

CHAPTER 26

BOARD OF ZONING APPEALS

26.01

Appeals shall have the following powers:

- A. Administration: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official, including the zoning inspector, in the enforcement of Sections 519.01 to 519.25, inclusive, Ohio Revised Code, or any resolution adopted pursuant thereto.
- A. Variances: To authorize, upon appeal, in specific cases, such variance from the terms of the zoning code as will not be contrary to the public interest, where owing to special condition, a literal enforcement of said code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. Under no circumstances shall the Board of Zoning Appeals grant a use not permitted by the Zoning Code, in the zone involved.
- B. Action of the Board of Appeals: In exercising its powers, the Board may in conformity with said Ohio Revised Code, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and it may make such order, requirement, decision or determination as ought to be made and to that end shall have all powers as an officer from whom the appeal is taken.
- C. Non-Conforming Uses: The Board shall have the power to authorize the completion, restoration, reconstruction, in whole or in part, extension, or substitution of non-conforming uses; taking into consideration the nature of such uses in relationship to the character of the adjacent uses, lot size, setback lines, traffic conditions, terrain, and all other factors which, in the opinion of the Board are pertinent to such completion, restoration, reconstruction, extension, or substitution.
- E. Conditional Uses:
 1. To hear and determine the Conditional Use Zoning Permits for the use of land, buildings, or other structures. The following provisions shall apply to the issuance of a Conditional Use Permit:
 - a. Authorization: Specifically listed Conditional Uses are provided within the zoning district regulations in recognition that such uses, although often desirable, will more intensely affect the surrounding area in which they are located than the Permitted Uses of such zoning district.

The intent of the procedure for authorizing a Conditional Use is to set forth the development standards and criteria for locating and developing Conditional Uses in accordance with the nature of the surrounding area, conditions of development and with regard to appropriate plans.
 - b. Application for Conditional Use: Any person owning or having interest in property may file an application to use such property for one (1) or more Conditional Uses provided for by this Resolution in the zoning district in which the property is situated. An application for a conditional use permit shall be filed with the Zoning Inspector and forwarded to the Secretary of the Board of Zoning Appeals.

2. The application for a Conditional Use shall contain the following:
 - a. Description of the Property and Intended Use
 1. A description of the property including a reference of the book and page of the last recorded deed.
 2. The proposed use of the property.
 3. A statement of the necessity or desirability of the proposed use to the property and land use.
 4. A statement of the compatibility of the proposed use to the property and land use.
 5. Such other information regarding the property, proposed use or surrounding areas as may be pertinent to the application or required for appropriate action by the Board of Zoning Appeals.
 - b. Plot Plan
 1. Title of the drawing with the name and address of the applicant.
 2. Drawing to scale with scale size, North Point and date.
 3. Size of the lot showing lot dimensions and dimensions of any existing or proposed structures.
 4. Distances of all setback lines for all existing and proposed structures on the lot.
 5. Existing and proposed driveways, walkways, patios, decks, etc.
 6. Identify any access or drainage easements on the lot.
 7. Identify all property and property owners within two hundred (200) feet of the property.
 8. Identify all streets, roads and subdivisions within two hundred (200) feet of the applicants property.
 - c. Fees as established by the Hamilton Township Trustees
3. Hearing on Conditional Uses: A public hearing on the application shall be held by the Board and notice thereof given, as specified by the Ohio Revised Code.
4. Standards for Conditional Use: The Board shall not grant a Conditional Use unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that supports the conclusions that:
 - a. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.

- b. Adequate utility, drainage and other such necessary facilities have been or will be provided.
 - c. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion to public streets.
 - d. All necessary permits and licenses have been obtained or evidence has been submitted that such permits and licenses are obtainable for the proposed Conditional Use on the subject property.
 - e. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development, use and enjoyment of adjacent land, buildings and structures.
 - f. The location, nature and height of buildings, structures, walls and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land buildings and structures.
 - g. Evidence that the Conditional Use desired will not adversely affect the public health, safety and morals.
5. Conditions and Restrictions: In granting a Conditional Use Permit, the Board may impose such conditions, safeguards or restrictions upon the premises benefited by the Conditional Use as may be necessary to comply with the standards set out in Section 26.01.E.4. in order to reduce or minimize potentially injurious affects of such Conditional Uses upon other property in the neighborhood and to carry out the general purpose and intent of this Resolution.
 6. Decision on Conditional Uses: The concurring vote of a majority of the members of the Board present at the meeting shall be necessary to reverse or modify any decision of the Zoning Inspector under this Resolution. The Board shall render a written decision on the application without unreasonable delay after the close of a hearing and in all cases, within thirty (30) days after the close of the hearing.
 7. Period of Validity: A Conditional Use Permit granted by the Board shall terminate at the end of twelve (12) months from the date on which the Board grants the Conditional Use, unless within the twelve (12) month period a building permit is obtained and the erection or alteration of a structure is started.