



City of Mount Vernon, Ohio  
Board of Zoning Appeals

Request for Hearing

**Applicant's Information**

Owner's Name, Address and Phone

Agent's Name, Address and Phone

**Site Information**

Site Address	Legal Description
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Parcel Number	Deed Volume and Page Number	Zoning District
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Existing use of property	Proposed use of property
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**Hearing Request**

**Type of Hearing Requested**

Variance     
  Conditional Use     
  Appeal of Decision     
  Map Interpretation     
  Substantially Similar Use

In the following section, please list a brief description of the request. Narrative statements and any additional documents or information required by the Zoning Code and Chapter 1155 should be attached to this application as separate sheets.

Request:

I hereby certify that the information submitted on this application and on any sketches, drawings or other documents submitted with this application is true and exact.

Date: \_\_\_\_\_ By: \_\_\_\_\_

**Status of Application**

Filing Date	Case Number		
	Hearing Date		
	Fee deposit	Date Paid	Receipt Number
	<b>\$100.00</b>		

Status of Board's Action

Approved     
  Denied

### **Narrative statements**

*establishing and substantiating that the variance conforms to the following standards:  
(initial beside the number to signify agreement; provide narrative for #3 & 4)*

\_\_\_\_\_ 1) The granting of the variance shall be in accord with the general purpose and intent of the regulations imposed by this Zoning Ordinance on the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.

\_\_\_\_\_ 2) The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.

3) Describe the special circumstances or conditions, applicable to the land or buildings for which the variance is sought, which are peculiar to such land or buildings and do not apply generally to land or buildings in the area, and which are such that the strict application of the provisions of this Zoning Ordinance would deprive the applicant of the reasonable use of such land or building. There must be deprivation of beneficial use of land.

4) Explain the proof of hardship created by the strict application of this Zoning Ordinance.

\_\_\_\_\_ 5) The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted is the minimum variance that will accomplish this purpose.

\_\_\_\_\_ 6) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.

\_\_\_\_\_ 7) The granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

## General Information

In order to provide a better understanding of the appeals process, we have compiled answers to the most frequently asked questions. Any questions regarding the appeals process can be directed to the Development Services Manager at 740-393-2033.

***How much does it cost?*** A deposit of \$100.00 is required to schedule a hearing. Costs incurred will include postage and the publication of the notice for the hearing. Applicants are billed for costs in excess of the deposit.

***How much time do I have to file for a hearing?*** Once you have received notice of the decision of the Zoning Enforcement Officer, you have twenty (20) days to file with the Board of Zoning Appeals. If you exceed this time limit, your original application will be void and you must file a new application.

***How long does it take to have a hearing once I file the application?*** The Board of Zoning Appeals meets on the first and third Wednesdays of each month at 5:30 pm. The Zoning Code requires that notice of the public hearing be published ten (10) days prior to the hearing. The *Mount Vernon News* requires three days of lead-time prior to publication of the notice. From the time you apply to your actual hearing date will generally be three weeks. The Board must hold a hearing within thirty (30) days of the receipt of an application for hearing.

***What do I have to file with my application?*** What additional documents you will need to file depends on the type of hearing you are requesting. Your application for the hearing will be accompanied by information detailing what you would need to submit.

***How will I know when the hearing will be held and do I have to be there?*** A copy of the notice will be mailed to you. The notice gives the date, time and location of the hearing as well as citing the nature of the request. The Board asks that the applicant or their representative appear at the hearing to answer any questions and provide information on the request. The Board may deny your request if no one represents you at the hearing.

***When will I know the Board's decision?*** By Code, the Board must take action within thirty (30) days after the public hearing. In most cases, the Board will give their decision at the hearing.

***What if I don't agree with the decision?*** You have the right to appeal the Board of Zoning Appeals decision. This must be done through the Common Pleas Court. This appeal must be made within thirty (30) days of the Board's written decision.

## Instructions

### Applicant's Information

**Owner's name.** Enter the property owner's name, address, phone number, and Email address.

**Agent's name.** Enter the agent's name, address, phone number, and Email address.

### Site Information

**Site address.** Enter the physical site address of the property.

**Legal Description.** This information can be found either on the deed or on the property tax billing. This information can also be obtained from the County Auditor's Office or off their web site at [www.knoxcountyauditor.org](http://www.knoxcountyauditor.org).

- If the property is a platted lot in a subdivision, you need only respond with the lot number and subdivision.
- If the property is acreage, you would fill in the blank as "m&b" and include the size of the parcel.

**Parcel number.** Can be found on the property tax billing and as an example will likely look like this "66-09999.000".

**Deed volume and page number** Can be found on the deed or on the Knox County Auditor's map in Pink Numbers: ie: 257/106

**Zoning District.** This information can be obtained from the Development Services Manager, Engineering Staff, or on the Knox County Auditor's website map (Zoning is a GIS Layer that has to be turned on).

