

**AGENDA
CITY OF SWARTZ CREEK
ZONING BOARD OF APPEALS
WEDNESDAY, JULY 16, 2025
6:00 P.M.**

- 1. CALL TO ORDER:**
- 2. PLEDGE OF ALLEGIANCE:**
- 3. ROLL CALL:** Commissioners: Gilbert, Hicks, Packer, Smith, Wyatt.
Alternates: Brill, Melen
- 4. APPROVAL OF AGENDA:**
- 5. APPROVAL OF MINUTES:**
- 6. CORRESPONDENCE:**

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- 7. MEETING OPENED TO THE PUBLIC:**
- 8. VARIANCE APPLICATION:**
 - A. 7538 Miller Road; PID 58-36-300-021; Use Variance for residential apartment use for entire structure of a commercial building in the Central Business District
- 9. MEETING OPENED TO THE PUBLIC:**
- 10. ADJOURNMENT:**

**RESOLUTIONS
CITY OF SWARTZ CREEK
ZONING BOARD OF APPEALS
WEDNESDAY, JULY 16, 2025 6:00 P.M.**

Resolution No. 250716-01

Approval of Agenda

Motion by Boardmember _____, the Swartz Creek Zoning Board of Appeals approves the agenda for the September 18, 2024 ZBA meeting.

Second by Board Member: _____

Voting For: _____

Voting Against: _____

Resolution No. 250716-02

Approval of Minutes

Motion by Boardmember _____, the Swartz Creek Zoning Board of Appeals approves the minutes for the March 16, 2025 ZBA meeting.

Second by Board Member: _____

Voting For: _____

Voting Against: _____

Resolution No. 250716-03

7538 Miller Road Variance Findings

Motion by Boardmember _____, the Swartz Creek Zoning Board of Appeals makes the following findings in relation to the variance application for 7538 Miller Road:

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

Second by Board Member: _____

Voting For: _____

Voting Against: _____

Resolution No. 250716-04

7538 Miller Road Variance Decision

Motion by Boardmember _____, the Swartz Creek Zoning Board of Appeals approves/denies the variance request for a use variance, as applied for at the site known as 7538 Miller Road, with the following conditions:

1. _____
2. _____
3. _____

Second by Board Member: _____

Voting For: _____

Voting Against: _____

Resolution No. 250716-05

Motion by Boardmember _____, the Swartz Creek Zoning Board of Appeals adjourns the July 16, 2025 Zoning Board of Appeals meeting.

Second by Board Member: _____

Voting For: _____

Voting Against: _____

**CITY OF SWARTZ CREEK
VIRTUAL ZONING BOARD OF APPEALS MEETING
ACCESS INSTRUCTIONS
WEDNESDAY, JULY 16, 2025, 6:00 P.M.**

The ZBA meeting of July 16, 2025 will commence at 6:00 p.m. This meeting will be conducted in-person and virtually (online and/or by phone), due to health concerns surrounding Coronavirus/COVID-19 and rules promulgated by the Michigan Department of Health and Human Services.

To comply with the **Americans with Disabilities Act (ADA)**, any citizen requesting accommodation to attend this meeting, and/or to obtain the notice in alternate formats, please contact Renee Kraft, 810-429-2766 48 hours prior to meeting,

Zoom Instructions for Participants

To join the conference by phone:

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID** number (also provided below) when prompted using your touch-tone (DTMF) keypad.

Before a videoconference:

1. You will need a computer, tablet, or smartphone with speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. Details, phone numbers, and links to videoconference or conference call is provide below. The details include a link to **“Join via computer”** as well as phone numbers for a conference call option. It will also include the 9-digit Meeting ID.

To join the videoconference:

1. At the start time of your meeting, enter the link to join via computer. You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to join.zoom.us on any browser and entering the Meeting ID provided below.

If you are having trouble hearing the meeting, you can join via telephone while remaining on the video conference:

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID number** (also provided below) when prompted using your touchtone (DTMF) keypad.
3. If you have already joined the meeting via computer, you will have the option to enter your participant ID to be associated with your computer.

Participant controls in the lower left corner of the Zoom screen:



Using the icons in the lower left corner of the Zoom screen you can:

- Mute/Unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- Invite other participants
- View participant list-opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand during Call to the Public
- Change your screen name that is seen in the participant list and video window
- Share your screen

Somewhere (usually upper right corner on your computer screen) on your Zoom screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” show the active speaker.

