

**ARTICLE 4**

**BOARD OF ZONING APPEALS**

**SECTION 401**

**APPOINTMENT**

There shall be a Butler Township Board of Zoning Appeals consisting of five (5) members appointed by the Board of Township Trustees as provided by Section 519.23 of the Revised Code of the State of Ohio.

**SECTION 402**

**ORGANIZATION**

The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. 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 examinations and other official actions, all of which shall be immediately filed in the office of the Butler Township Trustees and shall be public record. A copy of the decision for each case shall be sent to the applicant by certified mail.

**SECTION 403**

**JURISDICTION**

The Board of Zoning Appeals shall have the following jurisdiction:

A. Administrative Appeal

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning Inspector in the enforcement of this Zoning Resolution.

B. Variances of Lots

1. Authorize, upon appeal, in specific of such variance from the terms of this Resolution as will not be contrary to public interest, where, owing to special conditions of the land, i.e., (an irregular shaped lot having the required area; or an exceptionally narrow, shallow or irregular lot, existing and of record at the time of the passage of this Zoning Resolution) a literal enforcement of the provisions of this Zoning Resolution will result in unnecessary hardship. In granting such variance, the Board of Zoning Appeals shall prescribed appropriate conditions and

safeguards to maintain the intent and spirit of the Zoning District in conformity with this Zoning Resolution.

2. Variance on Existing Buildings and Structures

To grant the projection of an existing building or structure into a required yard to secure an addition to the building or structure practicable in its construction and arrangement. Such projection shall not exceed one-third (1/3) of the required depth or width of the required yard. In granting such variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the Zoning District in conformity with this Zoning Resolution.

This Section shall not be construed to permit variances which shall in effect amend the Use Provisions in this Zoning Resolution.

C. Conditional Use

To grant conditional zoning certificates for the use of land, buildings, or other structures, if such certificate for specific uses are provided for in the Zoning Resolution.

D. Nonconforming Uses

Nonconforming uses as provided in Article 36 of this Resolution.

**SECTION 404**

**PROCEDURE FOR ADMINISTRATIVE APPEAL**

**404.01 AUTHORIZATION**

An appeal from a decision of the Zoning Inspector with respect to the interpretation or application of this Resolution, may be taken to the board of Zoning Appeals by any person aggrieved, or his agent, or by any Officer of the Township affected by such decision of the Zoning Inspector.

**404.02 NOTICE OF APPEAL**

Appeals to the Board shall be filed within twenty (20) days after the of the Zoning Inspector by filing a written notice of appeal with the Zoning Inspector and with the Board of Zoning Appeals.

The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Zoning Inspector shall forthwith transmit to the Board all of the papers constituting the recording upon which the decision being appealed was based.

**404.03**            **HEARING ON APPEAL**

The Board shall select a time and place for the hearing of an appeal and give at least ten (10) days written notice thereof to the owners of property within and contiguous to and directly across the street from the applicant's property in an Administrative Appeal of a Variance, and to property owners within three hundred (300) feet of the applicant's property for a Conditional Use, as they shall appear on the notice of appeal.

In addition, public notice of such hearings as to the time, place, date and subject of the hearing, shall be published in a newspaper of general circulation at least ten (10) days prior to the date of the hearing. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.

**404.04**            **DECISION ON APPEALS**

The Board shall have all the powers of the Zoning Inspector with respect to such decision. The concurring vote of a majority of the members of the Board shall be necessary to reverse or modify any decision of the Zoning Inspector under this Resolution. The Board shall render a written decision on the application without unreasonable delay after the close of a hearing, and in all cases, within thirty (30) days after the close of the hearing. A copy of the decision and findings of fact shall be sent to the Board of Township Trustees and by certified mail to the applicant.

**SECTION 405**            **PROCEDURE OF OBTAINING A VARIANCE**

A.        **Nature of Variance**

A variance is permission to deviate in a specific manner from the terms of the Zoning Resolution, where, owing to special conditions of the land itself, a literal enforcement of the provisions of this Zoning Resolution will result in unnecessary hardship, and provided that only deviations from development standards shall be permitted.

**405.01**            **AUTHORIZATION**

The Board of Zoning Appeals may authorize variances from the terms of this Resolution as stated in Section 403 B, when the Board has made findings of fact, based upon the standards set out in Sub-section 405.04 of this Resolution.

**405.02**            **APPEAL FOR VARIANCE**

An application for a zoning certificate shall be filed with the Zoning Inspector, and if the application is rejected, a copy of the application and its written rejection shall be forwarded to the

Secretary of the Board. The applicant may file an appeal for a variance, which shall contain the following:

A. Description of Property and Nature of Variance

1. The nature of the variance i.e., including the specific provisions of the Zoning Resolution from which the variance is required.
2. A description sufficient to identify the property, including a reference of the volume and page of the last recorded deed.
3. A statement of the special circumstances or conditions applying to the land or structure and not applying generally throughout the zoning district.
4. A statement showing that the special conditions and circumstances do not result from the actions of the applicant.
5. A statement showing that the granting of the variance is necessary to the preservation and enjoyment of substantial property rights.
6. Such other information regarding the appeal as may be pertinent or required for appropriate action by the Board of Zoning Appeals.