**Description of Existing Use.** Describe the existing use of the property.

**Description of Proposed Use.** Describe in detail the proposed use of the property. Should this require additional space, the description may be written on a separate sheet and attached to the application.

### Hearing Request

**Type of Hearing Requested.** Indicate the type of hearing requested. In some cases more than one type will apply. If you are unsure, please ask.

**Request.** Briefly state the purpose of the hearing. In addition, you must supply written (narrative) statements establishing and substantiating the request as well as evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan. Narrative statements, additional documents or information or photographs should be attached to the application as separate sheets. A form has been provided to assist with addressing the 7 Standards of a Variance. If you agree with statements 1, 2, 5, 6, & 7, initial beside each one. #3 and 4 requires additional narration.

**Other Information.** Such other information as required by the Zoning Code may be written on separate sheets and attached to the application. A copy of Chapter 1155 is included with this application packet.

**Fee.** A deposit of \$75.00 as established by ordinance is required to be submitted with the application. You will be billed for any expenses incurred in excess of the deposit.

## CHAPTER 1155

### Administration

- 1155.01 Zoning Enforcement Officer.
- 1155.02 Duties of the Zoning Enforcement Officer.
- 1155.03 Planning Commission.
- 1155.04 Role of Council in zoning matters.
- 1155.05 Board of Zoning Appeals.
- 1155.06 Board of Zoning Appeals; meetings.
- 1155.07 Board of Zoning Appeals; procedure.
- 1155.08 Board of Zoning Appeals; powers and duties.
- 1155.09 Duties of Zoning Enforcement Officer, Board of Zoning Appeals, legislative authority and courts of matters of appeals.
- 1155.10 Procedures and requirements for appeals and variances.
- 1155.11 Appeals.
- 1155.12 Stay of proceedings.
- 1155.13 Variance.
- 1155.14 Application and standards for variances.
- 1155.15 Supplementary conditions and safeguards.
- 1155.16 Public hearing by the Board of Zoning Appeals.
- 1155.17 Notice of public hearing in newspaper.
- 1155.18 Notice of parties in interest.
- 1155.19 Action by Board of Zoning Appeals.
- 1155.20 Term of variance.
- 1155.21 Authorized variances.
- 1155.22 Procedure and requirements for approval of conditional use permits.
- 1155.23 Contents of application for conditional use permit.
- 1155.24 General standards applicable to all conditional uses.
- 1155.25 Specific criteria for conditional uses in P-1 Public/Semipublic District.
- 1155.26 Additional criteria for conditional uses.
- 1155.27 Supplementary conditions and safeguards.
- 1155.28 Procedure for hearing, notice.
- 1155.29 Action by the Board of Zoning Appeals.
- 1155.30 Expiration of conditional use permit.
- 1155.31 Request for interpretation of Zoning Map.
- 1155.32 Authority of Board of Zoning Appeals.
- 1155.33 Procedure and requirements to determine that a use is substantially similar.
- 1155.34 Remedy by application for amendment.
- 1155.35 Standards for consideration of substantially similar uses.
- 1155.36 Effect of determination that a use is substantially similar.
- 1155.37 Record of substantially similar uses.

### CROSS REFERENCES

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

Violations - see Ohio R.C. 713.13, P. & Z. 1153.12

### 1155.01 ZONING ENFORCEMENT OFFICER.

A properly qualified Zoning Enforcement Officer shall be appointed by the Safety Service Director in accordance with the rules of the City Civil Service Commission to enforce the Planning and Zoning Code (Part 11). This person may also be appointed to enforce the Buildings and Property Maintenance Ordinances (Part 13). The compensation for this position shall be set as Council shall prescribe from time to time by Ordinance. (Ord. 2014-08. Passed 4-28-14.)

