

ARTICLE X

BOARD OF ZONING APPEALS

Section 1001

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

Section 1001-1 COMPOSITION AND APPOINTMENT

See Section 519.13 of the Ohio Revised Code (ORC), township Board of Zoning Appeals. (Amended 9/17/15)

Section 1001-2 ORGANIZATION

The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its membership, and shall prescribe rules for the conduct of its affairs.

Section 1001-3 QUORUM

The Board of Zoning Appeals shall require a quorum of three (3) members at all of its meetings, and the concurring vote of a majority of members shall be necessary to affect any order. (Amended 9/17/15)

Section 1001-4 WITNESSES

The Board of Zoning Appeals chairman or acting chairman may administer oaths and compel the attendance of witnesses in any matter coming within the review of this Resolution.

Section 1001-5 POWERS AND DUTIES

The Board of Zoning Appeals as herein created is a body of limited powers. In no case shall the Board have the power or authority to authorize a change in the use of any land or to change the height requirements of this Resolution.

A. Appeals

See Section 519.14 of the Ohio Revised Code. **(Amended 9/17/15)**

B. Variances

Where there are practical difficulties of unnecessary hardship in the way of carrying out the strict letter of this Resolution, the Board shall have the power to grant use variances pursuant to Ohio Revised Code Sec. 519.14(B), and area variances pursuant to Ohio Case Law. See Appendix E of this Resolution, Duncan Factors. **(Amended 9/17/15)**

In every instance of granting a variance by the Board of Appeals, there must be a showing by the Board that:

1. The strict application of the provisions of the Resolution would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and the intent of this Resolution.
2. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.
3. The granting of such variance will not be of substantial detriment to the public interest or to the property or improvements in the district in which the variance is sought, and will not materially impair the purpose of this Resolution.

In granting a variance the Board of Zoning Appeals may impose such conditions as it may deem necessary, including those contained in Appendix E of this Resolution, to protect the public health, safety, or welfare and to further the purpose and intent of this Resolution. **(Amended 9/17/15)**

C. Conditional Uses **(Amended 9/17/15)**

The Board of Zoning Appeals shall have the authority to grant conditional zoning permits for the use of land, buildings, or other structures as

conditional uses pursuant to Sec. 519.24(C) of the Ohio Revised Code as specifically provided for in this Resolution.

Section 1001-6 PROCEDURE (Amended 9/17/15)

The Board of Appeals shall organize and adopt rules in accordance with this Zoning Resolution and as otherwise required by law. The Board shall keep minutes of its proceedings showing the vote for each member upon each question, or if absent or failing to vote, it shall indicate such fact. All appeals and applications made to the Board of Zoning Appeals shall be in writing on forms prescribed therefore. Every appeal or application shall refer to the specific provision or provisions of this Zoning Resolution necessary for its resolution, shall set forth the interpretation that is claimed, the details of any variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be.

In the event that the Board of Zoning appeals finds it necessary to draw upon any planning, legal, or any other expert, for the resolution of any issue before it, the appellant or applicant before it shall be responsible for any additional costs to be incurred.

Section 1001-7 NOTICE OF HEARINGS (Amended 6/27/14)

When a notice of appeal has been filed in proper form with the Board of Zoning Appeals, the secretary shall immediately place the said request for appeal upon the calendar for hearing, and shall state on the notices the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal, at least ten (10) days prior to the date of scheduled hearing. Written notice of such hearing shall also be given by mail to any person, firm, or corporation owning the premises located within five hundred (500) feet of the land to which such appeal or application is related. All notices shall be sent to addresses given on the last assessment roll. Such hearings shall be advertised by one (1) publication in one (1) or more newspapers of general circulation in the Township at least ten (10) days before the date of such hearing. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required.

Section 1001-8 APPEALS (Amended 9/17/15)

In addition to the authority granted a Board of Zoning Appeals by Ohio Revised Code Sec. 519.14 (Appendix A), an appeal to the Board of Zoning Appeals may be taken by any officer or Board of Homer Township, deeming himself/herself or itself to be adversely affected by the decision of the Zoning Inspector or Zoning Commission respecting interpretation of this Resolution.

Appeals shall be made no later than twenty (20) calendar days after the date of the grievance. An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrative officer whose decision is appealed from shall certify to the

Board of Zoning Appeals after the notice of appeal has been filed, that by reason of facts stated in the permit, a stay would, in his opinion, cause “imminent” peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by the Board of Zoning Appeals or by a court having lawful jurisdiction. The Board shall make a decision on the appeal within a reasonable time after the public hearing. Any party involved in the hearing may appear in person or be represented by an attorney.