Topic: City of Swartz Creek Zoning Board of Appeals

Time: July 16, 2025 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83096401128>

Meeting ID: 830 9640 1128

One tap mobile

+13017158592,,83096401128# US (Washington DC)

+13126266799,,83096401128# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 830 9640 1128

Find your local number: <https://us02web.zoom.us/j/kedFRqg7ij>

If you have any further questions or concern, please contact 810-429-2766 or email rkraft@cityofswartzcreek.org. A copy of this notice will be posted at City Hall, 8083 Civic Drive, Swartz Creek, Michigan.

CITY OF SWARTZ CREEK VIRTUAL (ELECTRONIC) MEETING RULES AND PROCEDURES

In order to conduct an effective, open, accessible, and professional meeting, the following protocols shall apply. These protocols are derived from the standard practices of Swartz Creek public meetings, Roberts Rules of Order, and city board & commission procedures. These procedures are adopted to govern participation by staff, councilpersons and members of the public in all City meetings held electronically pursuant to PA 228 of 2020. Note that these protocols do not replace or eliminate established procedures or practices. Their purpose is to augment standing expectations so that practices can be adapted to a virtual meeting format.

The following shall apply to virtual meetings of the city's public bodies that are held in accordance with the Open Meetings Act.

1. Meetings of the City Council, Planning Commission, Zoning Board of Appeals, Downtown Development Authority, Park Board, or committees thereunder may meet electronically or permit electronic participation in such meetings insofar as (1) the Michigan Department of Health and Human Services restricts the number of persons who can gather indoors due to the COVID-19 pandemic; (2) persons have an illness, injury, disability or other health-related condition that poses a risk to the personal health or safety of members of the public or the public body if they were to participate in person; or (3) there is in place a statewide or local state of emergency or state of disaster declared pursuant to law or charter by the governor or other person authorized to declare a state of emergency or disaster.
2. All meetings held hereunder must provide for two-way communication so that members of the public body can hear and respond to members of the general public, and vice versa.
3. Members of the public body who participate remotely must announce at the outset of the meeting that he/she is in fact attending the meeting remotely and by further identifying the specific physical location (by county, township, village and state) where he/she is located. The meeting minutes must include this information.
4. Notice of any meeting held electronically must be posted at the City Offices at least 18 hours before the meeting begins and must clearly explain the following:
 - (a) why the public body is meeting electronically;
 - (b) how members of the public may participate in the meeting electronically, including the specific telephone number, internet address or similar log-in information needed to participate in the meeting;
 - (c) how members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting;
 - (d) how persons with disabilities may participate in the meeting.
5. The notice identified above must also be posted on the City's website homepage or on a separate webpage dedicated to public notices for non-regularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes the meeting's purpose.

6. The City must also post on the City website an agenda of the meeting at least 2 hours before the meeting begins.
7. Members of the public may offer comment only when the Chair recognizes them and under rules established by the City.
8. Members of the public who participate in a meeting held electronically may be excluded from participation in a closed session that is convened and held in compliance with the Open Meetings Act.

MAINTAINING ORDER

Public body members and all individuals participating shall preserve order and shall do nothing to interrupt or delay the proceedings of public body.

All speakers shall identify themselves prior to each comment that follows another speaker, and they shall also indicate termination of their comment. For example, "Adam Zettel speaking. There were no new water main breaks to report last month. That is all."

Any participants found to disrupt a meeting shall be promptly removed by the city clerk or by order of the Mayor. Profanity in visual or auditory form is prohibited.

The public body members, participating staff, and recognized staff/consultants/presenters shall be the only participants not muted by default. All other members must request to speak by raising their digital hand on the Zoom application or by dialing *9 on their phone.

MOTIONS & RESOLUTIONS

All Motions and Resolutions, whenever possible, shall be pre-written and in the positive, meaning yes is approved and no is defeated. All motions shall require support. A public body member whom reads/moves for a motion may oppose, argue against or vote no on the motion.