### **1155.02 DUTIES OF ZONING ENFORCEMENT OFFICER.**

- (a) Administer and enforce the Zoning Ordinance.
- (b) Maintain the Zoning District Map.
- (c) Serve as secretary of the Board of Zoning Appeals.  
(Ord. 2005-34. Passed 12-12-05.)
- (d) Issue zoning certificates and Certificates of Zoning Compliance.  
(Ord. 2007-39. Passed 11-26-07.)
- (e) Inspect structures and land to determine compliance with this Zoning Ordinance and the Zoning District Map.
- (f) Notify violators of this Zoning Ordinance in writing, stating the nature of violations. Notification shall be complete upon mailing the notice to the owner of the property at his last known address, or where no address is known by posting the notice in a conspicuous place on the property. Failure of the Zoning Enforcement Officer to notify the owner of the property of a violation is not grounds for dismissal of a prosecution based on such a violation.
- (g) Maintain accurate records of all amendments made to this Zoning Ordinance or the Zoning District Map, all conditional use permits and variances granted, and all zoning certificates and notices of violation issued.
- (h) Issue conditional use permits after compliance with Section 1155.22 inclusive, and variances after compliance with Sections 1155.14 and 1155.15 inclusive.
- (i) Recommend to the Planning Commission revocation of conditional use permits where he believes terms of permits have been violated.
- (j) Administer and enforce Chapter 1175 of the Zoning Ordinance on signs.
- (k) Respond to questions concerning applications for amendments to the Zoning Ordinance.
- (l) Make records available for use by the City Council, the Planning Commission, the Board of Zoning Appeals, and the public.
- (m) Review and approve site plans pursuant to this Zoning Ordinance.
- (n) Prepare and submit an annual report to the City Council and Planning Commission on the administration of this Zoning Ordinance, setting forth such information as may be of interest and value in advancing and furthering the purpose of this Zoning Ordinance. Such report shall include recommendations concerning the schedule of fees.  
(Ord. 2005-34. Passed 12-12-05.)

### **1155.03 PLANNING COMMISSION.**

(a) Organization: The Planning Commission shall consist of five members, the Mayor, Safety-Service Director and three (3) citizens of the Municipality who shall serve without compensation, and who shall be appointed by the Mayor, with the approval of City Council, for a term of six years, except that the terms of two of the members of the first commission so appointed shall have terms of four years and two years respectively. Reference Ordinance 1943-22. The Mayor shall also appoint two alternate members, with the approval of City Council, who may be called upon to hear matters before Planning Commission if a member is unavailable or has a conflict of interest. Each appointed member shall serve until his or her successor is appointed and qualified. The Mayor, with the approval of City Council, shall fill any vacancies in Planning Commission by appointing a new member to the unexpired term of the previous member. The appointed members shall not hold any other office or employment with the City.  
(Ord. 2017-16. Passed 4-24-17.)

(b) Meetings: The Planning Commission shall meet at the call of the Mayor or his designee, upon a schedule determined by the Planning Commission, or upon the written call of two or more of its members. Such a written call by members shall be issued at least twelve hours prior to the meeting stated in the call, and shall be delivered to all members of the Planning Commission, the Mayor, and the Zoning Enforcement Officer, or delivered to their places of residence. No matters other than those set out in the written call shall be considered at the meeting. The notice and meeting shall be in compliance with the "Sunshine Law" requirements of Section 121.22 of the Ohio Revised Code.

All meetings requiring formal action shall be open to the public and records of all proceedings shall be kept including the vote of each member on each issue, members present or absent, the facts of each matter considered, and other minutes of the meeting. All records of proceedings shall be made available for public inspection, and copies shall be provided by the secretary of the Planning Commission to each member of Council. The chairman, or in his absence the vice-chairman, shall advise Council by letter if any Planning Commission member has absented himself from all meetings held during any period of ninety consecutive days or who has absented himself from a total of one-fourth of the regular meetings during a calendar year. Council shall consider removing such a member.

(c) Procedure: Three members shall constitute a quorum of the Planning Commission and the concurrence of three members is required for any action permitted by law or ordinance.

(d) Powers and Duties: The Planning Commission shall:

- (1) Review proposed amendments to Zoning Districts and/or the Zoning District Map and make recommendations to Council.
- (2) When appropriate initiate proposed amendments to this Zoning Ordinance and Map.
- (3) Review, approve or disapprove subdivision plats and development plans for Planned District applications, with reference to the provisions of this Zoning Ordinance and the Subdivision Regulations of the City. Upon a request for a modification of an approved subdivision plat or development plan of a Planned District, notice of such request shall be served upon all adjacent property owners by ordinary U.S. mail.
- (4) Carry out all other powers and duties conferred upon it by this Zoning Ordinance or other City Ordinances and the laws of the State of Ohio.

(Ord. 2014-08. Passed 4-28-14.)

#### **1155.04 ROLE OF COUNCIL IN ZONING MATTERS.**

Council shall have the power to:

- (a) Initiate or act upon suggested amendments to the Zoning Ordinance text or Official Zoning District Map. Final action upon a suggested zoning amendment shall be undertaken at a regular or special meeting of Council.
- (d) Override a written recommendation of the Planning Commission on a text or map amendment provided that such legislative action is passed by a vote of not less than three-quarters of the City Council.

(Ord. 2014-08. Passed 4-28-14.)