B. Plot Plan

The appeal shall be accompanied by one copy of a plot plan drawn to an appropriate scale showing the following:

1. The boundaries and dimensions of the lot.
2. The size and location of existing and proposed structures.
3. The proposed use of all parts of the lot and structures, including accessways, walks, off street parking and loading spaces and landscaping.
4. The relationship of the requested variance to the standards set by the Zoning Resolution.
5. The use of land and location of structures on adjacent property.

**405.03**            **HEARING ON VARIANCE**

A hearing on the appeal shall be held by the board and notice thereof given, as specified under Sub-section 404.03 of this Resolution.

**405.04**            **STANDARDS FOR VARIANCES**

The Board shall not grant a variance unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, that support conclusions that:

- A. The variance requested arises from special conditions of, or involving the property, which are unique, that is, a situation which is not ordinarily found in the same zoning district and that the situation results from the enforcement of this Resolution and not by an action or actions of the property owner, the applicant, or any other person or party who has had control of the property.
- B. The strict application of the provision of this Resolution from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
- C. The variance desired will not adversely affect the public health, safety and morals
- D. The variance desired will not compromise the general spirit and intent of this Resolution.

**405.05**            **CONDITONS AND RESTRICTIONS**

In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to comply with the standards set out in Subsection 405.04 of this Resolution to reduce or minimize potentially injurious affects of such variance upon other property in the neighborhood, and to carry out the general purpose an intent of this Resolution.

**405.06**            **DECISION ON VARIANCE**

The Board shall have all the powers of the Zoning Inspector with respect to such decision. The concurring vote of a majority of the members of the Board shall be necessary to reverse or modify any decision of the Zoning Inspector under this Resolution. The Board shall render a written decision on the application without

unreasonable delay after the close of a hearing, and in all cases, within thirty (30) days after the close of the hearing.

**405.07**            **PERIOD OF VAIDITY**

A variance granted by the Board shall terminate at the end of six (6) months from the date on which the Board grants the variance, unless within such six month period, a zoning certificate is obtained.

**SECTION 406**            **PROCEDURE FOR OBTAINING A CONDITIONAL USE CERTIFICATE**

**406.01**            **AUTHORIZATION**

Specifically listed Conditional uses are provided within the zoning district regulations in recognition that such uses, although often desirable, will more intensely affect the surrounding area in which they are located than the Permitted uses of such zoning district.

**406.02**            **APPLICATION FOR CONDITIONAL USE**

Any person owning or having an interest in property may file an application to use such property for one or more of the Conditional Uses provided for by this Resolution in the zoning district in which the property is situated. An application for a conditional use certificate shall be file with the Secretary of the Board of Zoning Appeals.

The application for a Conditional Use shall contain the following:

- A.    **Description of Property and Intended Use**
1. A description sufficient to identify the property including a reference of the volume and page of the last recorded deed.
  2. The proposed use of the property.
  3. A statement of the necessity or desirability of the proposed use to the neighborhood or community.
  4. A statement of the compatibility of the proposed use to adjacent property and land use.
  5. Such other information regarding the property, proposed u se, or surrounding area as may be pertinent to the application or required for appropriate action by the Board of Zoning Appeals.

B. Plot Plan

The application shall be accompanied by two (2) copies of the plot plan, drawn to an appropriate scale clearly showing the following:

1. The boundaries and dimensions of the lot.
2. The size and location of existing and proposed structures.
3. The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking, loading spaces, and landscaping.
4. The relationship of the proposed development to the development standards in the existing zoning district.
5. The use of land and location of structures on adjacent property.

**406.03**

**HEARING ON CONDITIONAL USE**

A hearing on the application shall be held by the Board and notice thereof given, as specified under Subsection 404.03 of this Resolution.

**406.03**

**STANDARDS FOR CONDITIONAL USE**

The Board shall not grant a Conditional Use unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it , that support conclusions that:

- A. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.
- B. Adequate utility, drainage and other such necessary facilities have been or will be provided.
- C. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.

- D. All necessary permits and license for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.
- E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any property located in a residential district.
- F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
- G. The location, nature, and height or buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonable hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures.
- H. The Conditional Use desired will not adversely affect the public health, safety and morals.

**406.05**

**CONITIONS AND RESTRICTIONS**

In granting a conditional use certificate, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the Conditional Use as may be necessary to comply wit the standards set out in Subsection 406.04 to reduce or minimize potentially injurious affects of such Conditional Uses upon other property in neighborhood, and to carry out the general purpose and intent of this Resolution.

**406.06**

**PERIOD OF VALIDITY**

A conditional use certificate granted by the board shall terminate at the end on 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.