

TOWNSHIP OF SALINE
ZONING BOARD OF APPEALS APPLICATION

Date of Application: December 17, 2025

1. Applicant Information:

Applicant Name (1) Kathryn Haushalter (2) Joshua Day LeBaron (3)

Street Address or P.O. Box (1) 11600 West Michigan Ave, Saline MI 48176

City/State/Zip (2) 48176
(3) Saline, MI 48176

Telephone: Home: Kathryn Haushalter Work: LeBaron

Individual Person Firm Corporation

If a business, please describe: N/A

Authorized Agent: Luanne Kozma, LuanneKozma@gmail.com
231-547-2828

2. Property Information:

Property Owner(s) RD Michigan Property Owner 1 L LC

Property Address 11600 West Michigan Ave, Saline MI 48176

Property Tax ID No. R-18-19-100-002 Zoning District(s) A-1

Property location by nearest crossroads Between Case Rd and Willow Rd

Attachments:

1. If the applicant is not the owner of record, attach a signed statement from the owner(s) of record that the applicant is acting on the owner's behalf, and include the name, address, and phone number of all owner(s) of record. NOT APPLICABLE
2. Attach a legal description of the subject parcel(s). Exhibit A
3. Attach a plot plan or accurate sketch of the subject property showing all property lines, dimensions, bearings or angles correlated with the legal description; all existing and proposed structures and uses on premises; dimensions of such structures and distance or setback measurements from other structures and lot boundaries; lot area; and any other information relevant to the request. Exhibit A

Current use of the subject property: NOT KNOWN

3. Requested Action: (Check one)

Variance or Sign Exception
(please complete sections 4 and 7 on the following pages)

Interpretation of the Zoning Ordinance or Official Zoning Map
(please complete sections 5 and 7 on the following pages)

Appeal of an Administrative Decision or Action
(please complete sections 6 and 7 on the following pages)

4. Variance or Sign Exception:

List the Ordinance Section(s) and specific subsection(s) that are the subject of the variance or sign exception request:

N/A

Attachments:

1. Attach a detailed statement describing the nature of and reasons for the requested variance(s) or sign exception(s).
2. For a variance request, attach a statement demonstrating how the request satisfies the criteria for the granting of a variance, as listed in Section 17.07 (Variances) of the Zoning Ordinance.
3. For a sign exception, attach a statement demonstrating how the request satisfies the criteria for granting an exception to the sign regulations per Section 9.12 (Exceptions) of the Zoning Ordinance.
4. Any other information requested by the Zoning Board of Appeals, and any additional information that the applicant believes will assist the Board in reaching an equitable decision.

5. Interpretation of the Zoning Ordinance or Official Zoning Map:

List the Ordinance Section(s) and/or specific zoning district(s) and locations on the Official Zoning Map that are the subject of the request for interpretation:

2.102 Zoning Map (text)

Attachments:

1. Attach a detailed statement describing the nature of the problem, ambiguity, or conflict that has created the need for an interpretation by the Zoning Board of Appeals.
2. Any other information requested by the Zoning Board of Appeals, and any additional information that the applicant believes will assist the Board in reaching an equitable decision.

6. Appeal of an Administrative Decision or Action:

List the Ordinance Section(s) and specific subsection(s) that are the subject of the administrative decision or action on appeal:

1.04, 1.05, 1.06, 1.06(F), 1.06(G), 1.07, 2.102,
2.204, 12.04(C)(1), 12.04(D), (E), (F) and (H).

Attachments:

- ✓ 1. Attach a detailed statement describing the nature of and reasons for the appeal. *Notice of Appeal*
- ✓ 2. Attach a copy of any written record of the administrative decision or action received by the applicant (such as the Zoning Inspector letter of denial or Planning Commission meeting minutes). *Exhibit A*
3. Any other information requested by the Zoning Board of Appeals, and any additional information that the applicant believes will assist the Board in reaching an equitable decision.

7. Certification:

The applicant agrees and certifies that the information supplied as part of this application is accurate and true, including additional material submitted to the Zoning Board or Appeals prior to a final decision on the request. ~~The applicant also agrees to permit a physical on-site visit on the subject property by members of the Zoning Board of Appeals prior to the public meeting where the request will be considered.~~

Preston & Dyer J
Applicant's Signature

12/16/2025
Date

JZ
Applicant's Signature

12/16/2025
Date

Kathryn Haushalter
Applicant's Signature

12/16/2025
Date

Authorized Agent's signature: Luanne Kozma Date 12/17/25

NOTES:

The applicants and their agent are not the property owner and therefore cannot agree to permit on-site visits.

We hereby authorize Luanne Kozma to act as an agent, in addition to our own agency.