#### **1155.05 BOARD OF ZONING APPEALS.**

(a) A Board of Zoning Appeals is hereby created, which shall consist of five (5) members to be appointed by the Mayor, and approved by City Council. The term of all members shall be five (5) years and their terms shall be so arranged that the term of one (1) member shall expire each year. The Mayor shall also appoint two alternate members, with the approval of City Council, who may be called upon by the chairman to hear appeals if a member is unavailable or has a conflict of interest. Each member shall serve until his successor is appointed and qualified. Members of the Board shall be removable for nonperformance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing either personally or by registered mail, or by leaving the same at his place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by appointment by the Mayor, with the approval of council, and shall be for the unexpired term.

(b) The Board of Zoning Appeals may adopt rules and regulations governing the conduct of its affairs that are consistent with this Zoning Ordinance. All rules and regulations shall be filed with the Clerk of Council and made available for public inspection. The Board of Zoning Appeals shall annually choose from its membership a chairman and vice-chairman.

(Ord. 2014-08. Passed 4-28-14.)

#### **1155.06 BOARD OF ZONING APPEALS; MEETINGS.**

(a) The Board of Zoning Appeals shall meet at the call of the chairman or a majority of the members of the Board of Zoning Appeals or upon a schedule determined by the Board of Zoning Appeals. All meetings are

public meetings and records of all proceedings shall be kept including the vote of each member on each issue, members present or absent, the facts of each matter considered and other minutes of the meeting. All records of proceedings shall be made available for public inspection, and copies shall be provided by the secretary of the Board of Zoning Appeals to each member of Council.

(b) The chairman, or in his absence, the vice-chairman, shall advise Council by letter if any Board of Zoning Appeals member has absented himself from all meetings held during any period of ninety consecutive days or who has absented himself from a total of one-fourth of the regular meetings during a calendar year. Council shall consider removing such member. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.07 BOARD OF ZONING APPEALS; PROCEDURE.**

Four (4) members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three (3) members of the Board shall be necessary to reverse an order of determination of the Zoning Enforcement Officer, to decide in favor of an applicant in any matter over which the Board has original jurisdiction under this Zoning Ordinance, or to grant any variance from the requirements stipulated in this Zoning Ordinance.

(Ord. 2014-08. Passed 4-28-14.)

#### **1155.08 BOARD OF ZONING APPEALS; POWERS AND DUTIES.**

In exercising its duties, the Board may, as long as such action is in conformity with the terms of this Zoning Ordinance reverse or affirm, wholly or partly, or modify the order, requirements, 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 the powers of the Zoning Enforcement Officer from whom the appeal is taken. For the purpose of this Zoning Ordinance the Board has the following specific responsibilities:

- (a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Enforcement Officer.
- (b) To authorize such variances from the terms of this Zoning Ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this Zoning Ordinance will result in unnecessary hardship, and so that the spirit of this Zoning Ordinance shall be observed and substantial justice done.
- (c) To grant conditional use permits as specified in the Schedule of District Regulations and under the conditions specified in Section 1155.22 and such additional safeguards as will uphold the intent of this Zoning Ordinance.
- (d) To hear and decide requests for the interpretation of the Zoning Map.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.09 DUTIES OF ZONING ENFORCEMENT OFFICER, BOARD OF ZONING APPEALS, LEGISLATIVE AUTHORITY AND COURTS OF MATTERS OF APPEALS.**

It is the intent of this Zoning Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Enforcement Officer, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Enforcement Officer, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Zoning Ordinance that the duties of the City Council in connection with this Zoning Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Zoning Ordinance. Under this ordinance the City Council shall have only the duties of considering the adopting or rejecting proposed amendments or the repeal of this Zoning Ordinance as provided by law, and of establishing a schedule of fees and charges as stated in Section 1153.14. Nothing in this Zoning Ordinance shall be interpreted to prevent any official of the City from appealing a decision of the Board to the courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within thirty (30) days of the Board's written decision.

(Ord. 2014-08. Passed 4-28-14.)

#### **1155.10 PROCEDURES AND REQUIREMENTS FOR APPEALS AND VARIANCES.**

Appeals and variances shall conform to the procedures and requirements of Sections 1155.11 to 1155.21 inclusive. As specified in Section 1155.09, the Board of Zoning Appeals has appellate jurisdiction relative to



appeals and variances.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.11 APPEALS.**

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Zoning Ordinance may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the City affected by any decision of the Zoning Enforcement Officer. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Enforcement Officer and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Enforcement Officer shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.12 STAY OF PROCEEDINGS.**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the Zoning Enforcement Officer from whom the appeal is taken on due cause shown.

(Ord. 2004-34. Passed 12-12-05.)

#### **1155.13 VARIANCE.**

The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience, financial hardship or profit, but only where strict application of the provisions of this Zoning Ordinance would result in unnecessary hardship.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.14 APPLICATION AND STANDARDS FOR VARIANCES.**

Except as otherwise permitted in this Zoning Ordinance, no variance in the strict application of the provisions of this Zoning Ordinance shall be granted by the Board of Zoning Appeals unless the Board shall find that the written application for the requested variance contains all of the following requirements.

