

1900 Board of Zoning Appeals

A. Intent:

A Board of Zoning Appeals is hereby established to assist in the administration of this Ordinance, particularly to decide and interpret provisions which require impartial adjustments of conflicting interests and to grant variances from the strict letter of the Ordinance in instances of unnecessary hardship. Such a Board is herein established to achieve, among others, the following purposes:

1. To provide a method of alleviating unnecessary hardship by allowing a reasonable use for individual parcels of property, which because of unusual or unique circumstances, may be denied a reasonable use by a literal application of the terms of this Ordinance;
2. To review or appeal any order, requirement, decision or determination made by the Zoning Inspector;
3. That decisions and the granting of variances will sustain the constructionality of the Ordinance and to be in compliance with the objective of good planning.

B. Membership:

The Board of Zoning Appeals shall consist of five (5) members who are residents of the village. Terms of membership shall be arranged so that one (1) member's term will expire each year. Planning Commission members can be appointed to the Board of Appeals. The members of the Board of Appeals will serve without compensation, and a secretary shall be elected from the members of the Board of Appeals.

C. Duties and General Powers:

The Board shall adopt rules and regulations, not inconsistent with this Ordinance, as may be necessary to carry into effect the duties, powers and responsibilities conferred herein.

1. To hear appeals and decide any issue involving the application of impartial considerations and judgments in regard to decisions made by the Zoning Inspector or any other administrative officer or board on matters relating to this Ordinance, for relief for any order, requirements, decision or determination, including the refusal, granting or renovation of permits;
2. To hear and decide upon applications for variations from the terms provided in this Ordinance.
3. To hear and decide all matters specifically referred to it for decisions under other sections of this Ordinance.

D. Procedures of Appeals:

An appeal from any decision of the Zoning Inspector or other officers with regard to an application for a zoning permit, conditional use permit, variance, issuance of a stop order, specific referral, or some similar action, may be made to the Board by any person believing himself aggrieved by any such decision.

To be considered, the appellant shall, within twenty (20) days after the date of such decision, file in the office of the Zoning Inspector, a notice of appeal specifying the decision or section of this Ordinance from which the appeal is sought, the error alleged and all necessary data in accordance with the form provided by the Village.

E. Meetings and Hearings:

The Board of Zoning Appeals shall schedule regular monthly or semi-monthly meetings, which can be cancelled if no appeals are filed. Special hearings can be arranged at the call of the Chairman.

The Board shall act within thirty (30) days after receipt of all required information and failure to act within such period shall be considered approval of the appeal unless an extension of time is mutually agreed upon. Before making any decisions on an appeal, the Board shall hold a public hearing, or hearings, at such time as shall be determined by the Board itself. Notices of the time and place of hearings shall be mailed to the appellant and to the affected property owners as they appear on the current records of the County Auditor of Fulton County to be published for two (2) successive weeks prior thereto, in a newspaper of general circulation in the Village.

The Board shall hear and decide appeals de novo and shall review or appeal any order, requirement, decision or determination made by the Zoning Inspector in the enforcement or application of the Ordinance. Within its power, the Board may reverse or affirm, wholly or in part, or modify any such order, requirement, decision or determination as, in its opinion, ought to be under the circumstance, and to that end shall have all powers of the officer from whose decision the appeals is taken.

All hearings conducted by the Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by duly authorized agent or attorney. The Board shall have the power to subpoena and require the attendance of witnesses, to administer oaths, to compel testimony, to produce reports, findings and other evidence pertinent to any issue referred to it for decision.

F. Quorum and Vote:

The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any duly authorized administrative officer.

A member of the Board shall not be qualified to vote if he has not attended the public hearing, or if he has a direct or indirect interest in the issue appealed.

G. Records of Decisions:

The Board is authorized to engage the services of a secretary, and shall provide a detailed report of all of its proceedings, setting forth its reasons for decisions, the vote of each member participating therein, and the absence of a member, or his failure to vote. Immediately following the Board's decision such record, including conditions prescribed by the Board, shall be filed and posted for two (2) weeks in the office of the Zoning Inspector. The report shall be open to the public inspection and copies shall be mailed forthwith to each interested party noted therein.

H. Notice to Council:

Upon issuance by the Board of Zoning Appeals of any ruling, determination or order, the secretary of the Board shall send, within three (3) days of the date of such ruling, determination or order, a copy thereof to the Clerk of the Council who shall present such report at its next regular meeting.

I. Appeal to Court:

A person aggrieved by a decision of said Board may, within thirty (30) days after the filing of such decision, appeal to the Court of Common Pleas of Fulton County, Ohio. Such appeals may be either on questions of law or on questions of fact and shall be conducted de novo, and the appellant shall be entitled to request and to have a jury appointed to determine the issue in fact.

J. Reasons for Granting Variances:

The Planning Commission shall have the power, in specific cases, to vary the application of certain provisions of this Ordinance in order that the public health, safety, morals and general welfare may be safeguarded and substantial justice done for the following reasons:

1. Where the literal application of the provisions of this Ordinance would result in unnecessary hardships peculiar to the property involved and not based on conditions created by the owner (a theoretical loss of limited possibilities of economic advantage and general hardships shall be considered unnecessary hardships);
2. Where other exceptional circumstances or geographical or geological conditions, or type of adjoining development, are only applicable to property involved or to the intended use of the property and do not apply to other property within the same zone unless the same exceptional circumstances prevail;
3. Where granting of a variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located; and
4. That the granting of a variance will not be contrary to the general purposes, intent and objectives of this Ordinance. When applying for a variance or modification, the applicant shall substantiate and state his claim that each of the four (4) conditions as they apply to each specific case are a prerequisite for granting of the variance or modification.

K. Lapse of Variances:

A variance once granted shall not be withdrawn or changed unless there is a change of circumstances, or if after the expiration of one (1) year, no substantial construction is done in accordance with the terms and conditions for which such variance was granted. Should either of these circumstances occur, the Zoning Inspector shall give notice in writing, and thirty (30) days thereafter the variance shall be deemed null and void and all regulations governing said premises in question shall revert to those in effect before the variance was granted.