FOR OFFICE USE ONLY

Required Fee \$

Date Received by the Township

Application Received by

Name

Position

Date Received by the Township

December 17, 2025

**Saline Township ZBA
5731 Braun Road
Saline, MI 48176**

c/o Township Clerk Kelly Marion, by email at salinetownship@gmail.com, and to the Township Office address and to her home address: 4254 Arkona Rd, Saline MI 48176.

Tim Malinczak, ZBA Chair
Carrie DeJongh, ZBA secretary
Jennifer Zink, ZBA member and Township Treasurer
James Laramie, ZBA member
Rod Malinczak, ZBA member

Tom Hammond, Saline Township Zoning Inspector
c/o Township Clerk Kelly Marion at: salinetownship@gmail.com

Mike Auerbach, Saline Township Planning Consultant/New Zoning Inspector
By certified U.S. mail to: Carlisle/Wortman Associates, Inc.
117 N. 1st Street, Suite 70, Ann Arbor, MI 48104
And via email at: mauerbach@cwaplan.com

James Marion, Township Supervisor, 3991 Marion Road, Saline, MI 48176

RE: 1. Appeals of “Zoning Compliance Permit” issued on December 4, 2025 by Saline Township Planning Consultant for property at 11600 West Michigan Avenue, Saline Township; and 2. Interpretation Request

Dear Saline Township officials:

Please find attached to this letter the following ZBA Appeal materials:

- Notice of Appeals and Interpretation Request
- Exhibits to the Notice of Appeals and Interpretation Request
- Completed “Township of Saline Zoning Board of Appeals Application”
- Check for the fee

We request that the Township comply with the following statutory requirements, upon receipt of these materials:

- 1. Compliance with MCL 125.3601(4), proper formation of the ZBA, as appointed by the Saline Township Board.** Ensure that the ZBA has the proper formation and training of members. The Saline Township website (salinetownship.org) lists no ZBA member currently appointed who is also on the Planning Commission as required by MCL **125.3601(4)**. One way to achieve that is to appoint one of the current ZBA members (not the board of trustees member) also to the Planning Commission.
- 2. Please ensure that all members have recent ZBA training prior to our hearing,** taught by Michigan Townships Association or MSU Extension's ZBA Online Certificate class, or other outside agency.
- 3. Compliance with MCL 125.3604(2) required by Mike Auerbach and/or Tom Hammond.** In accordance with the statute, we request that “the body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appeals from was taken” including the Official Zoning Map used to ascertain the I-1 zoning district of the parcel and the entire current Zoning Ordinance as amended.
- 4. Compliance with MCL 125.3603 and 125.3604(5).** ZBA “shall hear and decide questions that arise in the administration of the zoning ordinance” and “shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance.” And “**If the zoning board of appeals receives** a written request seeking an interpretation of the zoning ordinance or **an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing** on the request.”
- 5. Compliance with MCL 125.3602, required by ZBA Chair who shall call a meeting to hear the appeal.**
- 6. Compliance with the Stay provisions** in both the Michigan Zoning Enabling Act and the Saline Township Zoning Ordinance, which state in similar terms:

MCL 125.3604 Zoning board of appeals; procedures.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed.

Section 17.03(6):

An appeal to the ZBA shall stay all proceedings in furtherance of the appealed action. . .

We expect the Township's Zoning Inspector to enforce the terms of this ordinance and inform RD Michigan Property Owner 1 LLC that work must stop immediately. **It is the receipt Notice of Appeal to the ZBA that triggers the automatic stay, and the Stay does apply to construction.** There are some court decisions on this: *Simon v City of Norton Shores*, No. 287119 (Mich. App. Sep 29, 2009); *Pamela B. Johnson Trust v. Anderson*, No. 315397, No. 316024 (Mich. App. Aug 19, 2014); and *LuAnne Kozma v Scott Law and Debra Law*, No. 363508, No. 364450, (Mich. App. March 14, 2024).

We include this Cover Letter as an exhibit in the records of this ZBA case.

Please provide to us a copy of any additional ZBA Rules of Procedure beyond those listed in the Zoning Ordinance §17.03.

Thank you for your consideration. We look forward to presenting our case to the ZBA at a public hearing in the near future.

Sincerely yours,

/signed *Kathryn Haushalter*/

/signed *Joshua Day LeBaron*/

/signed *Preston Dyer*/

Kathryn Haushalter, [REDACTED] Saline MI 48176
Joshua Day LeBaron, [REDACTED] Saline MI 48176
Preston Dyer, 11254 [REDACTED], Saline MI 48276

**Notice of Appeals and Interpretation Request
Filed with
Saline Township Zoning Board of Appeals
and Zoning Administrators**

Date filed, December 17, 2025

**Saline Township ZBA
5731 Braun Road
Saline, MI 48176**

c/o Township Clerk Kelly Marion, by email at salinetownship@gmail.com, and to the Township Office address and to her home address: 4254 Arkona Rd, Saline MI 48176.

