

## **Sagamore Hills Township**

### **BOARD OF ZONING APPEALS**

This entire section reviewed and approved by Resolution 14-71 Adopted 10-15-14  
Effective 11-14-14

#### **Section 10.0 Board of Zoning Appeals - Requirements of Ohio Revised Code:**

Pursuant to Sec. 519.13 of the Ohio Revised Code, the Board of Township Trustees shall appoint a Township Board of Zoning Appeals of five (5) members who shall be residents of the unincorporated territory in the Township included in the area zoned. The board of township trustees may appoint two alternate members to the township board of zoning appeals, for terms to be determined by the board of township trustees. An alternate member shall take the place of an absent regular member at any meeting of the board of zoning appeals, according to procedures prescribed by resolution by the board of township trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. The terms of all members shall be of such length, and so arranged that the term of one member shall expire each year. Each member shall serve until his successor is appointed and qualified. Members of the Township Board of Zoning Appeals shall be removable for the non-performance of duty, misconduct in office, or other cause, by the Board of Township Trustees upon written charges having been filed with said Board of Township Trustees, 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 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 the Board of Township Trustees, and shall be for the unexpired term.

#### **10.1 Organization of the Board of Zoning Appeals**

The Township Board of Zoning Appeals shall adopt rules and regulations, as necessary, to carry into effect the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chair and at other times as a majority of the Board may determine. Minutes of all Board meetings shall be kept and shall include records of all votes taken on all motions and shall also include the vote of each member as to whether it was for, against, absent, or in abstention on any motion. Records shall also be kept of the board's examinations and other official actions and all shall be promptly filed in the office of the Board of Township Trustees and shall be public record. The Township Board of Zoning Appeals may compel the attendance and testimony of witnesses.

## 10.2 **Limitations of the Board of Zoning Appeals**

The Township Board of Zoning Appeals shall not be permitted to change the land use from any of the specific uses permitted in this Zoning Resolution.

## 10.3 **Appeals**

The Township Board of Zoning Appeals shall have the power to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Zoning Resolution, or any amendment adopted pursuant thereto. A Zoning Inspector can only approve a zoning permit if the application conforms to all the requirements of the Zoning Resolution. An applicant, however, has the right to appeal that decision through the Board of Zoning Appeals.

## 10.4 **Variance**

The Board of Zoning Appeals shall have the power to authorize, upon appeal, in specific cases, such variances from the terms of the Zoning Resolution as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Zoning Resolution will result in undue hardship, and so that the spirit of the Zoning Resolution shall be observed and substantial justice done. In granting a variance, the Board of Zoning Appeals may impose such conditions as it may deem necessary to protect the health, safety, and welfare of the public, and in the furtherance of the purposes and intent of this Zoning Resolution. Any appeals shall not be personal, but shall run with the land. It shall be automatically canceled, however, if not exercised within two (2) years following its passage, or if before it is exercised. At any time thereafter, an appeal or application voided by the above provisions may be renewed by the Board, giving consideration to changes in the neighborhood or zoning.

The variance runs with the land and any variance which is subsequently changed shall negate the original variance.

The procedure for applying for a variance is as follows:

- A. The applicant must first go to the zoning inspector with an application for a zoning permit.
- B. When an inspector disapproves an application, the applicant may then file

a request with the Board of Zoning Appeals for a variance from the application of the Zoning Resolution, as it applies to his property.

- C. The Board of Zoning appeals has no authority to rule on a variance, except on appeals basis.
- D. The applicant's supposed hardship cannot be one of economics alone.
- E. The hardship must result from circumstances affecting a particular and unique piece of land, and not from a general condition throughout the neighborhood.
- F. A variance must not alter the essential characteristics of the neighborhood.
- G. Any hardship must result from the requirement of the Zoning Resolution and not from the applicant's own actions.
- H. A variance must not be contrary to the public interest, even if a hardship can be established.
- I. The Board of Zoning Appeals cannot make map changes through use variances.

#### **10.5 Conditional Zoning Certificates**

The Township Board of Zoning Appeals shall have the power to grant conditional zoning certificates for the use of land, buildings, or other structures as specifically provided for herein. They may require a bond made payable to the Township of Sagamore Hills in an amount set by the Board of Trustees to assure faithful compliance with the condition or conditions of any conditional zoning certificate.

- A. Continuation of Existing Use Conditionally Permissible under this Zoning Resolution

All uses existing at the time of the passage of this Zoning Resolution or amendments thereto and conditionally permissible in their respective districts under this Zoning Resolution shall be granted without fee

#### **10.6 Powers Granted by the Ohio Revised Code**

In exercising the previously listed powers, the Township Board of Zoning Appeals may, in conformity with the provisions of Sections 519.01 - 519.99

inclusive, of the Ohio Revised Code, reverse, or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and 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.

#### 10.7 **Appeal Applications**

Appeals to the Township Board of Zoning Appeals may be taken by any person aggrieved or by any office of the Township affected by any decision of the administrative officer, who shall be known as the Township Zoning Inspector. Such appeals shall be taken within twenty (20) days after the decision of said Township Zoning Inspector by filing with said Township Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Township Zoning Inspector shall forthwith transmit to the Township Board of Zoning Appeals all the papers constituting all records on which the action appealed from is taken.

The Board of Zoning Appeals must hear and decide applications for variances where, due to special conditions, a literal enforcement of the requirements of the Zoning Resolution would result in unnecessary hardship. The existence of an unnecessary hardship must be proven before the board can grant a variance. The fee for the Board of Zoning Appeals is set by the Township Trustees.

#### 10.8 **Appeals Procedure**

The procedure for hearing an appeal, variance or conditional use application is specified in the Ohio Revised Code (O.R.C. 303.15 and 519.15). The major steps required are:

- A. The Board of Zoning Appeals schedules a public hearing within a “reasonable time”.
- B. The Board of Zoning Appeals sends a notice of a public hearing to “parties of interest“ at least ten (10) days before the public hearing. All property owners within 300 feet of the affected property should be notified.
- C. The Board of Zoning Appeals publishes a notice of a public hearing in a newspaper of general circulation at least ten (10) days before the hearing.
- D. The Board of Zoning Appeals makes a decision within a “reasonable time”.

Upon the hearing, any party may appear in person or by attorney. When a stenographic record is made of a hearing conducted by a Township Board of Zoning Appeals, the cost and planning of such record is the responsibility of the party which requested that the record be made.