

ARTICLE 2

BOARD OF ZONING APPEALS

SECTION 1

APPOINTMENT OF THE BOARD

A Board of Zoning Appeals of Washington Township is hereby created. Such Board shall be appointed by the Board of Township Trustees for five-year terms and shall consist of five members and up to two alternate members, who shall be residents of the unincorporated territory of Washington Township. (Revised January 22, 2007)

- A. The terms of all members shall be of such length and so arranged that the term of one member shall expire each year.
- B. The terms for alternate members shall be established by the Washington Township Trustees. (Revised January 22, 2007)
- C. Each member or alternate member shall serve until his successor is appointed and qualified. (Revised January 22, 2007)
- D. Members of the Board shall be removable for nonperformance of duty, misconduct in office or other cause by the Board of Trustees upon written charges being filed with the Trustees and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten days prior to the hearing, either personally or by registered mail, or by leaving the same at the member's usual place of residence. The member shall be given an opportunity to be heard and answer such charges.
- E. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term.

SECTION 2

BOARD ORGANIZATION

- A. The board shall organize and adopt rules in accordance with the provision of this Resolution. (Revised January 22, 2007)
 - 1. Meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine.
 - 2. The Chairperson, or in his absence the Acting Chairperson, may administer oaths and the Board meetings shall be open to the public and advertised as per the Ohio Revised Code.
 - 3. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its actions and other official actions, all of which shall be immediately filed in the office of the Board of Township Trustees and shall be a public record.

4. The Board members shall be required to disqualify themselves from the deliberations and voting on cases in which they are among the notified property owners.
- B. Three members of the Board shall constitute a quorum. The Board shall act by resolution; and the majority vote of the quorum shall be necessary to exercise any power of the Board. (Revised January 22, 2007)
- C. The Board may call upon the township departments for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance to the Board as may reasonably be required.

SECTION 3

JURISDICTION: APPEALS AND APPLICATIONS

A. GENERAL

The Board shall have the power to hear and decide, in accordance with the provisions of this Resolution, appeals and applications as set forth in this Section. The Board shall have no more than 60 days from the filing of an application to make a decision. (Revised January 22, 2007)

B. APPEAL FROM ADMINISTRATIVE DECISION

The Board shall have the power to hear and decide appeals, filed as herein provided, where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Inspector or other administrative official in the enforcement of this Resolution. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. (Revised January 22, 2007)

C. APPLICATION FOR INTERPRETATION OF MAP

Where a street or lot layout actually on the ground, or as recorded differs from the street and lot lines as shown on the Zoning Map, the Board upon application, shall have the power to interpret the map in such a way as to carry out the intent and purpose of this Resolution.

D. APPLICATION FOR CONDITIONAL USE

The Board shall have the power, upon application, to authorize a Zoning Certificate for any Conditional Use, but only after the Board has given due regard to the nature and condition of all adjacent uses and buildings and after determining that the proposed use will not be of substantial detriment to adjoining property. The Board shall impose such requirements and conditions, in addition to those required by this Resolution, as it deems necessary.

Items to be considered by Board of Zoning Appeals before issuing a Conditional Use Certificate:

1. Will the proposed use be consistent with the general plan for the physical development of the zoning district;
2. Will the proposed use be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activities, traffic and parking conditions and number of similar uses;
3. Will the proposed use be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; and will it cause objectionable noise, vibration, fumes, odors, dust, glare or physical activity;
4. Will the proposed use have a detrimental use on vehicular or pedestrian traffic;
5. Will the proposed use adversely affect the health, safety, security, morals or general welfare of the residents, visitors or workers in the area;
6. Will the proposed use, in conjunction with the existing development in the area and the development permitted under the existing zoning, overburden existing public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public improvements.

E. APPLICATION FOR HEIGHT OR AREA VARIANCE (Revised January 22, 2007)

1. The Board, only in the specific instances hereinafter set forth, shall have the power to authorize upon application in specific cases, such variances from the height or area requirements of this Resolution as will not be contrary to the public interests; but only in such cases where, the property owner has encountered practical difficulties in the use of his property. Factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of his property include, but shall not be limited to:
 - a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - b. Whether the variance is substantial;
 - c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining property owners would suffer a substantial detriment as a result of the variance;

- d. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
 - e. Whether the property owner purchased the property with knowledge of the zoning restrictions;
 - f. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
 - g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- 2. All of the above determinations shall be supported by written findings of facts.
 - 3. The Board may prescribe conditions it deems necessary to ensure that the objectives of the regulations or provisions of the Resolution to which the variance applies will be met.

SECTION 4

PROCEDURE: APPEALS AND APPLICATIONS (Revised January 22, 2007)

A. DATA REQUIRED FOR CONDITIONAL USE, PERFORMANCE USE, HEIGHT OR AREA VARIANCE

Every application for a Conditional Use, Performance Use or height, or area variance, if so requested by the Board, shall be accompanied by the following:

- 1. Application for a Zoning Certificate.
- 2. Reasons for the request.
- 3. Map of the area including all lots within two hundred (200) feet of any part of the property involved and location and use of buildings thereon for a height or an area variance. A map of the area including all lots within five hundred (500) feet of any part of the property involved and location and use of the buildings thereon for a conditional use or performance use.
- 4. Names and addresses of owners of lots shown on said map.
- 5. Filing fee, as established by the Washington Township Trustees and made payable to Washington Township Trustees. (Revised January 22, 2007)

B. HEARINGS

Public hearings will be held as per the Ohio Revised Code. (Revised January 22, 2007)

C. CONDITIONS

In granting an appeal or application, the Board may impose on the applicant such requirements and conditions, including posting of bond, with respect to location, construction, maintenance and operation, as the Board may deem necessary for the protection of adjacent properties and the public interest. Any noncompliance with such requirements or conditions on the part of the owner shall be considered a violation of this Resolution.

D. APPEAL

Any party adversely affected by a decision of the Board may appeal to the Court of Common Pleas of Montgomery County, Ohio as per the Ohio Revised Code. (Revised January 22, 2007)

E. PERIOD OF VALIDITY

A Conditional Use Certificate granted by the Board shall terminate at the end of one year from the date on which the Board grants the Conditional Use, unless within the one year period a building permit is obtained and the erection or alteration of a structure is started.