Tim Malinczak, ZBA Chair
Carrie DeJongh, ZBA secretary
Jennifer Zink, ZBA member and Township Treasurer
James Laramie, ZBA member
Rod Malinczak, ZBA member

Tom Hammond, Saline Township Zoning Inspector
c/o Township Clerk Kelly Marion at: salinetownship@gmail.com

Mike Auerbach, Saline Township Planning Consultant/New Zoning Inspector
By certified U.S. mail to: Carlisle/Wortman Associates, Inc.
117 N. 1st Street, Suite 70, Ann Arbor, MI 48104
And via email at: mauerbach@cwaplan.com

James Marion, Township Supervisor, 3991 Marion Road, Saline, MI 48176

From Appellants/Requestors:

1. Kathryn Haushalter, [REDACTED] Saline MI 48176
[REDACTED]

2. Joshua Day LeBaron , [REDACTED] Saline MI 48176
[REDACTED]

3. Preston Dyer, [REDACTED], Saline MI 48176

Appeals Taken and Interpretation Requested

We are filing this “notice of appeal” for two appeals we are taking from administrative decisions under MCL 125.3604, by Saline Township Planner Mike Auerbach:

1. Issuance of a “zoning compliance permit” or “zoning compliance certificate” also known as a “zoning permit” on December 4, 2025 to applicant RD Michigan Property Owner I LLC and Walbridge for erecting structures such as security office, field office, double wide trailer, triple wide trailer, two dumpsters, and temporary chain link fence at a parcel at 11600 West Michigan Avenue, Saline Township, MI 48176. **See attached Exhibit A.**
2. The Planner erroneously interpreted the Official Zoning Map (**see attached Exhibit B**) for the parcel at 11600 West Michigan Avenue, mistaking the A-1 zoning for I-1 zoning and/or wrongly interpreted the Zoning Ordinance text that the Official Zoning Map can remain unchanged when conformance to a court decree is required, according to **§§ 2.102**, Zoning Map, **12.04 (D)** Amendment Review Procedure, **(E)** Findings of Fact and **(F)** Notice of Adoption and **§ 12.04 (H)** Conformance to Court Decree. “The Zoning Inspector shall have the authority to interpret the provisions of this Ordinance in such a way as to preserve and promote the character of the zoning district in question, and carry out the intent and purposes of this Ordinance and the Township’s General Development Plan. Such interpretations shall be subject to appeal to the Zoning Board of Appeals by an aggrieved party in accordance with Section 17.06 (Interpretations).” **§ 1.06 (F)(3).**

Note: Though the Consent Judgment is currently being challenged in the Circuit Court, this appeal assumes, without conceding, that the Consent Judgment is valid.

And we are requesting one Interpretation Request:

1. That the proper procedures to conform the Ordinance (Zoning Map) with the court decree is to adopt an amendment for rezoning the parcels agreed to in the Consent Judgement, and publish it and change the Zoning Map “promptly” which is within 15 days after adoption of the amendment.

Grounds for the Appeals

The Michigan Zoning Enabling Act requires that we “specify grounds” for the appeals. **MCL 125.3604**. The grounds for our appeals are that the issuance of the zoning compliance permit to RD Michigan Property 1 LLC violated these sections of the Zoning Ordinance:

- 1.04 Scope
- 1.05 Compliance Required
- 1.06 Board Authority
- 1.06 (F) Zoning Inspector Duties and Responsibilities
- 1.06 (G) Township Planner Responsibilities
- 1.07 Permits and Certificates of Zoning Compliance
- 2.102 Zoning Map (text)
- 2.204 District Boundaries
- 12.04 (C)(1) Rezoning Application
- 12.04 (D) Amendment Review Procedure
- 12.04 (E) Findings of Fact Required
- 12.04 (F) Adoption
- 12.04 (H) Conformance to Court Decree

The permit issued

On December 4, 2025, Saline Township Planner Mike Auerbach issued a “certificate of zoning compliance” (also defined in the zoning ordinance as synonymous with “Zoning Permit”) to RD Michigan Property Owner 1 LLC (“RD”) and a contractor (Walbridge) for erecting various structures on the property at 11600 West Michigan Avenue, Saline Township, for use as a “data center.” The applicants submitted a series of site plans, which were approved by the Planner. The structures were a security office ‘connex,’ a field office ‘connex,’ a double-wide construction management trailer, a triple wide construction management trailer, 2 dumpsters, and temporary chain link fence, conditioned upon obtaining all building and trade permits from Washtenaw County Building Department prior to construction.

Can the Zoning Inspector or Township Planner change the zoning ordinance, ignore any terms, or grant exceptions to it?

No. A Zoning Inspector (Administrator) has the authority to administer and enforce the ordinance “precisely as written, and shall not modify, vary or ignore the terms of this Ordinance nor grant exceptions to the actual meaning of any clause, order or regulation.” **§ 1.06(F).** The Township Planner may “perform other related duties, as authorized, to administer these regulations.” **§ 1.06(F)(8).**

The Issuance of the Permit is invalid because the Official Zoning Map of the Township has never been amended, adopted, changed, and published to effectuate any rezoning change of the property from A-1 to I-1 zoning.

