

CHAPTER 1133
Board of Zoning Appeals

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CROSS REFERENCES

Membership and duties - see CHTR. Sec. 12.01

Appeals from zoning decisions - see Ohio R.C. 713.11, Ch. 2506

1133.01 COMPOSITION AND TERM.

The Board of Zoning Appeals shall consist of five (5) members, to be appointed by Council, all of whom shall be residents of the City and all of whom shall be persons with expert knowledge of construction, architecture, engineering, urban planning or other credentials that Council determines appropriate. The terms of all members shall be of such length and so arranged that the term of one member will expire each year, unless Council removes such member before the end of a term. Vacancies prior to the end of a term shall be filled by Council and shall be for the unexpired term.

(Ord. 2003-1. Passed 3-13-03.)

1133.02 MEETINGS.

The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of the Zoning Code. Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his/her absence the acting Chairman, shall administer oaths to all witnesses. The Board shall 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 Council and shall be a public record.

(Ord. 2003-1. Passed 3-13-03.)

1133.03 APPEALS PROCEDURE.

(a) Appeals to the Board of Zoning Appeals of decisions of the Community Development Director or other authorized inspector may be taken by any person aggrieved. Such appeal shall be taken within twenty-one (21) days after the decision by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board shall fix a reasonable time for the hearing of the appeal, give at least ten (10) days notice to the parties in interest, and decide the same within a reasonable time after it is submitted. Upon the hearing, any party may appear in person or by attorney.

(b) Any party adversely affected by a decision of the Board may appeal first to Council and then to the Court of Common Pleas of Hamilton County on the ground that such decision was unreasonable or unlawful. Such appeal to Council shall be perfected by filing the appeal form with the Clerk of City Council within twenty one (21) days of the decision of the

Board. The appellant shall specify in writing the basis upon which the appeal is taken. Council shall set the public hearing on the appeal within thirty (30) days of receipt. The Council and/or court may affirm, reverse, vacate or modify the decision complained of in the appeal. (Ord. 2003-1. Passed 3-13-03.)

1133.04 POWERS.

- (a) The powers of the Board of Zoning Appeals are to interpret the Zoning Code as follows:
- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an inspector in the enforcement of the Zoning Code.
 - (2) To interpret the provisions of the Zoning Code in such a way as to carry out the intent and purpose of the Master Plan including, but not limited to, determining zoning lines where the street layout on the ground varies from the street layout as shown on the Zoning District Map.
- (b) To consider the following four exceptions:
- (1) Use of premises for public utility and railroad purposes.
 - (2) Reconstruction of a nonconforming building that would otherwise be prohibited by the Zoning Code.
 - (3) Parking of vehicles or recreational vehicles in the R-1, R-2 and R-3 Districts not in conformity with the Zoning Code when it appears that a substantial hardship or injustice will prevail because of unusual or exceptional conditions.
 - (4) Installation of microwave antennas (satellite dishes) not in conformity with the Zoning Code when it appears that a substantial hardship or injustice will prevail because of unusual conditions.
- (c) To consider the following four variations:
- (1) Vary the yard and/or area regulations where there is an exceptional or unusual condition, which condition when related to the yard and/or area regulations of the Zoning Code would prevent a reasonable or sensible use or arrangement of buildings or other features on the lot.
 - (2) Reduce parking space width or length and vary the parking regulations where an applicant demonstrates conclusively that the specific use of a building would make unnecessary the parking spaces required by the Zoning Code, but providing that such a reduction not be more than fifty percent (50%) of the usual requirement.
 - (3) Reduce the buffer area requirements as permitted in Section 1188.09 of this Code.
 - (4) Vary the sign regulations where an applicant demonstrates conclusively that the alternative sign characteristic would not detract from the neighborhood or the City in general, and that a substantial hardship and injustice will prevail in refusing a variation.
- (d) The Board has no other powers that those above specified in subsection (a) (b) and (c) hereof. (Ord. 2003-1. Passed 3-13-03.)

1133.05 ORDERS.

- (a) In exercising the above mentioned powers, the Board of Zoning Appeals may, in conformity with the provisions of the Zoning Code, reverse or affirm, wholly or partly, or may

modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals, the Board shall, before making any finding in a specific case, first determine that the proposed change will not constitute change in the Zoning District Map and will not impair an adequate supply of light and air to adjacent property, nor increase the congestion in public streets, nor increase the public danger of fire and safety, nor materially diminish or impair established property values within the surrounding area, nor in any other respect impair the public health, safety, comfort, morals, and welfare of the City, nor go against the intent of the Master Plan of the City. Every change granted or denied by the Board shall be accompanied by a written finding of fact, specifying the reason for granting or denying the variation.

(b) The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Community Development Director or other authorized inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under the Zoning Code, or to effect any variation in the Zoning Code. No order of the Board permitting the section or alteration of a building shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(c) No order of the Board permitting a use of a building or premises shall be valid for a period longer than six (6) months, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(d) Decisions of the Board shall take effect twenty-one (21) days from the date of the decision of the Board.
(Ord. 2003-1. Passed 3-13-03.)