Applicant is a business associate
- F. Business competitor
- G. You do not want to vote contrary to overwhelming public comment

Q: Conflicts of Interest

Which of the following may constitute a conflict of interest?

- A. You are the applicant - YES**
- B. Applicant is a relative - MAYBE
- C. Applicant is a neighbor - MAYBE
- D. Your firm works for the applicant - MAYBE
- E. Applicant is a business associate - MAYBE
- F. Business competitor – YES**
- G. You do not want to vote contrary to overwhelming public comment - NO

Conflict of Interest Procedures



```
graph LR; A[Identify] --> B[Disclose]; B --> C[Depart];
```

Identify

Disclose

Depart



Ex Parte Communication

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Public Hearings

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Public Hearing: What is Required

- **All Public Meetings**
 - ✓ Open to the public
 - ✓ Public comment period
- **Public Hearings**
 - ✓ Public Notice of Request
 - ✓ Public Comment Period
- **ZEA Requirements:**
 - ✓ Notice in local paper
 - ✓ Mailed notices



Public Hearings

Land use discussions bring out strong opinions and the public should have the opportunity to be heard.

- Be Fair
- Follow the Rules
- Control your emotions
- Listen!



Public Hearings (Cont'd)

- There will always be differing opinions
 - ✓ **Remember:** *those who oppose a project are more likely to attend a hearing*
 - ✓ Public pressure should not be the only reason for approval or denial
- The master plan and zoning ordinance **reflect the community**
- **You must consistently follow the law and written rules of procedure**



Questions?

MAIN ST.

WASHINGTON ST.

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