

**Article 2:  
Board of Zoning Appeals**

Section 1 Appointment of Board .....2

Section 2 Board Organization .....2

Section 3 Jurisdiction: Appeals and Applications .....2

Section 4 Procedure: Appeals and Applications .....4

**Section 1 Appointment of 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.

- A. The terms of all regular 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.
- C. Each member or alternate member shall serve until his successor is appointed and qualified.
- D. 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.
- E. 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.
- F. 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.
- B. 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 appeal or application to make a decision.
- B. Appeal from Administrative Decision. Appeals to the Board may be taken by any person aggrieved or by any officer of the township affected by any decision of the Zoning Inspector. The Board may 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 sections 519.02 to 519.25 of the Ohio Revised Code or 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 was taken.
- C. Application for Conditional Use. The Board may grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates for specific uses are provided

for in this Resolution. If the Board considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514 of the Ohio Revised Code or activities that are related to making finished aggregate products, the Board shall proceed in accordance with section 519.141 of the Ohio Revised Code. 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 adversely affect the health, safety, security, morals or general welfare of the residents, visitors or workers in the area;
2. Will the proposed use be consistent with the general plan for the physical development of the zoning district;
3. 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;
4. 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;
5. Will the proposed use have a detrimental impact on vehicular or pedestrian traffic;
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.

D. Application for Height or Area Variance (Revised September 12, 2011)

The Board shall have the power to authorize upon application in specific cases, such variances from the height or area requirements of this zoning 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:

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 property owners would suffer a substantial detriment as a result of the variance;
4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
5. Whether the property owner purchased the property with knowledge of the zoning restrictions;

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.

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.

E. Application for Use Variance (Revised September 12, 2011)

The Board shall have the power to authorize upon application in specific cases, such variances to allow uses not otherwise permitted by this Zoning Resolution whereby owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, so that the spirit of the resolution shall be observed and substantial justice done.

1. A hardship exists when the zoning, as applied, prevents property from being used in the manner for which it is zoned.
2. A use variance cannot be granted as a result of a hardship which is self-created. A self-created hardship includes, but is not limited to, the purchase of property with knowledge of the zoning restriction or the creation of a condition which necessitates the granting of the variance.
3. Enhancement of the value of the property or to increase profit upon sale or lease of the property shall not be the basis for the granting of a use variance.

**Section 4 Procedure: Appeals and Applications**

- A. Data required for Conditional Use, Use or Height, or Area Variance shall be accompanied by the following:

Every application for a Conditional Use, Use or height, or area variance shall be accompanied by the following:

1. A map showing the location of property which is the subject of the application. This map shall show also the location of any buildings and structures on the property and all lots within five hundred (500) feet of any part of the property.
2. The names and address of the owners of property within five hundred (500) feet of the property involved as shown on the records of the Auditors of Montgomery County, Greene County or Warren County, Ohio.
3. A filing fee in an amount established by the Board of Trustees of Washington Township.
4. A copy of the current zoning certificate for the current use of the property which is the subject of the application.

- B. Hearings. The Board shall fix a reasonable time for a public hearing of an appeal, give at least ten (10) days notice in writing to the parties of interest and give notice of the public hearing in at least one newspaper of general circulation in Montgomery County, Ohio at least ten (10) days before the hearing.

- 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.
- 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 or the property is being used as permitted by the Conditional Use Certificate.

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