- (a) Name, address, and phone number of applicant(s).
- (b) Legal description of property.
- (c) Description or nature of variance requested.
- (d) A fee as established by ordinance.
- (e) **Narrative statements establishing and substantiating that the variance conforms to the following standards:**
  - (1) The granting of the variance shall be in accord with the general purpose and intent of the regulations imposed by this Zoning Ordinance on the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.
  - (2) The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
  - (3) There must exist special circumstances or conditions, fully described in the findings, applicable to the land or buildings for which the variance is sought, which are peculiar to such land or buildings and do not apply generally to land or buildings in the area, and which are such that the strict application of the provisions of this Zoning Ordinance would deprive the applicant of the reasonable use of such land or building. Mere loss in value shall not justify a variance; there must be deprivation of beneficial use of land.
  - (4) There must be proof of hardship created by the strict application of this Zoning Ordinance. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases without knowledge of the restrictions; it

must result from the application of this Zoning Ordinance; it must be suffered directly by the property in question; and evidence of variances granted under similar circumstances need not be considered.

- (5) The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted is the minimum variance that will accomplish this purpose.
- (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.
- (7) The granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.15 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.**

Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Zoning Ordinance and punishable under Section 1153.12.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.16 PUBLIC HEARING BY THE BOARD OF ZONING APPEALS.**

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after the receipt of an application for an appeal or variance from the Zoning Enforcement Officer of an applicant.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.17 NOTICE OF PUBLIC HEARING IN NEWSPAPER.**

Before holding the public hearing required in Section 1155.16, notice of such hearing shall be given in one or more newspapers of general circulation of the City at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate the granting or denial of a variance. (Ord. 2005-34. Passed 12-12-05.)

#### **1155.18 NOTICE TO PARTIES IN INTEREST.**

Before holding the public hearing required in Section 1155.16, written notice of such hearing shall be mailed by the chairman of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. "All parties in interest" shall include, but not be limited to, the following: applicant, adjacent property owners, and person(s) making the appeal. The notice shall consist of the same information as required of notices published in newspapers as specified in Section 1155.17. Failure of any such property owner to receive mail notice does not invalidate the granting or denial of a variance. (Ord. 2005-34. Passed 12-12-05.)

#### **1155.19 ACTION BY BOARD OF ZONING APPEALS.**

Within thirty (30) days after the public hearing required in Section 1155.16, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 1155.15, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding in writing that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure. Appeals from Board decision shall be made in the manner specified in Section 1155.09.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.20 TERM OF VARIANCE.**

No order of the Zoning Board of Appeals granting a variance shall be valid for a period longer than twelve (12) months from the date of such order unless the building permit or zoning approval is obtained within such period, and the erection or alteration of a building is started or the use is commenced within such period. (Ord. 2005-34. Passed 12-12-05.)

#### **1155.21 AUTHORIZED VARIANCES.**

Variations from the regulations of this Zoning Ordinance shall not be granted unless the Board makes specific findings of fact, based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed in Section 1155.14 and Section 1155.15 if applicable, have been met by the applicant. Variations may be granted as guided by the following:

- (a) To permit any yard or setback less than the yard or setback required by the applicable regulations.
- (b) To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but generally the respective area and width of the lot or lots should not be less than eighty (80) percent of the required area and width.
- (c) To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
- (d) To reduce the applicable off-street parking or loading facilities required, but generally by not more than thirty (30) percent of the required facilities.
- (e) To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance.
- (f) To increase the maximum distance that required parking spaces are permitted to be located from the use served, but generally not more than forty (40) percent.
- (g) To increase the maximum allowable size or area of signs on a lot, but generally by not more than twenty-five (25) percent.
- (h) To increase the maximum gross floor area of any use so limited by the applicable regulations, but generally not more than twenty-five (25) percent.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.22 PROCEDURE AND REQUIREMENTS FOR APPROVAL OF CONDITIONAL USE PERMITS.**

Conditional uses shall conform to the procedures and requirements of Sections 1155.22, 1155.30 inclusive of this Zoning Ordinance.

- (a) General: It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each specific use must be considered individually. These specific uses as they are conditionally permitted under the District provisions, shall follow the procedures and requirements set forth in Sections 1155.22 , 1155.30 inclusive.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.23 CONTENTS OF APPLICATION FOR CONDITIONAL USE PERMIT.**

An application for conditional use permit shall be filed with the chairman of the Board of Zoning Appeals by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

- (a) Name, address, and phone number of applicant.
- (b) Legal description of property.
- (c) Description of existing use.
- (d) Zoning district.
- (e) Description of proposed conditional use.
- (f) A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board may require to determine if the proposed conditional use meets the intent and requirements of this Zoning Ordinance.

