

ARTICLE IX
BOARD OF ZONING APPEALS

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901 GENERAL

A Board of Zoning Appeals is hereby created and shall have all the powers and duties prescribed by law and by this Resolution.

902 COMPOSITION AND APPOINTMENT

Membership of the Board shall be as provided by the Ohio Revised Code.

903 ORGANIZATION

Rules, organization and meetings of the Board of Zoning Appeals shall be as provided by the Ohio Revised Code.

904 POWERS

The Board of Zoning Appeals shall have the following powers:

- A. To hear and decide appeals including:
 1. Administrative appeals as further described in Section 905 below.
 2. Variance appeals as further described in Section 906 below.
- B. To review and approve, deny or conditionally approve conditional zoning certificates as described in Article VI.
- C. Such other powers as provided in this Resolution and as provided in the Ohio Revised Code.

905 ADMINISTRATIVE APPEALS

The Board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Inspector or the Zoning Commission in the enforcement of this Resolution. Administrative appeals shall be reviewed in the manner specified in Section 907.

906 VARIANCE APPEALS

- A. General. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of the Zoning Resolution as will not be contrary to the public

interest, where, owing to special conditions, a literal enforcement of this Resolution will result in

unnecessary hardship or practical difficulty and so that the spirit of this Resolution shall be observed and substantial justice done. Variance appeals shall be reviewed in the manner specified below and in Section 907.

- B. Area Variances. Where the appeal requests an area variance, that is, a variance from the area, height, setback, yard or other dimensional requirements of the district, then the following standards shall be considered and weighed in determining whether the grant of a variance is warranted to afford relief from the practical difficulties:
1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance
 2. Whether the variance is substantial
 3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance
 4. Whether the variance would adversely affect the delivery of governmental services
 5. Whether the property owner purchased the property with knowledge of the zoning restriction
 6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance
 7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- C. Use Variance. Where the appeal requests a use variance, that is, a variance for the approval of a use which is not permitted in the district, then the following standards shall be considered and weighed in determining whether the grant of a variance is warranted to afford relief of an unnecessary hardship.
1. Whether uses permitted in the district may be reasonably established on the property and whether they are economically viable on the property in question without the variance
 2. Whether the variance is the minimum variance which will afford relief to the property owner
 3. Whether the essential character of the neighborhood will be substantially altered or adjoining properties will suffer interference with their proper future development and rights as a result of the variance
 4. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district
 5. Whether the hardship condition was created by actions of the applicant
 6. Whether the spirit and intent of the Zoning Code will be observed and substantial justice done by granting the variance

7. Whether the use requested is similar in impact to the permitted uses in the subject district
 8. Whether the subject property is adequate to meet the needs and requirements of the proposed use.
- D. Supplementary Conditions. In granting a variance appeal, the Board may impose such conditions as it may deem necessary to protect the public health, safety and morals and in furtherance of the purposes and intent of this Resolution, including the requirement of a bond to guarantee that all special conditions imposed by the board will be complied with.

907 PROCEDURE FOR ADMINISTRATIVE AND VARIANCE APPEALS

- A. General. Appeals to the Board of Zoning Appeals concerning the powers specified in Section 905 and 906 for administrative appeals and variance appeals may be taken by any person or corporation or by any officer of Westfield Township adversely affected by any decision of the Zoning Inspector. The appeal shall be taken within 20 days after the decision of the Zoning Inspector. The appeal shall be taken within 20 days after the decision by filing with the Zoning Inspector a notice of appeal specifying the grounds upon which the appeal is taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals the notice of appeal and all papers constituting the record of the action which is appealed.
- B. Stay of Proceeding. An appeal shall stay all proceedings in furtherance of the action appeals, unless the Zoning Inspector shall certify to the Board of Zoning Appeals after the notice of the appeal has been filed, that a stay would cause imminent peril to life or property. In such vases, proceedings shall not be stayed by other than a restraining order granted by the Board or by a court having lawful jurisdiction.
- C. Public Hearing and Notices. The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after the receipt of an appeal from the Zoning Inspector. Notice of the hearing shall be published in a newspaper at least ten (10) days before the date of the public hearing. The notice shall state the time, place and object of the public hearing. Notices shall be sent at least ten (10) days before the hearing to all parties involved in the appeal and to all property owners adjacent to or across the road from the subject property. The Board may recess such hearing and if the time and place to the continued hearing is publicly announced at the time of adjournment, no further notice shall be required.
- D. Assistance. Applications for appeals may be submitted by the Board to the Zoning Commission for review and comment. The findings of the Zoning Commission shall be submitted to the Board prior to its public hearing and shall be included in the minutes of that hearing. The Board may also seek assistance from any other appropriate source.
- E. Decisions. Within twenty (20) days after the public hearing, the Board of Zoning Appeals shall either approve or disapprove the request for appeal. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Inspector. Such

decision shall be binding upon the Zoning Inspector and shall be incorporated in the terms and conditions of the zoning certificate whenever a certificate is authorized by the Board. Any appellant having been denied an appeal by the Board, may appeal to the Court of Common Pleas.