


CHAPTER
21

VARIANCES

21-1 PURPOSE.

The variance procedure is intended to provide a means by which relief may be granted from unforeseen particular applications of this Resolution that create practical difficulties or particular hardships. When such difficulties or hardships may be more appropriately remedied, if at all, pursuant to other provisions of this Resolution, the variance procedure is inappropriate.

21-2 AUTHORITY.

The Board of Zoning Appeals, pursuant to Section 519.14 of the Ohio Revised Code, shall have the authority to grant variances from the provisions of this Resolution, but only in compliance with the standards enumerated in this Chapter.

21-3 PARTIES ENTITLED TO SEEK VARIANCES.

Applications for variance may be filed on forms approved by the Board by any person having a legal or equitable interest in the property affected.

21-4 PROCEDURE.

21-4.1 Application.

An application for a variance shall be filed with the Administrative Official of the Board, on forms provided by the Administrative Official.

21-4.2 Public Hearing.

Upon receipt of a complete application for a variance, the Board of Zoning Appeals shall, within a reasonable length of time but no longer than sixty-two (62) days from the receipt of the application, hold a hearing. Notice of the public hearing shall be given in writing to the property owners within 200 feet of the subject property and by one (1) publication in one or more newspapers of general circulation in the Township, at least ten (10) days before the date of the public hearing. Upon the hearing, any party may appear in person or by attorney.

21-4.3 Action by Board of Zoning Appeals.

Within thirty (30) days following the close of the public hearing, the Board of Zoning Appeals shall render its decision, granting or denying the variance pursuant to the standards and procedures set out in this Chapter. The Board may delay its decision pending revised plats or plans that may be required.

21-4.4 Special Procedures in Connection with Other Applications.

Whenever it is determined a variance is needed in addition to a Zone Amendment, Conditional Use approval or Zoning Compliance Plan approval, the Board of Zoning Appeals shall not decide an application for such variance until a final approval has been rendered by the Zoning Commission and/or the Board of Trustees, as applicable.

21-5 AUTHORIZED VARIANCES.

21-5.1 Authority of the Board of Zoning Appeals.

The Board of zoning Appeals shall have the following powers;

- a. To authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Resolution, as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Resolution will result in unnecessary hardship or practical difficulty, and so that the spirit of the Resolution shall be observed and substantial justice done. Further, in authorizing such variance, the Board may impose restrictive terms and conditions to accompany the variance authorized.
- b. To permit the extension of a District where the boundary line of a district divides a tract of not more than one (1) acre in area and held in a single ownership on the effective date of this Resolution, provided such extension shall not exceed one hundred (100) feet.
- c. To permit, where the boundary line of a District divides a tract of ten (10) acres or more under a single ownership, adjustment of such line to conform with the topography of the ground where such a tract has been subdivided and when a preliminary subdivision plan for such a tract has been approved by the Zoning Commission of Green Township, provided such a variation does not extend for a distance of more than five hundred (500) feet and does not come closer than three hundred (300) feet to any boundary of the tract.
- d. To interpret the provisions of this Resolution in a way to carry out the intent and purpose of the plan, as shown upon the Map fixing the several Districts accompanying and made a part of this Resolution, where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.
- e. To permit a variation in the yard requirements of any District where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographic or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare, so that the spirit of the Resolution shall be observed and substantial justice done..- least to grant relief
- f. To authorize by the grant of a special zoning certificate after public hearing, the locations of any of the following uses, including such buildings and structures as are necessary for their operation, in a District from which they are prohibited by this Resolution.
 - i. Parking lots on land not more than two hundred (200) feet from the boundary of a Business District.
 - ii. Riding stables or fishing lakes, including the sale of food and refreshments.
 - iii. The location and erection and use of a tower that is to be used in the provision of cellular telephone communication services in areas zoned for residential as provided in Chapter 17.
 - iv. The location, erection and use of a commercial power generating wind turbine or windmill tower

21-5.2 Decisions of the Board of Zoning Appeals

The Board shall act by Resolution in which three (3) members concur and every variation granted or denied shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variation.

21-6 STANDARDS FOR VARIANCES.

21-6.1 General Standard.

No variance shall be granted pursuant to this Chapter that is greater than the minimum variation necessary to relieve the unnecessary hardship or practical difficulty demonstrated by the applicant. Such a showing shall demonstrate that the variance being sought satisfies each of the standards set forth in this Section.

a. Unique Physical Condition.

The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or the extraordinary physical conditions peculiar to and inherent in the subject property.

b. Not Self-Created.

The aforesaid unique physical condition is not the result of any action or inaction of the owner or was created by natural forces or was the result of governmental action, other than the adoption of this Resolution, for which no compensation was paid.

c. Denied Substantial Rights.

The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same general or specific provisions of the Zoning Resolution.

d. Not Merely Special Privilege.

The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not commonly available to owners or occupants of other lots subject to the same provisions of the Zoning Resolution, nor merely an inability to make more money from the use of the subject property. However, where the standards herein set out exist, the existence of an economic hardship may be considered.

e. Resolution Purposes.

The variance would not result in a use or development on the subject property that would not be in harmony with the general and specific purposes for which this Resolution and the provision from which a variance is sought were enacted.

f. Essential Character of the Area.

The variance would not result in a use or development on the subject property that:

- i. would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development value of property or improvements permitted in the vicinity;
- ii. would materially impair an adequate supply of light due to adverse location of shadow to the properties and improvements in the vicinity;
- iii. would substantially increase hazardous conditions in the public streets due to traffic or parking;
- iv. would unduly increase the danger of flood or fire;
- v. would unduly tax public utilities and facilities in the area; or
- vi. would endanger the public health or safety.

21-7 VARIANCE LESS THAN REQUESTED.

A variance less than or different than that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

21-8 CONDITIONS ON VARIANCES.

The Board of Zoning Appeals may impose such specific conditions and limitations concerning construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Resolution upon the premises benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance. Violation of any such condition or limitation shall be a violation of this Resolution and shall constitute grounds for revocation of the variance.

21-9 EFFECT OF GRANT OF VARIANCE.

The grant of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure. It shall merely authorize the preparation, filing and processing of applications for any permits and approval that may be required by Township regulations, including, but not limited to, a Zoning Certificate, a building permit, a certificate of occupancy, and subdivision approval.

21-10 LIMITATIONS ON VARIANCES.

Subject to an extension of time granted upon application to the Board of Zoning Appeals, no variance shall be valid for a period longer than one (1) year unless applications for permits or approvals referenced in this Chapter have been filed; building permits issued and construction is diligently pursued to completion.

A variance shall be deemed to authorize only the particular construction, development, action or event for which it was issued and shall automatically expire and cease to be of any force or effect if such construction, development, action or event shall be removed and not replaced within one (1) year following such removal unless extended in writing by the Board of Zoning Appeals.

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