- (g) A narrative statement evaluating the effects of on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan.
- (h) Such other information as may be required in Sections 1155.25 and 1155.26.
- (i) A list containing the names and mailing addresses of all owners of property within three hundred (300) feet of the property in question.
- (j) A fee as established by ordinance.  
(Ord. 2005-34. Passed 12-12-05.)

#### **1155.24 GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES.**

In addition to the specific requirements for conditionally permitted uses as specified in Sections 1155.25 and 1155.26, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- (a) Is in fact a conditional use as established under the Schedule of District Regulations adopted for the zoning district involved.
- (b) Will be harmonious with and in accordance with the general objectives, or with any specific objective of the City's Comprehensive Plan and/or the zoning ordinance.
- (c) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- (d) Will not be hazardous or disturbing to existing or future neighboring uses.
- (e) Will be served adequately by essential public facilities and services such as highways, street, police and fire protection drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- (f) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odor.
- (h) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
- (i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.25 SPECIFIC CRITERIA FOR CONDITIONAL USES IN P-1 PUBLIC/ SEMIPUBLIC DISTRICT.**

Following is a list of specific requirements for conditionally permitted uses as specified under the Schedule of District Regulations for the P-1 Public/Semipublic District (See 1171.03), and other uses as specified elsewhere in the Zoning Ordinance.

- (a) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (b) Loud speakers which cause a hazard or annoyance shall not be permitted.
- (c) All points of entrance or exist should be located no closer than two hundred (200) feet from the intersection of two arterial thoroughfares or no closer than one hundred (100) feet from the intersection of an arterial street and a local or collector street.
- (d) There shall be no more than one (1) sign oriented to each abutting street identifying the activity.
- (e) No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway, and no lighting shall shine directly on adjacent properties.
- (f) Structures should have primary access to a collector thoroughfare.
- (g) Such developments should have primary access to arterial thoroughfares or be located at intersections of arterial and/or collector streets.

- (h) Such developments should be located adjacent to non-residential uses such as churches, parks, industrial, or commercial uses.
- (i) Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area.
- (j) Such uses should be properly landscaped to be harmonious with surrounding residential uses.
- (k) Such structures should be located adjacent to parks and other non-residential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- (l) All permitted installations shall be kept in a neat and orderly condition so as to prevent injury to any single property, any individual, or to the community in general.
- (m) The area of use shall be completely enclosed by a six (6) foot fence and appropriately landscaped to be harmonious with surrounding properties.
- (n) Such uses should be located on an arterial thoroughfare, adjacent to nonresidential uses such as commerce, industry, or recreation, or adjacent to sparsely settled residential uses.
- (o) Truck parking areas, maneuvering lanes, and accessways to public thoroughfares shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks, and truck parking shall be limited to a time not to exceed twenty-four (24) hours.
- (p) Such developments should be located on or immediately adjacent to state highways.
- (q) Such uses shall not be conducted closer than five hundred (500) feet from any residential district, nor any closer than two hundred (200) feet from any structure used for human occupancy in any other district.
- (r) There shall be filed with the Zoning Enforcement Officer a location map which clearly shows areas to be mined and the location of adjacent properties, roads, and natural features.
- (s) Information shall be submitted on the anticipated depth of excavations and on depth and probable effect on the existing water table and coordinated with the Ohio Division of Water.
- (t) All work conducted in connection with such operations shall be done between the hours of 7:30 a.m. and 5:00 p.m.
- (u) All equipment and machinery shall be operated and maintained such as to minimize dust, noise, and vibration. Access roads shall be maintained in dust- free condition by surfacing or other treatment as may be specified by the City Engineer.
- (v) There shall be filed with the City a detailed plan for the restoration of the area to be mined which shall include the anticipated future use of the restored land, the proposed final topography indicated by contour lines of no greater interval than five feet, the type and number per acre of trees or shrubs or grass to be planted, and the location of future roads, drives, drainage courses, or other improvements contemplated.
- (w) All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below the low water mark, or shall be graded or backfilled with non-noxious, non-flammable and non-combustible solids, to secure:
  - (1) That the excavated area shall not collect or permit to remain therein stagnant water.
  - (2) That the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area. The banks of all excavations not backfilled shall be sloped which shall not be less than three (3) feet horizontal to one (1) foot vertical and said bank shall be seeded.
- (x) There shall be filed with the City a bond, payable to the City and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The rate of the required bond shall be fixed by ordinance of the City Council. The bond shall be released upon written certification of the Zoning Enforcement Officer that the restoration is complete and in compliance with the restoration plan.