PUBLIC ADDRESS OF BOARD OR Commission

The public shall be allowed to address a public body under the following conditions:

1. Each person who wishes to address the public body will be first recognized by the Mayor or Chair and requested to state his / her name and address. This applies to staff, petitioners, consultants, and similar participants.
2. Individuals shall seek to be recognized by raising their digital hand as appropriate on the digital application.
3. Petitioners are encouraged to appropriately identify their digital presence so they can be easily recognized during business. If you intend to call in only, please notify the clerk in advance of your phone number.
4. The city clerk shall unmute participants and the members of the public based upon the direction of the mayor or chair. Participants not recognized for this purpose shall be muted by default, including staff, petitioners, and consultants.
5. Individuals shall be allowed five (5) minutes to address the public body, unless special permission is otherwise requested and granted by the Mayor or Chair.
6. There shall be no questioning of speakers by the audience; however, the public body, upon recognition of the Mayor or Chair, may question the speaker.

7. No one shall be allowed to address the public body more than once unless special permission is requested, and granted by the Mayor or Chair.
8. One spokesperson for a group attending together will be allowed five (5) minutes to address the public body unless special permission has been requested, and granted by the Mayor or Chair.
9. Those addressing the public body shall refrain from being repetitive of information already presented.
10. All comments and / or questions shall be directed to and through the Mayor or Chair.
11. Public comments (those not on the agenda as speakers, petitioners, staff, and consultants) are reserved for the two "Public Comment" sections of the agenda and public hearings.

VOTING RECORD OF PUBLIC BODIES

All motions, ordinances, and resolutions shall be taken by "YES" and "NO" voice vote and the vote of each member entered upon the journal.

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE ZONING BOARD OF APPEALS
MARCH 19, 2025**

The Regular Meeting was called to order at 6:00 pm by Chair Packer in the Swartz Creek City Council Chambers, 8083 Civic Drive.

Board members Present: Packer, Gilbert, Smith, Hicks, Brill.

Board members Absent: Wyatt.

Staff Present: Adam Zettel.

Others Present: None.

APPROVAL OF AGENDA

Resolution No. 250319-01

(Carried)

Motion by Board Member Smith
Second by Board Member Brill

The Swartz Creek City Zoning Board of Appeals hereby approves the Agenda of the Regular Board Meeting of March 19, 2025 as printed.

Unanimous Voice Vote
Motion declared carried

APPROVAL OF MINUTES:

Resolution No. 250319-02

(Carried)

Motion by Board Member Smith
Second by Board Member Gilbert

The Swartz Creek City Zoning Board of Appeals hereby approves the Minutes of the Regular Board Meeting December 18, 2024 to be approved.

Unanimous Voice Vote
Motion declared carried

Meeting Open To The Public: None

Selection of Chairperson, Vice Chairperson and Secretary

Resolution No. 250319-03

(Carried)

Motion by Board Member Brill
Second by Board Member Hicks

I Move, the Swartz Creek Zoning Board of Appeals selects Board Member Packer to serve as the ZBA Chairperson, Board Member Gilbert to serve as Vice Chair and Board Member Smith to serve as Secretary for a twelve month period commencing immediately and ending at the next annual meeting or as stated in the bylaws.

Yes: Gilbert, Smith, Hicks, Packer, Brill.
No: None. Motion declared carried.

Meeting Open To The Public: None.

Adjourn

Resolution No. 250319-04

(Carried)

Motion by Board Member Smith
Second by Board Member Hicks

I Move the Swartz Creek Zoning Board of Appeals adjourns the March 19, 2025 ZBA meeting.

Unanimous Voice Vote
Motion declared carried

The meeting adjourned at approximately 7:29 p.m.

Ronald Smith
Secretary



Adam Zettel, AICP
City Manager
azettel@cityofswartzcreek.org

Date: July 8, 2025

To: Zoning Board of Appeals Commissioners
From: Adam Zettel, AICP
Subject: July 16, 2025 ZBA Meeting

Hello everyone,

The Zoning Board of Appeals shall convene at 6:00pm on Wednesday, July 16, 2025 in the city council chambers. This will be an in-person meeting for ZBA members. The meeting will also be available to the public via Zoom. Note that I will also be attending virtually because I will be out of town. Renee Kraft, City Clerk, will be operating administrative processes at the meeting. The instructions are attached.

The board is convening to hear a variance proposal to permit the use of 7538 Miller Road as an apartment building in the Central Business District zoning district.

The building in question is a three-level building, with commercial uses on the first level and residential uses on the upper floors. This mixed-use configuration is permitted as of right in the CBD. However, the petitioner seeks to convert the lower level into a residential unit as well, making the structure a multi-family structure, which is not permitted in the CBD. Multi-family residential are permitted in RM-1 and PUD districts, the city's multiple family zoning districts. See Zoning Appendix A Section 3/05 for details.