Therefore the rezoning never became law to conform to the Consent Judgment regarding this property.

The Township Planner failed to confirm that the property was located in the I-1 zoning district using Zoning Ordinance **§ 2.102** Zoning Map, **§ 2.204** Zoning Boundaries prior to issuing the permit.

Strangely there is no place on the “Application for Zoning Approval” (**See Exhibit A**) for the applicant to indicate the parcel number. We believe that the property at 11600 W. Michigan Avenue is tax parcel number R-18-19-100-002, as depicted on a map of eight parcels as parcel 3, consisting of 171.38 acres, that RD submitted when it applied for rezoning these parcels in summer 2025. (**See Exhibit C**). That parcel is currently zoned A-1 on the Zoning Map (**See Exhibit B**) and was at the time of issuing the permit.

The Township Planner also failed to interpret that the Zoning Map, as required by the **ZO 12.04(H)** Conformance to Court Decree, needs to be properly amended, adopted and published in conformance with the Court Decree in which the Township agreed to rezone the property at 11600 West Michigan Avenue from the A-1 zoning district to the I-1 zoning district.

Accordingly, the permit issued violated **§ 1.07** Permits and Certificates of Zoning Compliance, subsection (C) Permit or Preliminary Certificate Approval, “it shall be unlawful for the Zoning Inspector to issue a zoning permit or preliminary certificate of zoning compliance for proposed work that does not conform or has not been determined by the Zoning Inspector to conform to **all** applicable provisions of this Ordinance, including any conditions of approval.” [emphasis added]

Additionally, the permit violated § 1.05 Compliance Required states “No structure, site or part thereof shall be constructed, altered or maintained and no use of any structure or land shall be established, maintained, altered or expanded except in conformity with this Ordinance.”

The Zoning Map: what is required in the Zoning Ordinance

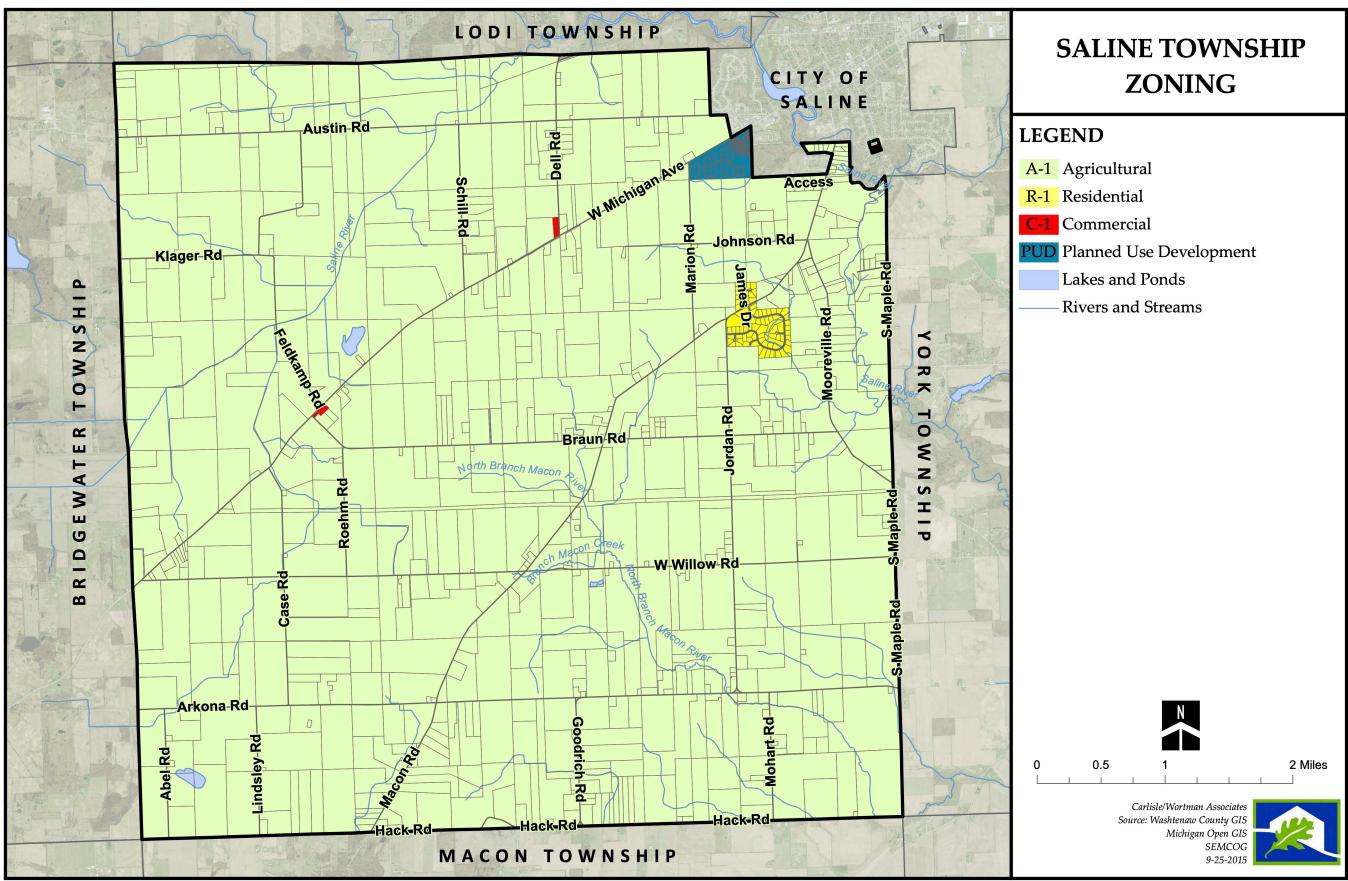
An important provision of the Ordinance is § 2.102, **Zoning Map**, the only official document used to determine to which zoning district a specific land parcel is designated. The Zoning Ordinance even calls it the “Official Zoning Map.” The map shows each parcel in the Township, and parcels are color-coded according to zoning district. That section provides:

