

ARTICLE XI

BOARD OF ZONING APPEALS

SEC. 1101 A Board of Zoning Appeals is hereby created and shall have all the powers and duties prescribed by law and by this Resolution.

SEC. 1101-1 COMPOSITION AND APPOINTMENT.

The Board shall consist of five (5) members appointed by the Township Trustees. Each member shall be appointed for a period of three (3) years, except that two (2) of the initial members shall be appointed for one (1) year and two (2) of the initial members shall be appointed for two (2) years. In the event of death or resignation of a member, the Township Trustees shall make the appointment for the duration of the un-expired portion of the term of the member. The members of the Board shall be residents of the unincorporated territory in the Township and shall serve without compensation.

SEC. 1101-2 ORGANIZATION.

The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its membership, shall appoint a secretary and shall prescribe rules for the conduct of its affairs.

SEC. 1101-3 QUORUM.

The Board of Zoning Appeals shall require a quorum of three (3) members at all its meetings, and the concurring vote of three (3) members shall be necessary to effect any order.

SEC. 1101-4 MEETINGS.

The Board of Zoning Appeals shall meet at the call of its chairman or two (2) other members, and at such other regular times as it may, by resolution determine. All meetings of the Board shall be public. If an appeal has been requested or an application for a variance has been made, a public hearing to hear the appeal or consider the variance shall be scheduled no less than twenty (20) days nor more than forty (40) days from the date the appeal was requested or the application for a variance was filed with the Township.

SEC. 1101-5 WITNESSES.

The Board of Zoning Appeals chairman or acting chairman may administer oaths and compel the attendance of witnesses in all matters coming within the review of this Resolution.

SEC. 1101-6 POWERS AND DUTIES.

The Board of Zoning Appeals as herein created is a body of limited powers.

1. Appeals

The Board of Zoning Appeals shall hear and determine all appeals from any decision or action of the Zoning Inspector or the Township Zoning Commission in the administration and enforcement of this Resolution. The Board of Zoning Appeals shall hear and determine all appeals from the refusal of the Zoning Inspector because of anything contained in this Resolution to issue zoning certificates. No fee shall be required for appeals.

2. Variances

Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Resolution, the Board shall have the power in passing on appeals to vary or modify any of the provisions of this Resolution relating to the construction, structural changes in, equipment or alteration of buildings or structures, or the use of land, buildings or structures, so that the spirit of this Resolution shall be observed, public safety secured, and substantial justice done.

In every instance of granting a variance by the Board of Appeals, there must be a showing by the Board that:

- a. The strict application of the provision of the Resolution would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and the intent of this Resolution.

- b. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.
- c. The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought, and will not materially impair the purpose of this Resolution.

In specific instances the Board may permit such modification of the yard of lot area, or width regulations as may be necessary to secure the appropriate improvement of a parcel of land that is too small to be appropriately improved without such modification, which parcel was separately owned at the time of passage of this Resolution or is adjacent to buildings that do not conform to the general restrictions applicable to their location.

In granting a variance the Board of Appeals may impose such legal conditions as it may deem necessary to protect the public health, safety, or welfare and in furtherance of the purposes and intent of this Resolution.

Any application for a variance shall include the required fee, which fee shall not be refundable.

3. Conditional Zoning Certificates

The Board of Zoning Appeals shall have the authority to make exceptions as specifically described below:

- a. To grant conditional zoning certificates for the use of land, buildings, or other structures as special

exceptions to this Resolution, as specifically provided for elsewhere in this Resolution.

- b. The Board of Zoning Appeals has no authority to authorize a conditional use not provided for in this Resolution.

SEC. 1101-7 PROCEDURE.

The Board of Zoning Appeals shall act in accordance with the procedure specified by law, including this Resolution. The Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote, it shall indicate such fact. All appeals and applications made to the Board of Zoning Appeals shall be in writing and on the forms prescribed therefore. Every appeal or application shall refer to the specified provision of the Resolution involved, and shall exactly set forth the interpretation that is claimed, the use for which the certificate or conditional certificate is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Zoning Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board of Zoning Appeals in the particular case. Each such resolution shall be filed in the office of the Board of Zoning Appeals by case number under one or another of the following headings:

Interpretation; Certificate; Conditional Certificate; Variances; together with all documents pertaining hereto. In the event that the Board of Zoning Appeals will find it necessary to draw upon any planning, legal, engineering, or any other expert testimony, the Board shall charge a reasonable fee in order to cover all expenses of such expert testimony.

SEC. 1101-8 NOTICE OF HEARINGS.

When a notice of appeal or variance has been filed in proper form with the Board of Zoning Appeals, the Secretary shall immediately place the said request for appeal or variance upon the calendar for hearing, and shall cause notices stating the time, place, and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal, at least five (5) days prior to

the date of the scheduled hearing. All notices shall be sent to addresses given on the application. Such hearings shall be advertised by one (1) publication in one (1) or more newspapers of general circulation in the Township at least ten (10) days before the date of such hearing. The Board of Zoning Appeals at its discretion may send out further notices to publicize such hearings. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required.

SEC. 1101-9 APPEALS.

Appeals to the Board of Zoning Appeals may be taken by any person, firm or corporation, or by any officer, board or department of the Wadsworth Township, deeming himself or itself to be adversely affected by the decision of the Zoning Inspector or Zoning Commission respecting the interpretation of this Resolution.

Appeals shall be made no later than fifteen (15) calendar days after the date of the grievance. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative officer whose decision is appealed from shall certify to the Board of Appeals after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by the Board of Zoning Appeals or by a court having lawful jurisdiction. Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part modify the order, requirement, decision or determination as in its opinion ought to be done, and in that end shall have all the powers of the officers and bodies from whom the appeal is taken, and it may issue or direct the issuance of a certificate or conditional certificate.