

SECTION 12 BOARD OF ZONING APPEALS

SECTION 12.1 General

The Board of Zoning Appeals is hereby established by this resolution and shall serve the purpose to hear and decide on appeals of a lawfully executed order by any administrative official in the enforcement of this Resolution. The Board shall consider and make a determination on request for variances from the terms and conditions of this resolution and consider appeals for exception for the use of land, buildings or other structures as applicable under the requirements and conditions of this Resolution. (Revised 8/22/90 - Z17-C119)

SECTION 12.2 Jurisdiction

The Board shall have appellate jurisdiction relative to appeals and variances and original jurisdiction relative to conditional uses as provided herein. (Revised 8/22/90 - Z17-C119)

12.2.1 Appeals

- a) The Board shall have the power to hear and decide where it is alleged there is an error in any order, requirement, decision or determination made by any administrative official in the enforcement of this Resolution.
- b) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector shall certify to the Board of Zoning Appeals after the notice of appeal shall have been filed with it that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board or by a court of equity, after notice to the officer from whom the appeal is taken and on due cause shown.
- c) The Board may, in conformity with the provisions of this Resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its option ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.

12.2.2 Exceptions

In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

- a) Interpretation
Interpret provisions of this Resolution in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts, accompanying and made a part of this Resolution where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.
- b) Replacement of Nonconforming Buildings
Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 60% of its fair market value where the Board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.

12.2.2 Exceptions (cont'd)

- c) **Modification of Parking and Loading Space Requirements**
Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements; or permit (a) the waiver of the requirement that automobile parking space be provided on the same lot with a dwelling, if other suitable and convenient parking space is available within or without a building; or (b) the dual use of parking facilities (i.e. by stores during the day and theaters during the evening) provided there is no overlapping of use and the parking space requirements for each building or use are complied with during each period.
- d) **Public Parking Areas Location**
Permit in the "A" or "R" Districts, public parking areas or storage garages adjacent to any existing or proposed use in the multiple dwelling, commercial or industrial districts.
- e) **Use Impact Determinations**
Determine whether an industry should be permitted within an "M" Industrial District because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.
- f) **Substitution of Nonconforming Uses**
The substitution of a nonconforming use existing at the time of enactment of this Resolution for another nonconforming use, if no structural alterations except those required by law or resolution are made; provided, however that in an "A/R" or "R" District, no change shall be authorized by the Board to any use which is not a permitted or conditional use in any "A/R" or "R" District, and in a "C" District no change shall be authorized to any use which is not a permitted or conditional use in any "C" District.
- g) **More Than One (1) Main Use on a Parcel**
Within any zoned district, the placing of more than one (1) main building on a lot, when all of the buildings are intended to be operated as a single enterprise and the lot and all portions of it are owned, leased, or under option by a single party. In such cases, the yard requirements shall apply along all edges of the lot, but shall not be required for the internal arrangement of the buildings on the Lot. Height, bulk, and lot area per family shall apply as in the case of one main building located on a lot. An application for the placing of more than one (1) main building on a lot shall be accompanied by a site plan. Proposals for placing more than one (1) residential main building on a lot shall be referred to the Zoning Commission for review of the site plan, and Zoning Commission approval of the site plan shall be prerequisite to final approval by the Board of Zoning Appeals.

12.2.2 Exceptions (cont'd)

h) Temporary Structures and Uses

Permit the temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this Resolution for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit, for not more than a 12 month period in undeveloped sections of the Township and not more than six (6) months in developed sections, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

12.2.3 Variances

In hearing and deciding appeals, the Board shall have the power to authorize such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this Resolution. On appeal where there is unnecessary hardship, the Board may grant a variance in the application of the provisions of the Zoning Resolution only if all of the following findings are made:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions generally created by the provisions of the Zoning Resolution in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning resolution and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

12.2.4 Nonconforming Uses - Extensions or Permit

The Board shall have the authority to grant an extension or permit completion of a building devoted to a nonconforming use upon a lot occupied by such building, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building became nonconforming, and where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor areas of such extension shall not exceed in all 100% of the floor area of the existing building or buildings devoted to a nonconforming use.

