



## Zoning Board of Appeals

### Chapter 1325

#### **1325.01 COMPOSITION, APPOINTMENT AND TERMS**

The Zoning Board of Appeals shall consist of five members, appointed by Council for terms of five years each, as established by the City Charter Section XIX B and C. (Ord. 02-67 AC CMS. Passed 7-1-02.)

#### **SECTION XIX. BOARDS AND COMMISSIONS**

C. Zoning Board of Appeals. Council shall appoint a Zoning Board of Appeals. The Zoning Board of Appeals shall have such powers and duties as are or may be conferred upon it by the general laws of the State of Ohio, and such powers as may be conferred upon it by Council, including but not limited to appeals from refusal of building permits, and shall have the authority to permit exceptions to or variations from the Zoning Code.

#### **1325.05 JURISDICTION; VARIANCES**

A. Authority. Upon hearing an appeal, the Zoning Board of Appeals shall have the following authority provided the appeal has been perfected in accordance with the provisions of Section 1325.04:

1. To review the actions of the administrative officer from which the appeal is taken and render a determination as to whether the actions of the officer are in accordance with the ordinances of the City. If the Board finds that the actions are not in accordance with City ordinances, the Board shall reverse the actions and render findings and judgment in accordance with such ordinances.

2. If the Board determines that the actions of the administrative officials are in accordance with the ordinances of the City, it shall hear evidence on the questions of permitting exceptions and variances to such ordinances.

B. Variances and Exceptions. The following are the classes of exceptions and variances that the Zoning Board of Appeals may properly authorize when they are brought before the Board:

1. Approve exceptions and modifications to the height, side, front or back setback line or lines or area regulations as prescribed in City ordinances;

2. Permit the extension of an existing building on the same lot, but not into another zoning district;

3. Grant a permit for a temporary building or use incidental to a development. Such permit shall be issued for an initial period of not more than two years and, in the case of



a building, only upon written application to the City accompanied by a receipted bill of sale of such building, effective in case the building is not removed prior to the expiration of the permit;

4. Permit the reconstruction within twelve months of a nonconforming building which has been damaged by explosion, fire, act of God or the public enemy. If the damage is less than fifty percent, no variance from the Zoning Board of Appeals is necessary. If the damage is more than ninety percent, reconstruction is not permissible.

Determination of the percent of damage shall be made by the Zoning Board of Appeals based on the report of three (3) practicing building construction contractors, one to be selected by the owner, one to be appointed by the City, and the third to be selected by the mutual consent of the two (2) parties.

5. Variances, on a hardship basis where the appellant can show that a strict application of City ordinances relating to the construction, alteration, extension or use of a building:

- A. Will impose upon the property unusual or practical difficulties; or
- B. Will impose particular hardship upon the property owner;

6. Extend a nonconforming use within a building or change one nonconforming use to a use of the same or similar character or to a more restricted classification within a building.

7. Hear and decide appeals and requests for variances from requirements of Chapter 1191: Flood Damage Prevention of the Codified Ordinances, as provided for under Section 1191.06 of the Code.

C Findings of Board. In granting any of the exceptions and/or variances, the Board shall make the following findings:

1. That the exception or variance is upon one of the foregoing grounds, subsections (b)(1) through (6), inclusive, and specify the same;

2. That the proposed exception or variance is not found to:

- A. Be unreasonable and unnecessary;
- B. Be contrary to the public interest;
- C. Impair an adequate supply of air and light to adjacent property;
- D. Unreasonably increase congestion of public streets;
- E. Increase the danger of fire or endanger the public safety;
- F. Unreasonably diminish or impair established property values in the surrounding areas; and

G. In any respect, impair the public health, safety, morals or welfare of the inhabitants of the City.

3. In addition, for appeals under subsection (b)(5) above, the Board shall define the specific practice or hardship found by the Board.

4. In the event the foregoing findings of fact are not made, the Board shall disapprove the appeal.



D For appeals which relate solely to area requirements, the Board shall consider and weigh the following factors in determining whether the appellant has shown practical difficulties in the use of the property:

1. Whether the property will yield a reasonable return or whether there can be any beneficial use of the property without a variance;
2. Whether the variance is substantial;
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties 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 restriction;
6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done in granting the variance.

(Ord. 02-67 AC CMS. Passed 7-1-02.)