

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 procedures, specific instances, and in accordance with each of 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. Application requirements shall be established by Resolution by the Board of Zoning Appeals (BZA).

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 accordance with ORC 519.15 and in writing to the property owners within 200 feet of the subject property and 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 Sycamore Township Zoning Commission and/or the Board of Township Trustees, as applicable.

21-5 AUTHORIZED VARIANCES

21-5.1 Permitted Variances

Subject to the prohibitions set forth below, and subject to the other provisions of this Resolution, the Board of Zoning Appeals may vary the provisions of this Resolution in the following cases and in no others:

- (a) To vary the yard and bulk (but not the impervious surface ratio) requirements of any zoning district, except where such requirements are approved in accordance with a PUD Plan;

- (b) To reduce by not more than twenty-five percent (25%) or one space, whichever is greater, the minimum number of off-street parking spaces or loading spaces otherwise required;
- (c) To vary the number of parking or loading spaces required in connection with a change of use or an increase in use intensity of an existing structure.

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 require proof that the variance being sought satisfies each of the standards set forth in this Section 21-6.

21-6.2 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 that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

21-6.3 Not Self-Created

The aforesaid unique physical condition is not the result of any action or inaction of the owner or his predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought 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.

21-6.4 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 provision.

21-6.5 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 available to owners or occupants of other lots subject to the same provision, 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 shall not be a prerequisite to the grant of an authorized variance.

21-6.6 Resolution Purposes

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

21-6.7 Essential Character of the Area

- (a) The variance would not result in a use or development on the subject property that 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;
- (b) would materially impair an adequate supply of light due to adverse location of shadow to the properties and improvements in the vicinity;
- (c) would substantially increase hazardous conditions in the public streets due to traffic or parking;

- (d) would unduly increase the danger of flood or fire;
- (e) would unduly tax public utilities and facilities in the area; or
- (f) 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 six (6) months unless applications for permits or approvals referenced in Section 21-9 have been filed, building permits issued and construction is diligently pursued to completion.

A variance shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development shall be removed and not replaced within six (6) months following such removal unless extended in writing by the Board of Zoning Appeals.