SECTION 12.3 Procedure

Appeals, variances and exceptions which are granted by the Board shall conform to the procedures and requirements of this Resolution. (Revised 8/22/90 - Z17-C119)

12.3.1 Application

- a) **Application:** All applications shall be in writing, shall be signed by the owner of the property involved or his duly authorized agent or attorney, shall specify the request and grounds thereof, and shall be filed in the office of the Zoning Administrator. (Revised 2/15/93 - Z17-C138)
- b) An appeal from any action, refusal or ruling of the Zoning Administrator shall be filed within 20 days after such action or refusal or the announcement of such ruling. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action or ruling appealed from was taken. (Revised 2/15/93 - Z17-C138)

12.3.2 Review by Other Officials

The Board of Zoning Appeals may request additional information or review of the appeal, variance, or request for exceptions by other Township officials, County agencies, or the Lucas County Planning Commission. Said information or review shall be delivered to the Board of Zoning Appeals within 45 days after the receipt of the request. Failure to disapprove the same within such period shall constitute approval thereof. (Revised 8/22/90 - Z17-C119)

12.3.3 Public Hearing and Notice

The Board shall hold a hearing on each appeal after at least a 10 day notice, both in writing to the parties in interest and by publishing in one (1) or more newspapers of general circulation in the Township, stating the time and place thereof. The Board shall make its findings and determination in writing within 40 days from the date of the filing of the appeal or in the case of an application for an exception within 30 days after receipt of the review or information requested from other County and Township officials and agencies or expiration of the time limit as provided for in 12.3.2. A copy of such findings and determination shall be transmitted to the applicant within 30 days thereafter. (Revised 8/22/90 - Z17-C119)

12.3.4 Supplemental Conditions and Safeguards

In granting any appeal, variances or an exception, the Board may prescribe appropriate conditions and safeguards in conformity with this Resolution. If the application is approved or approved with modifications, the Board shall direct the Zoning Administrator to issue the permit listing the specific conditions specified by the Board of Approval. Violations of such conditions and safeguards, when made a part of the terms under which the use is granted, shall be deemed a violation of this Resolution and punishable under Section 11.6. (Revised 8/22/90 - Z17-C119) (Revised 2/15/93 - Z17-C138)

12.3.5 Schedule/ of Fees, Charges, and Expenses

The Board of Township Trustees shall, by Resolution, establish a schedule of fees, charges, and expenses and a collection procedure for appeals, variances, exceptions and other matters pertaining to the administration and enforcement of this Resolution requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Zoning Administrator, and may be altered or amended only by the Township Trustees. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. (Revised 8/22/90 - Z17-C119) (Revised 2/15/93 - Z17-C138)

12.3.6 Record of Appeals, Variances, and Conditional Uses

A public record of all appeals, variances, and exception applications and disposition thereof shall be kept on file in the office of the Zoning Administrator. (Revised 8/22/90 - Z17-C119) (Revised 2/15/93 - Z17-C138)

12.3.7 Appeal of Board Decisions

If the application is disapproved by the Board, the applicant may seek relief through the Court of Common Pleas. Appeals from Board decisions shall be made within 10 days of the Board's written decision.

12.3.8 The Board of Zoning Appeals has the power to revoke a variance or exception for noncompliance. The Board shall notify the affected party of their intent to revoke by the mailing of a notification by certified mail. The affected party has the right to request a hearing within 30 days of the mailing of the notification, in which case the board shall notify the party of the time and place of the hearing. Revocation of a variance or an exception shall become effective 30 days after notice has been given, unless a hearing has been requested. (Revised 8/22/90 - Z17-C119)

This page left intentionally blank.

(((

(((

(((