The Township is hereby divided into districts, with the district areas and boundaries as shown on the Official Zoning Map, along with all proper notations, references and explanatory matter. The Official Zoning Map shall be adopted by reference and declared to be a part of this Ordinance. This Map shall be identified by the signatures of the Township Supervisor and Township Clerk, and shall bear the Township seal under the following or equivalent statement: “This is to certify that this is the Official Zoning Map of Saline Township, Washtenaw County, Michigan, effective as of the _____ day of _____, 2007.”

If in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Map promptly after the amendment has been approved by the Township Board. No changes of any nature shall be made on the Official Zoning Map, except in conformity with the amendment procedures set forth in Section 12.04 (Amendments). The Official Zoning Map shall be kept in the office of the Township Clerk, and **shall be the final authority** as to the current zoning status of land, water areas, and structures in the Township. [Emphasis added]

The Zoning Map appears as a separate link on the township website salinetownship.org, as below and in **Exhibit B**. It is dated September 25, 2015 (ten years ago) and was produced by the planning firm Carlisle/Wortman, the same firm Mr. Auerbach works for. It does not have the required certification language and supervisor and clerk signatures.

It also does not have the parcel at 11600 W. Michigan Avenue designated as I-1, the zoning required to allow the industrial uses the Permit permitted.



Zoning Map cannot be changed by Zoning Administrator or ZBA

The Zoning Ordinance in § 1.04 states:

“The standards and regulations of this Ordinance shall apply to all land, structures, uses, and land development projects established or commenced after the effective date of this Ordinance. Accordingly, no lots or parcels may be created or altered, nor any land use be established, changed or commenced, nor any structure constructed, altered, or extended, except in compliance with this Ordinance.”

§ 1.06(F)(1) states:

“The Zoning Inspector shall administer and enforce this Ordinance precisely as written, and shall not modify, vary or ignore the terms of this Ordinance nor grant exceptions to the actual meaning of any clause, order or regulation.” (Emphasis added)

§ 17.11(4) states:

Ordinance changes prohibited. The Zoning Board of Appeals shall not have the authority to alter this Ordinance or Official Zoning Map.

Zoning Map can only be adopted or amended by the legislative body, the elected Board of Trustees

§ 1.06 (A) and subsection (1) states:

Township Board Authority and Responsibilities.

The Township Board shall have the ultimate responsibility for administrative oversight and enforcement of this Ordinance, and shall further have the following responsibilities and authority pursuant to this Ordinance:

(1) **Adoption of this Ordinance and any amendments.** In accordance with the intent and purpose of this Ordinance, and the authority conferred by the Michigan Zoning Enabling Act, the Township Board shall have the authority to adopt this Ordinance and Official Zoning Map, as well as any subsequent amendments considered in accordance with Section 12.04 (Amendments).

Zoning Map must be accurate to be valid, updated “promptly” after amendments to the map (rezonings) are adopted, published; and conformance to a Court Decree is mandatory.

As stated earlier, the Consent Decree or Judgment entered into by Saline Township with RD was filed with the county circuit court on October 15. The validity of the Consent Judgment is being challenged in current litigation. But assuming its validity for ZBA purposes, the Township Planner’s decision to issue a permit based on a Consent Judgment and not on the Map is not allowable, because the Zoning Map is the “final authority” (**§ 2.102**) when making administrative permit decisions. Determining the zone of a parcel must be restricted to the four corners of the Official Zoning Map. A Consent Judgment is not an addendum to a Zoning Ordinance. And as described below, this Consent Judgement is silent on “Zoning

Map," and therefore by its own terms, the Consent Judgment states the Zoning Ordinance controls the Zoning Map.