(Ord. 2005-34. Passed 12-12-05.)

**1155.26 ADDITIONAL CRITERIA FOR CONDITIONAL USES.**



The following are additional specific conditional use criteria and requirements for selected uses conditionally permitted in this Zoning Ordinance. Nothing in this section shall prohibit the Board of Zoning Appeals from prescribing supplementary conditions and safeguards in addition to these requirements in accordance with Chapter 1155, inclusive.

(a) Public Service Facility. All districts in which conditionally permitted.

- (1) All permanent buildings shall be constructed and designed so as to conform with the setback and building design of existing uses in the district.
- (2) Screening and plantings to buffer any structures other than buildings from adjacent residential uses are required.

(b) Church. All districts in which conditionally permitted.

- (1) The lot area shall be adequate to accommodate the required off-street parking requirements of the church.
- (2) The church building shall be setback from any adjacent residential property line a minimum of fifty (50) feet.
- (3) Parking shall not be permitted within fifty (50) feet of any side or rear property line.
- (4) A cemetery shall not be a permitted use in conjunction with the church.

(c) Cemetery. All districts in which conditionally permitted.

- (1) The site shall have direct access to a major thoroughfare which the Board of Zoning Appeals determines is adequate to serve the size of the facility proposed.
- (2) Any new cemetery shall be located on a site containing not less than twenty-five (25) acres.
- (3) All buildings, including but not limited to mausoleums and maintenance buildings, shall not be located within 100 feet of any property line.
- (4) All graves or burial lots shall be set back not less than fifty (50) feet from any property line.

(d) Attorney, Architect, Accountant, Engineer, Insurance Agency, Real Estate, Tax Preparation Service, and Bookkeeping Service offices. All districts in which conditionally permitted.

- (1) Parking spaces shall be provided as required in this Zoning Ordinance, provided that the Board of Zoning Appeals may increase the number of required spaces on the basis of the nature of the office and on the basis of generally known parking conditions in the neighborhood.
- (2) The design, location, and surface of the parking area shall be subject to approval of the Board of Zoning Appeals so as to reduce congestion, promote safety, and to reduce the impact on the residential character of the neighborhood.
- (3) One sign, not exceeding four (4) square feet in area and mounted flush against the building, shall be permitted.

(e) Veterinary Clinic and Kennel. All districts in which conditionally permitted.

- (1) Outdoor pens and exercise runs shall be kept in a clean and sanitary condition and shall be screened from public view. A screening plan shall be submitted to the Board of Zoning Appeals for approval.
- (2) Sanitation practices shall be adequate to assure that objectionable odors shall not be noticeable on or off the lot considering various wind conditions.
- (3) The applicant shall submit a written statement showing the measures and practices he will use to reduce the noise level in the design of the building and the management or rotation of animals in outdoor exercise runs.
- (4) No dead animals shall be buried on the premises and incineration of dead animals shall not create odors or smoke.

(f) Child Day Care Center/Type A Family Day-Care Home. All districts in which conditionally permitted.

- (1) Outdoor playgrounds, tot lots, exercise areas, etc., shall be fully enclosed by a fence, the height and design which shall be approved by the Board of Zoning Appeals.
- (2) The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high

volume periods and shall provide a safe drop off point for children that will not impede other traffic.

- (3) One sign, not exceeding four (4) square feet in area and mounted flush against the building, shall be permitted.
- (g) Funeral Home. All districts in which conditionally permitted.
  - (1) The buildings shall be designed so as to conform with the architectural character of the residential neighborhood.
  - (2) The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestions, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop off point for visitors that will not impede other traffic.
- (h) Boarding Home, Rooming House. All districts in which conditionally permitted.
  - (1) No more than two people shall occupy each sleeping room.
  - (2) Fire escapes shall be provided as approved by the Board of Zoning Appeals.
  - (3) Fire exit instructions shall be posted in each sleeping room.
  - (4) All applicable provisions of the fire code shall be met and certification of such compliance by the appropriate official shall accompany the application.
- (i) Tourist Home, Bed/Breakfast Home. All districts in which conditionally permitted.
  - (1) Children under twelve years of age are permitted in the same occupancy provided that no more than five (5) persons occupy one room.
  - (2) All applicable provisions of the fire code shall be met and certification of such compliance by the appropriate official shall accompany the application. (Ord. 2005-34. Passed 12-12-05.)

#### **1155.27 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.**

In granting any conditional use, the Board may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Zoning Ordinance and punishable under Section 1153.12.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.28 PROCEDURE FOR HEARING, NOTICE.**

Upon receipt of the application for a conditional use permit specified in Section 1155.23, the Board shall hold a public hearing, publish notice in a newspaper, and give written notice to all parties in interest according to the procedures specified in Sections 1155.16 through 1155.18.

