

CHAPTER 1143
Appeals and Variances

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CROSS REFERENCES

Board of Zoning Appeals - see CHTR. 7.10 et seq.
Appeals from zoning decisions - see Ohio R.C. 713.11
Variance defined - see P. & Z. 1123.02

1143.01 INTENT.

Appeals and variances shall conform to the procedures and requirements of this Zoning Code. The BZA has appellate jurisdiction relative to appeals and variances.
(Ord. 00-30. Passed 6-5-2000.)

1143.02 ADMINISTRATIVE APPEALS.

(a) Appeals to the BZA concerning interpretation or administration of this Zoning Code may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the Municipality affected by any decision of the Municipal Manager. Such appeal shall be taken within 30 days after the decision by filing, with the Municipal Manager and with the BZA, a Notice of Appeal specifying the grounds upon which the appeal is being taken. The Municipal Manager shall transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

(b) A record capable of transcription and containing all documents presented as evidence or utilized by the BZA shall be made of any hearing held under this section.
(Ord. 00-30. Passed 6-5-2000.)

1143.03 VARIANCES.

The BZA may authorize upon appeal in specific cases such variance from the terms of this Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Code would result in unnecessary hardship for use variance and practical difficulties for area variances. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Zoning Code would result in unnecessary hardship.
(Ord. 00-30. Passed 6-5-2000.)

1143.04 APPLICATION AND STANDARDS FOR VARIANCES.

Except as otherwise permitted in this Zoning Code, no variance in the strict application of the provisions of this Zoning Code shall be granted by the BZA unless the BZA shall find that the written application for the requested variance contains all of the following requirements:

- (a) Name, address, and phone number of applicant(s).
- (b) Legal description of property.
- (c) Description or nature of variance requested.
- (d) A fee as established by Zoning Code. (See Section 1145.08 Schedule of Fees.)
- (e) A list of all property owners and their mailing addresses who are within 200 feet of the parcel requesting variance.
- (f) Narrative statements establishing and substantiating that the variance conforms to the following standards:
 - (1) The granting of the variance shall be in accord with the general purpose and intent of the regulations imposed by this Zoning Code on the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.
 - (2) The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
 - (3) There must exist special circumstances or conditions, fully described in the findings, applicable to the land or buildings for which the variance is sought, which are peculiar to such land or buildings and do not apply generally to land or buildings in the area, and which are such that the strict application of the provisions of this Zoning Code would deprive the applicant of the reasonable use of such land or building. Mere loss in value shall not justify a variance; there must be deprivation of beneficial use of land.

- (4) There must be proof of hardship or practical difficulty created by the strict application of this Zoning Code. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Zoning Code; it must be suffered directly by the property in question; and evidence of variances granted under similar circumstances need not be considered.
- (5) The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted is the minimum variance that will accomplish this purpose.
- (6) The granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
(Ord. 00-30. Passed 6-5-2000.)

1143.05 ADDITIONAL CONDITIONS AND SAFEGUARDS.

The BZA may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Zoning Code.

(Ord. 00-30. Passed 6-5-2000.)

1143.06 PUBLIC HEARING BY THE BOARD OF ZONING APPEALS.

The BZA shall hold a public hearing within 45 days after the receipt of an application for an appeal or variance from the Municipal Manager.

(Ord. 05-81. Passed 12-19-05.)

1143.07 NOTICE OF PUBLIC HEARING IN NEWSPAPER.

Before conducting the public hearing required, notice of such hearing shall be given in one or more newspapers of general circulation in the Municipality at least 10 days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

(Ord. 00-30. Passed 6-5-2000.)

1143.08 NOTICE TO PARTIES OF INTEREST.

Before conducting the public hearing required, written notice of such hearing shall be mailed, by first-class mail, at least 10 days before the day of the hearing to all parties within 200 feet. The failure to deliver the notification as provided in this Section shall not invalidate any such amendment. The notice shall contain the same information as required in Section 1143.07 Notice of Public Hearing in Newspaper.

(Ord. 00-30. Passed 6-5-2000.)

1143.09 ACTION BY BOARD OF ZONING APPEALS.

Within 30 days after the public hearing, the BZA shall either approve, approve with supplemental conditions as specified in Section 1143.05 Additional Conditions and Safeguards, or disapprove the request for appeal or variance. The BZA shall further make a finding in writing that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure.
(Ord. 00-30. Passed 6-5-2000.)

1143.10 TERM OF VARIANCE.

No order of the BZA granting a variance shall be valid for a period longer than 12 months from the date of such order unless the Zoning Permit or zoning approval is obtained within such period, and the erection or alteration of a building is started or the use is commenced within such period.
(Ord. 00-30. Passed 6-5-2000.)