Enclosed, you will find the variance application materials. **Please read and study all materials carefully!** Please see the ordinance excerpts and variance petitioner narrative for details.

The petitioner's proposal is reviewed as follows, under zoning ordinance section 15.06:

B. Use variance: The zoning board of appeals may grant a use variance only upon a finding that an unnecessary hardship exists that prevents use of the property as currently zoned. A use variance is a variance that permits a use that is otherwise not provided for in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of all of the following:

1. The applicant has demonstrated that the site cannot reasonably be used for any of the uses allowed within the current zoning district designation. The zoning board of appeals may require submission of

8083 Civic Drive
Swartz Creek Michigan 48473
Phone: (810)-635-4464 Fax: (810)-635-2887
www.cityofswartzcreek.org ftp://cityofswartzcreek.org

documentation from real estate or market experts, or a certified appraiser, to substantiate this finding.

Petitioner Statement: Property has been vacant for a long period of time for commercial use. Rent has been reduced to less than market rates and still remains vacant.

Staff Findings: There is no evidence presented for this. In addition, the reason for the inability to make reasonable use of the site for any of the permitted commercial uses (retail, office, etc.) is not given. There does not appear to be stated characteristics related to the site or the lower level within the structure that make reasonable use for commercial problematic.

2. 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. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return. In those situations where the difficulty is shared by others, the zoning board of appeals may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance.

Petitioner Statement: Due to the nature of the actual structure and the adjacent properties, this location is unique. At the present time there is virtually no income so no return on investment while expenses continue including taxes to the City.

Staff Findings: There is not a statement regarding what characteristics of the structure and adjacent properties create any unique circumstances. It is common knowledge that the lower level is not at grade, which could present some difficulties with commercial users. However, some of the problem could be related to the condition of the structure (per statements received from a prior user).

3. The problem and resulting need for the variance has not been self-created by any action of the applicant or the applicant's immediate predecessor.

Petitioner Statement: The need is not self-created. The combination of market, location, and the structure itself all contribute to the requested relief.

Staff Findings: Again, there are no specifics regarding what the problem with the market, location, or structure actually are.

4. The capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.

Petitioner Statement: This request would have no negative effect on any public service and may actually lessen the effect.

Staff Findings: The demand for public services related to a residential unit is generally lower than that of a commercial unit, but this can vary in practice.

5. The use variance will not alter the essential character of the neighborhood nor be of detriment to adjacent properties.

Petitioner Statement: The variance would have no negative effect on any other properties and not alter any neighborhood characteristics.

Staff Findings: The City and DDA are pursuing the development of the downtown to present more first floor activities (recreation, culture, hospitality, and general commercial), especially on Miller Road. Such uses are encouraged to be combined with residential uses on upper floors. While a first floor residential unit may not negatively impact users in the building or adjacent sites, it would reduce the commercial offerings for this downtown neighborhood.

I am including the narrative that has been submitted by the petitioner, which is the source of the petitioner statements given above. In addition, I am including a statement and some images submitted by someone who identifies as a former tenant.

Based on the statements provided, I do not believe the petitioner has overcome the burden of proof to demonstrate that the request meets the criteria in the ordinance. It may be that they have additional statements to make at the meeting that will offer more information. In addition, this variance request is subject to a public hearing and any findings potentially derived from such a hearing.

July 16, 2025
Zoning Board of Appeals
7538 Miller Road Variance Request

If you have any questions or have comments, please contact the city office or send me an email. I shall see you at the meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam Zettel", with a stylized flourish at the end.

Adam H. Zettel, AICP
City Manager
City of Swartz Creek



APPLICATION FOR VARIANCE
City of Swartz Creek
8083 Civic Drive
Swartz Creek, MI 48473
810-635-4464

Fee Received: \$250- Date: 6 / 18 / 25 Receipt No: _____

NOTICE TO APPLICANT:

This application for Variance must be filed approximately twenty (20) days before a meeting may be scheduled.

The property sought to be used as a "Special Use" is located and described, as follows:
Assessment Roll Description No. 58- 36 - 300 - 021,

7538 Miller Road, Apt 1, Swartz Creek MI 48473

It has a frontage of: _____ feet and a depth of: _____ feet.

PRESENT ZONING: 201 Commercial

TO THE ZONING BOARD OF APPEALS:

I, (We), the undersigned, do hereby respectfully make application for a Variance, for the following reason:

Change to Residential to make compatible with the use of the rest of the building and

and surrounding properties. Same use for all tenants in the building will

eliminate conflict between tenants.