§ 12.04(H) Conformance to Court Decree states:

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendment published without referral to any other board, commission or agency. [Emphasis added]

The act of rezoning is the amending of a Zoning Map of certain parcels, changing their status and designation on the map from one zoning district, to another.

§ 12.04(C)(1). There is no list of parcels and their corresponding zoning classification in the Zoning Ordinance text. The Official Zoning Map is the sole source for that information. Court decrees are not "appended" to a Map, but rather, it is mandatory according to the Saline Township Zoning Ordinance, that the Zoning Map shall be amended and published (by the legislative body) to conform to a Court Decree.

§ 12.04 Amendments, further describes the procedures for amending the zoning ordinance text and the zoning ordinance map (rezonings), the amendment review process which includes technical review, public hearing, planning commission consideration and recommendation, and ultimately **§ 12.04(D)(4)** which describes how the Township Board may adopt or reject the proposed amendment and find facts according to guidelines.

§12.04(F) Notice of Adoption, is a mandatory step to amend the Zoning Map to effectuate the amendment. Without this step, the rezoning has not happened. The section states [with emphasis added]:

Notice of Adoption.

Following Township Board adoption of an amendment to the Zoning Ordinance or Official Zoning Map, the amendment shall be published within 15 calendar days of such adoption in a newspaper of general circulation in the Township. The amendment shall take effect seven (7) calendar days after the date of publication of the notice of adoption, unless a later date is specified by the Township Board. The notice of adoption shall include the following information:

1. The article(s) and section(s) affected, in the case of a text amendment.

2. Either a summary of the regulatory effect of the amendment, including any geographic area affected, or the text of the amendment.
3. **The effective date of the amendment.** [emphasis added]
4. The place and time where a copy of the amended Zoning Ordinance or Official Zoning Map may be inspected or purchased.

The Michigan Zoning Enabling Act states the same:

MCL 125.3401(7) Following adoption of a zoning ordinance or any subsequent amendments by the legislative body, the zoning ordinance or subsequent amendments shall be filed with the clerk of the legislative body, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the local unit of government within 15 days after adoption.

MCL 125.3401(9) The notice required under this section shall include all of the following information:

- (a) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the [county, township, city, or village] of _____."
- (b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
- (c) The effective date of the ordinance or amendment.
- (d) The place where and time when a copy of the ordinance or amendment may be purchased or inspected. (10) The filing and publication requirements under this section supersede any other statutory or charter requirements relating to the filing and publication of county, township, city, or village ordinances.

In other words, a law doesn't become a law until it is voted on by the legislative body and published in the paper indicating what date it will take effect.

A look at the Consent Judgment of October 15

Because the Ordinance requires mandatory conformance of the Zoning Ordinance and Official Zoning Map with a court decree that might have had terms agreeing to such a change, we need to look at it to see the details. (**See Exhibit F**).

The Consent Judgment did not purport to change the ordinance, nor by its terms change the Zoning Map. Nor could it because the only party to the agreement that has the power to adopt amendments, and publish the amendment is the legislative body—the Saline Township Board of Trustees. RD has no such power.

The Judgment itself was not published nor did it annul or void the publication requirement in the Zoning Ordinance.

Paragraph 1 (i) states:

The Property is currently zoned A-1 (or “agricultural”) by the Township under the Saline Township Zoning Ordinance (the “Zoning Ordinance”).

Paragraph 2 states:

Approval of the Data Center Project: Subject to the conditions and terms of this Consent Judgment, **the Township has agreed that the Property shall be zoned I-1** and the Township shall be deemed to have given its approval for Plaintiffs’ use, development, construction and operation of the Property for the Data Center as depicted on the Site Plan...

Paragraph 18 states:

Conflicting Provisions. The uses and structures permitted by this Consent Judgment shall be deemed conforming uses and structures. **To the extent that any specific terms or provisions in this Consent Judgment and/or any exhibits hereto, including the Site Plan, as approved administratively after review by the Township consultants per paragraph 4 of this Consent Judgment, are inconsistent with any of the provisions or requirements of the Zoning Ordinance, or the Township’s wetlands ordinance, woodlands ordinance, storm water management ordinance, or other codes, ordinances, regulations, or procedures of the Township in effect at the time of further application or development (“Township Codes”), the terms of this Consent Judgment and Site Plan shall control. To the extent this Consent Judgment is silent on issues regulated by Township Codes, then the Township Codes shall control** to the extent they do not prevent or preclude or

reduce the size or scope of the Project authorized herein. Subsequent enactments to, modifications of, or amendments to the Township's Code shall apply to the Project to the extent they are not inconsistent with or do not vary the terms of this Consent Judgment. [All emphases added]

“Is currently zoned” is present tense. “Shall be zoned” is future tense. “Subsequent” enactments, modifications or amendments to the Zoning Ordinance are anticipated.