(Ord. 2005-34. Passed 12-12-05.)

#### **1155.29 ACTION BY THE BOARD OF ZONING APPEALS.**

Within thirty (30) days after the public hearing required in Section 1155.16, the Board shall either approve, approve with supplementary conditions as specified in Section 1155.15, or disapprove the application as presented. The Board shall issue a written decision including its findings of fact and conclusions of law concerning the approval or disapproval of the application. If the application is approved or approved with modifications, the Board shall direct the Zoning Enforcement Officer to issue a conditional use permit listing the specific conditions specified by the Board for approval. If the application is disapproved by the Board the applicant may seek relief through the Court of Common Pleas. Appeals from Board decisions shall be made in the manner specified in Section 1155.09.

(Ord. 2014-08. Passed 4-28-14.)

#### **1155.30 EXPIRATION OF CONDITIONAL USE PERMIT.**

A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than one (1) year.

(Ord. 2005-34. Passed 12-12-05.)

### **1155.31 REQUEST FOR INTERPRETATION OF ZONING MAP.**

- (a) Upon receipt of the request for interpretation of the Zoning Map, the Chairman or the Secretary shall fix a time for a public hearing on the request. Such hearing shall be held within thirty (30) days of the filing of the interpretation request.
- (b) The Board shall give notice in newspaper of general circulation as specified under Section 1155.17.
- (c) The Board shall notify the Zoning Enforcement Officer at least five (5) days before the time fixed for the hearing.
- (d) The Board shall decide the interpretation request within thirty (30) days of the hearing as provided herein.

(Ord. 2005-34. Passed 12-12-05.)

### **1155.32 AUTHORITY OF BOARD OF ZONING APPEALS.**

Questions concerning the exact location of district boundaries shall be determined by the Board of Zoning Appeals. Where the street or lot layout actually on the ground or as recorded differs from the street and lot lines as shown on the Zoning Map, the Board shall interpret the Map in such a way as to carry out the intent and purpose of this Zoning Ordinance for the particular zoning district in question.

(Ord. 2005-34. Passed 12-12-05.)

### **1155.33 PROCEDURE AND REQUIREMENTS TO DETERMINE THAT A USE IS SUBSTANTIALLY SIMILAR.**

(a) Where a specific use is proposed that is not listed or provided for in this Zoning Ordinance, the Board of Zoning Appeals may make a determination, upon appeal, that the proposed use is substantially similar to a specific use that is listed or provided for in this Zoning Ordinance. If the Board finds that a use is substantially similar to a specific use listed in this Zoning Ordinance, the substantially similar use is deemed to be a substantially similar permitted use in those districts where the specific use is a permitted use, and a substantially similar conditional use in those districts where the specific use is a conditionally permitted one.

(b) In formulating a determination that a proposed use is a substantially similar use, the Board shall follow the procedures relating to appeals and variances as specified in Chapter 1155.

(Ord. 2005-34. Passed 12-12-05.)

### **1155.34 REMEDY BY APPLICATION FOR AMENDMENT.**

If the Board determines that a proposed use is not substantially similar, remedy may be sought by the appellant through submission of an application for amendment as prescribed in Chapter 1156.

(Ord. 2005-34. Passed 12-12-05.)

### **1155.35 STANDARDS FOR CONSIDERATION OF SUBSTANTIALLY SIMILAR USES.**

The following standards shall be considered by the Board when making a determination that a use is substantially similar to a permitted or a conditional use within a specific district:

- (a) The compatibility of the proposed use with the general use classification system as specified in this Zoning Ordinance.
- (b) The nature, predominant characteristics, and intensity of the proposed use in relation to those uses specified by this Zoning Ordinance as being permitted, or in the case of a conditional use, conditionally permitted, in that district.
- (c) The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Zoning Ordinance.

(Ord. 2005-34. Passed 12-12-05.)

### **1155.36 EFFECT OF DETERMINATION THAT A USE IS SUBSTANTIALLY SIMILAR.**

Should a use be determined to be substantially similar to a specific permitted or conditionally permitted use provided for in this Zoning Ordinance, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be substantially similar.

(Ord. 2005-34. Passed 12-12-05.)



**1155.37 RECORD OF SUBSTANTIALLY SIMILAR USES.**

The Zoning Enforcement Officer shall maintain as a public record a listing of all uses which have been determined to be substantially similar. For each such use the record shall include the use as listed in the ordinance, the use unlisted in the ordinance about which the determination of substantial similarity was made, and the dates of any actions thereupon by the Board of Zoning Appeals. This record shall also contain the same information for all uses which have been determined not to be substantially similar. The Zoning Enforcement Officer shall consult this record in the process of issuing future permits.

(Ord. 2005-34. Passed 12-12-05.)

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