

ARTICLE VIII

PROCEDURES AND  
REQUIREMENTS FOR  
APPEALS AND VARIANCES

SECTIONS 800 - 811

## ARTICLE 8

### PROCEDURES AND REQUIREMENTS FOR APPEALS AND VARIANCES

#### **800 General.**

Appeals and variances shall conform to the procedures and requirements of Sections 801 to 811 inclusive of this Resolution. As specified in Article 3, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

#### **801 Appeals.**

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

#### **802 Stay of Proceedings.**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector 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 Inspector from whom the appeal is taken on due cause shown.

#### **803 Variances.**

The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Resolution would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming 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 or

profit, but only where strict application of the provisions of this Resolution would result in unnecessary hardship. For area variances, the Board of Zoning Appeals shall use the standard of practical difficulties.

#### **804 Application and Standards for Variances.**

Except as otherwise permitted in this Resolution, no variance in the strict application of the provisions of this Resolution 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:

1. Name, address, and phone number of applicant(s);
2. Legal description of property;
3. Description or nature of variance requested;
4. A fee as established by Resolution;
5. Narrative statements establishing and substantiating that the variance conforms to the following standards:
  - a. The granting of the variance shall be in accord with the general purpose and intent of the regulations imposed by this Resolution on the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.
  - b. The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
  - c. 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 Resolution 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.
  - d. There must be proof of hardship created by the strict application of this Resolution. 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 the basis by one who purchases with or without

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

- e. 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.
- f. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.
- g. 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.
- h. The variance must include conditions and safeguards as established by the Zoning Board of Appeals.

**805 Additional Conditions and Safeguards.**

The Board may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Resolution.

**806 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 Inspector or an applicant.

**807 Notice of Public Hearing in Newspaper.**

Before conducting the public hearing required in Section 806, notice of such hearing shall be given in one or more newspapers of general circulation in the Township 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.

**808 Notice to Parties in Interest.**

Before conducting the public hearing required in Section 806, 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 contiguous property owners as in Section 1010. The notice shall contain the same information as required of notices published in newspapers as specified in Section 807.

**809 Action by Board of Zoning Appeals.**

Within thirty (30) days after the public hearing required in Section 866, the Board of zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 805, or disapprove the request for appeals 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 306.

**810 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.

**811 Authorized Variances.**

Variances from the regulations of this Resolution 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 809, and Section. 805 if applicable, have been met by the applicant. Variances may be granted as guided by the following;

1. To permit any yard or setback less than the yard. or setback required by the applicable regulations.
2. 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.

3. 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.
4. To increase the maximum allowable size or area of signs on a lot, but generally by not more than twenty-five (25) percent.
5. 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.
6. A showing of practical difficulties will suffice to support the grant of a variance which relates solely to area requirements.