The terms “Zoning Map” and “Map” are not mentioned. The Consent Judgment is silent on this point. It is also silent on publishing public notice. Accordingly, the Zoning Ordinance controls the amending of the Zoning Map and the procedures of its adoption and publication of public notice, and the requirements in § 2.102 Zoning Map, of being changed “promptly.”

Definitions in Ordinance § 18.02 for reference:

30. Certificate of Zoning Compliance. Authorization given by the Township to use land or structures for uses permitted under this Ordinance; to erect, construct or alter structures in conformity with this Ordinance; or to maintain or conduct other specified activities permitted by this Ordinance. This term is synonymous with the term “**Zoning Permit.**”

179. Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, manufactured homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios.

a. **Temporary Structure.** A structure permitted to exist during periods of construction, special events, and other limited time periods.

187. Township Planner. The person, persons or firm designated by the Township to administer and enforce this Zoning Ordinance on a day-to-day basis; provide staff support to the Township Board, Planning Commission or Zoning Board of Appeals; or advise the Township on community planning, zoning, land use, housing, and other related planning and development issues. The Township Planner may be a consultant or an employee of the Township, or the responsibilities of this position may be divided between more than one (1) person or firm.

207. Zoning Permit. See **Certificate of Zoning Compliance.**

Finding of Facts for both the Appeals and Interpretation Request:

We find the following facts and ask that the ZBA find the same:

1. The address of the parcel is 11600 West Michigan Avenue, Saline.
2. The parcel number is R-18-19-100-002.
3. The zoning district on the Official Zoning map for that parcel is A-1 Agricultural.
4. The Zoning Map in Exhibit B is the Official Zoning Map.
5. The Zoning Map does not show an I-1 Industrial zone.
6. The Zoning Map does not show an R-3 residential zone.
7. The Township Board voted on April 9, 2025 to rezone 15 parcels on Riverside Lane and Macon Road from A-1 to R-3.
8. The Township has not published a notice in the newspaper about the Riverside Lane and Macon Road parcels rezoning amendment.
9. On September 12, 2025 RD Michigan Property Owner 1 LLC filed a lawsuit against the Township, and provided a map in Exhibit 1 depicting 8 parcels that they had sought to rezone from A-1 to I-1, and one of them was the Feldkamp parcel R-18-19-100-002.
10. A Consent Judgment with the Township and RD Michigan Property Owner 1 LLC and others about the data center was entered on October 15, 2025 in Washtenaw County Circuit Court, Case No. 25-001577-CZ.
11. The Consent Judgment states “The Property is currently zoned A-1” and “the Township has agreed that the Property shall be zoned I-1.”
12. There has been no vote by the Board of Trustees to adopt the rezoning of the property from A-1 to I-1.
13. The Township has not published any amendment rezoning the RD property at 11600 West Michigan Avenue in the newspaper.

APPEAL #1 —Issuance of Permit

Review Criteria for Appeals

The four review criteria in § 17.05(B) are below with our suggested determination for each:

- 1. Constituted an abuse of discretion:** Yes. The Zoning Inspector/Township Planner has no authority to change the Zoning Map or interpret the Zoning Map to see new zoning districts that have never been amended, adopted and published by the Board of Trustees. Only the Board of Trustees have the power to amend the Zoning Map. The Township Planner's decision changed the Zoning Map.
- 2. Was arbitrary or capricious:** Yes. It was arbitrary to exceed the bounds of authority.
- 3. Was based upon an erroneous find of a material fact, or:** Yes. The Zoning Map is the “final authority” as what zone a parcel is located. § 2.102. The requirement is to check the map to determine the zoning designation. The Consent Judgment cannot be used because it is silent on Zoning Map and does not contain a Zoning Map.
- 4. Was based on an erroneous interpretation of the Zoning Ordinance:** Yes. The Township Planner erroneously interpreted the Official Zoning Map for the parcel at 11600 West Michigan Avenue, mistaking the A-1 zoning for I-1 zoning, and/or wrongly interpreted the Zoning Ordinance text that the Official Zoning Map can be used to determine zoning, prior to must be changed according to §§ 2.102, 12.04 (D), (E) and (F) and as required by § 12.04 (H) Conformance to Court Decree.

What we are asking the ZBA to do:

§ 17.05 (B) states: “After making such a determination, the ZBA may reverse or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as, in its determination, ought to be made under the provisions of this Ordinance. In doing so, the ZBA shall exercise all authority granted by this Ordinance to the person or body from whom the appeal is taken.”

1. Based on the findings of Fact listed above, determine that the Zoning Permit was issued in violation of the Zoning Ordinance, and reject the permit.
2. Order the “discontinuance of unlawful uses of land” § 1.06 (F)(7)(b).