PROPERTY SOUGHT FOR VARIANCE IS OWNED BY:

Name: Khalil Nemer Living Trust

Address: 6007 Miller Road Suite 9, Swartz Creek MI 48473

Phone Number: 810-635-2227

CRUCIAL POINTS OF VARIANCE: (All elements must be present)

- A. Undue Hardship
- B. Unique Circumstances

Attached hereto are two (2) prints of the subject property plot plan showing the lot or parcel location within the City. These prints are made a part of this petition and are drawn to scale showing the existing and proposed structures.

Shall a. hen
Signature of Applicant

Address: 6007 Miller Road Suite 9, Swartz Creek MI 48473

Phone Number: 810-635-2227

Email Address: pmurdock.woodside@comcast.net

A. Action Taken by the Zoning Board of Appeals:

- 1. Date application: / /
- 2. Date of Public Hearing: / /
- 3. Findings of Zoning Board of Appeals:

B. Final Disposition of Zoning Board of Appeals:

By: _____
Chairman

Secretary

RE: 7538 MILLER ROAD, SWARTZ CREEK MI 48473

TAX ID #: 58-36-300-021

PROPERTY OWNER: KHALIL NEMER TRUST

USE VARIANCE REQUEST

1. Property has been vacant for a long period of time for commercial use. Rent has been reduced to less than market rates and still remains vacant.
2. Due to the nature of the actual structure and the adjacent properties, this location is unique. At the present time there is virtually no income so no return on investment while expenses continue including taxes to the City.
3. The need is not self-created. The combination of market, location, and the structure itself all contribute to the requested relief.
4. This request would have no negative effect on any public service and may actually lessen the effect.
5. The variance would have no negative effect on any other properties and not alter any neighborhood characteristics.

B. Use variance: The zoning board of appeals may grant a use variance only upon a finding that an unnecessary hardship exists that prevents use of the property as currently zoned. A use variance is a variance that permits a use that is otherwise not provided for in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of all of the following:

1. The applicant has demonstrated that the site cannot reasonably be used for any of the uses allowed within the current zoning district designation. The zoning board of appeals may require submission of documentation from real estate or market experts, or a certified appraiser, to substantiate this finding.
2. 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. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return. In those situations where the difficulty is shared by others, the zoning board of appeals may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance.
3. The problem and resulting need for the variance has not been self-created by any action of the applicant or the applicant's immediate predecessor.
4. The capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.
5. The use variance will not alter the essential character of the neighborhood nor be of detriment to adjacent properties.

From:
To: [Renee Kraft](#); [Adam Zettel](#)
Subject: Concern Regarding 7538 Miller Rd. Property Use
Date: Thursday, June 26, 2025 10:29:35 PM

To Whom It May Concern,

I am writing to express my concern regarding the potential approval of 7538 Miller Rd. as a residential unit.

As a former commercial tenant of Mr. Khalil Nemer from 2017 to 2022, I strongly believe this property is not suitable for residential occupancy. While I truly appreciated the opportunity to operate my successful business in downtown Swartz Creek, I was ultimately forced to vacate and shut down my operations due to serious issues stemming from the owner's neglect of the building.

One significant incident occurred when the main water supply line burst while we were open and serving clients, causing extensive water damage. This was not an isolated event—major structural and maintenance problems were a recurring issue. Mr. Nemer did not adequately remediate the water damage, which resulted in the growth of mold throughout the lower level.

In my experience, the lower level of the building is not a safe or suitable living space. The HVAC system is improperly installed, the electrical system includes an outdated and non-code-compliant fuse box, and mold is visibly present behind the drywall. The building is prone to flooding, including from the ceiling and through the entry doors, and daylight can be seen entering through cracks in the foundation. Additionally, the thermostat setup is problematic, with one unit controlling the entire building, except for the lower level, which I had requested be separately managed.

When this matter was brought before Judge McCabe, the court acknowledged the severity of the conditions and expressed regret that I had to close my thriving business under such circumstances. I have photographic documentation of these issues and can provide them upon request.

In summary, I do not believe this property is habitable in its current condition—either for commercial or residential use—and I urge the City to reconsider any approval that would allow for its residential conversion.

Please feel free to contact me with any questions or for supporting documentation.

Thank you for your time and consideration. Please confirm receipt of this email.

Sincerely,

Nicole LaBeau













