

Section 13
Board of Zoning Appeals

I. Membership:

A. The Board of Zoning Appeals, hereinafter called the Board, shall be appointed by the Board of Township Trustees and shall consist of five (5) members (none of whom shall be concurrently appointed as a member of the Township Zoning Commission) who are residents of the unincorporated area of the Township. 4/97

B. The members of the Board shall serve the same length of terms, and appointments shall be staggered in the same manner as provided for the Township Zoning Commission in Section 11. The Board of Township Trustees may remove any member for cause, after public hearing, in accordance with the provisions of Section 519.04 Ohio 85 Revised Code. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant.

C. The Board of Township Trustees may appoint two (2) alternate members to the Township Board of Zoning Appeals for terms as designated by the Board of Township Trustees. An alternate member shall take the place of an absent regular member at any meeting of the Board of Zoning Appeals according to procedures prescribed by Resolution of the Board of Township Trustees. All alternate members shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. 4/00

II. Rules of the Board:

A. The Board shall by majority vote of its members elect a Chairman, a Vice Chairman, and a Secretary who shall occupy such offices until their successors are duly elected at the next meeting of the Board, which shall be held during the month of January of each year.

B. If any member of the Board is absent for four (4) consecutive meetings, he may be considered, at the option of the Chairman, to have resigned, and the Chairman may request the Board of Township Trustees to appoint a replacement.

C. All meetings shall be conducted in accordance with Roberts Rules of Order, Newly Revised, except as otherwise provided in these rules and regulations. A quorum shall consist of three (3) members of the Board which shall be the minimum number permitted to conduct business. An affirmative vote of a majority of the members in attendance shall be required for action. Failure of an item to receive a majority vote shall constitute disapproval. When a quorum is lacking, staff shall postpone or cancel items requiring a vote and may proceed with items presented for information only. 4/97 D. The Board shall not grant any variances or conditional use permits not properly processed. The Board does not have the authority to change an application nor grant additional conditional uses or variances not included in the application. (Rv.7/02)

III. Jurisdiction:

A. **Appeals:** To hear and decide appeals where it is alleged there is an error in any interpretation, order, requirement, decision or determination by the enforcement officer in the administration and enforcement of the provisions of this Resolution.

B. **Variances:** To authorize upon appeal, where, by reason of exceptional narrowness, shallowness or shape, practical difficulty, or exceptional topographic conditions, or other extraordinary situation or condition of a lot, the strict application of the terms of this Zoning Resolution would result in peculiar and exceptional difficulties or undue hardship upon the owner thereof, a variance from such strict application to relieve such difficulties or hardship, provided said relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the Resolution. 4/00 86

C. **Conditional Use permits:** As provided for in Section 5 of this Resolution.

D. **Special Event and Temporary Use Permits:** As provided for in Sections 5 and 9 of this Resolution.

E. **Exceptions:** To authorize, upon appeal, the following exceptions: 1. Permit in districts limiting the height to thirty-five (35) feet or under, schools, hospitals, sanitariums, institutions, churches, and other similar uses allowed under the use regulations of this Resolution, to be erected to a height not exceeding six (6) stories or seventy-five (75) feet, provided that the front and side yard requirements or such buildings are complied with and fire-fighting equipment is available. 2. Authorize a permit for a temporary office, construction or storage building, in any district, which use is indicated to development of the property of which it is located, such permit to be issued for a period of not more than one (1) year for exceptionally large projects when renewal may be authorized.

F. **Conditions:** In approving applications for variances, conditional use, special event and temporary use permits, the Board shall have authority to impose such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood. 4/97

IV. Procedures:

A. **Meetings:** Meeting of the Board shall be at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths, and the Board may compel the attendance of witnesses. All meeting of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and of each member's absence or failure to vote, and every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall be filed in the office of the Board of Township Trustees, and shall be a public record.

B. **Appeals:** Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or affected, or by any officer of the Township, regarding any decision of the zoning administrative officer. Such appeal shall be taken within twenty (20) days after the decision by filing with the officer from whom the appeal is taken, and with the Board, a notice of appeal specifying the grounds. A fee shall be paid to the Township Clerk upon the filing of each appeal for the purpose of defraying the costs of the proceedings described herein. A written receipt shall be issued to the person making such payment, and records thereof shall be kept in such a manner as prescribed by law. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

C. **Public Hearing and Decision:** The Board of Zoning Appeals shall fix a date for a public hearing of the appeal within thirty (30) days from the date of filing, and shall give at least ten (10) days 87 notice in writing, by first-class mail, to the parties in interest, and to all owners of property within, contiguous to and directly across the streets from the property involved in the appeal; this notice shall be mailed to the addresses of such owners appearing on the County Auditor's current tax list of the Treasurer's mailing list. The failure of delivery of such notice shall not invalidate any action taken on the appeal. The Board of Zoning Appeals shall also give notice of such public hearing by one (1) publication in one (1) or more newspapers of general circulation in the township and to post such notice in one (1) or more conspicuous places on the island on which the appeal is being considered, at least ten (10) days before the date of such hearing. Upon the hearing, any person may appear in person or by attorney. The Board shall decide the appeal within thirty (30) days after the date of the public hearing. Every decision of the Board shall be based upon a finding of fact. In addition, the Board shall forthwith transmit a copy of its decision to the applicant and the property owners who were notified of the appeal.

D. Variances: A public hearing will be required and will follow the procedure described under appeals (Section 13, IV, C).

1. Two (2) copies of a provided application accompanied by a copy of a denied Certificate of Zoning and a statement of the reason of denial shall be filed with the Zoning Inspector not more than twenty (20) days from the date of such denial. The application shall include the following statement:

- a. The nature of the variance including the specific provisions of the Zoning Resolution upon which the variance is requested.
- b. A legal description of the property.
- c. A statement of the general or special circumstances or conditions applying to the land or structure and not applying in other areas.
- d. A statement showing that the granting of the application is necessary to the preservation and enjoyment of substantial property rights.
- e. A list of property owners within, contiguous to, and directly across the street from the property involved in the application. Such list is to be in accordance with the latest County Auditor's tax list and shall include all owners and addresses.
- f. Such other information regarding the application for variance as may be pertinent or required for action by the Board.
- g. A plot plan showing the boundaries and dimensions of the lot, the size and location of existing structures with measurements shown, the location of adjoining structures, and other features of the parcel in question.

1. There are two types of variances which the township may grant: an area variance and a use variance. The factors to be considered by the Board of Zoning Appeals differ for the two types of variances. 4/00