APPEAL #2—the Planner’s Interpretations

Review criteria for Interpretations in § 17.06 is used to appeal interpretations by the Zoning Inspector:

A. Interpreting the regulations —It’s the Planner’s obligation to follow the entire Zoning Ordinance. His interpretation that he can use a Zoning Map that does not depict the location of the I-1 zoning district and its boundaries, is erroneous. He erroneously ignored that **§ 12.04 (H) Conformance to Court Decree** required a change to the Zoning Map prior to his issuance of the permit.

B. Interpretation of the Zoning District Boundaries.

There is no ambiguity as to where the zoning boundaries exist on the Zoning Map, because no I-1 zone is visible. Therefore the Township Planner could not interpret them, or add a zone he thinks should be there, nor change or alter the map to create it. Interpretation boundary criteria has to do with centerlines of streets, centerlines of easements, boundaries that parallel or are extensions of features, and determining distances by the scale on the Map. None of these methods of interpretation involve changing the zoning designation of a parcel in its entirety and all of its boundaries.

INTERPRETATION REQUEST

The third decision we are asking the ZBA to decide is an interpretation request. It involves some of the same concepts already discussed.

In the ZBA section of the Zoning Ordinance, **§ 17.06 Interpretations**, “the ZBA shall have the power to hearing and decide requests for interpretation of Zoning Ordinance regulations in such a way as to preserve and promote the character of the zoning district in question, and carry out the intent and purposes of this Ordinance and the Township’s General Development Plan.”

Section **12.04(H) Conformance to Court Decree** is very clear and unambiguous, therefore it requires no interpretation: “Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendment published without referral to any other board, commission or agency.” [Emphasis added]

The provision of the consent decree that agrees to change the ordinance, as quoted above, is “the Property is currently zoned A-1” and “the Township has agreed that the Property shall be zoned I-1.”

“Shall” always means required.

We ask the ZBA to clarify and declare the following steps the Board must take to comply with both the Consent Judgment provisions and the Zoning Ordinance, and interpret “promptly” in **§ 2.102 Zoning Map**.

1. Recognize that the Consent Judgment contained an agreement to rezone but was not the actual rezoning, did not substitute for a Board vote, and the amendment to the Zoning Map did not occur, and must occur in order to comply with **§ 12.04(H)**.
2. The Board of Trustees must vote in a public meeting to rezone (amend the zoning map) to conform to the consent judgment’s provision, as required in **§ 12.04 (D) (4) Township Board action**.
3. After adoption by vote, the Board of Trustees must publish the amendment as required in **12.04 (F)**, within 15 days of adopting the amendment.
4. Change the Zoning Map within the same 15 day period. Here’s the request to ZBA: Interpret the word “promptly” in **§ 2.102 Zoning Map**, which reads “If ... changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Map **promptly** after the amendment has been approved by the Township Board.” The word “promptly” is not defined in the Ordinance. A dictionary definition is: “quickly without delay” (Cambridge English Dictionary, dictionary.cambridge.org). But there are other requirements in the Zoning Ordinance that provide the answer: **§12.04 (F)** requires the amended Zoning Map to be available publicly for inspection or purchase at the time the notice is published, which is 15 days after the Board adopts the amendment. Therefore, “promptly” actually means 15 days after the Board adopts the amendment. And, the state statute says the same.

Saline Township has not followed proper procedure.

Currently the Zoning Map does not include the I-1 zone, because the above procedures were not followed by the Board. Mr. Auerbach used an outdated map,

which was not allowed. The Zoning Map is the final authority on what the zoning is for each parcel, and amendments to it must be done in the steps outlined above.

To illustrate further the mandatory requirement of publishing: The Zoning Map also was not corrected to include another rezoning that was noticed for public hearing, a public hearing held, was reviewed by the planning commission, and was adopted by the Board. But Saline Township never published the amendment in violation of state law **MCL 125.3401(7) and (9)** and the Zoning Ordinance § **12.04 (F)**. Therefore the rezoning never was effective. Here is what happened:

Rezoning of 15 parcels on Riverside Lane and Macon Road from A-1 to R-3

On February 4, the Planning Commission published a noticed and held a public hearing on a rezoning request of 15 parcels on Riverside Lane and Macon Road. They did not vote on it that evening. On April 1, the Planning Commission voted to recommend the rezoning to R-3 instead of R-4 as requested. On April 9, the Board of Trustees voted 5-0 to rezone the 15 parcels from A-1 to R-3. No public notice of the Zoning Map amendment adoption has been published and the Zoning Map depicts no R-3 zoning district. (**See Exhibit D** for the public hearing notice and three meeting minutes).

Saline Township knows how to publish public notices and has done so for other zoning ordinance text amendments, even recently. An example of a published notice of an adopted rezoning, detailing the parcels being rezoned, from City of Dexter, published in the same newspaper Saline Township publishes notices in, can be found in **Exhibit E**.

Thank you for your time.