

1151.05 BOARD OF ZONING APPEALS.

(a) Membership. In accordance with Section 6.03 of the Greenhills Charter, a Board of Zoning Appeals consisting of five (5) members shall be established. The members shall be two (2) members of the Planning Commission elected by the Planning Commission, with the remaining three (3) members appointed by the Mayor with approval of Council. The members shall have terms of three (3) years. The Board shall be a continuing body, shall adopt its own rules of procedure, and shall have the powers conferred upon it by Council Ordinances.

(b) Jurisdiction. The Board shall have the following powers:

(1) Administrative Appeals. To hear and decide appeals where it is alleged there is an error in any interpretation, judgment, decision or determination made by the Zoning Official in the administration and enforcement of the provisions of these regulations.

(2) Variances. The Board of Zoning Appeals shall have the power to authorize upon appeal in specific cases, filed as hereinafter provided, such variances from the terms, provisions or requirements of this Zoning Code as will not be contrary to the public interest provided, however, that such variances shall be granted only in such cases where, owing to special and unusual conditions pertaining to a specific piece of property as described below, the literal enforcement of the provisions or requirements of this Zoning Code would result in practical difficulty in the case of an area variance or undue hardship in the case of a use variance, so that the spirit of the Zoning Code shall be upheld, public safety and welfare secure and substantial justice done. Variances shall not be granted for uses not permitted in the zoning district applicable to the property.

A. Conditions Prevailing. Where there are exceptional or extraordinary circumstances or conditions, the literal enforcement of the requirements of this Zoning Code would involve practical difficulty in the case of an area variance or would cause undue hardship in the case of a use variance, unnecessary to carry out the spirit and purpose of this chapter, the Board of Zoning Appeals shall have power to relieve such circumstances or conditions. In authorizing a variance, the Board of Zoning Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use it as it may deem necessary in the interest of the furtherance of the purpose of the chapter and in the public interest. In authorizing a variance, with attached conditions, the Board of Zoning Appeals shall require such evidence and guarantee or bond as it may deem to be necessary, to enforce compliance with the conditions attached. In determining whether or not practical difficulties exist, the Board of Zoning Appeals shall consider the following criteria:

1. Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property;
2. Whether the variance is substantial;
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

4. Whether the variance would adversely affect the delivery of governmental services;

5. Whether the property owner purchased the property with knowledge of the resolutions, ordinances, regulations, measures and orders, including the fact that all property owners are presumed to have actual or constructive knowledge of such information, and that a claim by a property owner to have no knowledge of such information shall not be a reason standing alone to grant a variance;

6. Whether the property owner's predicament feasibly can be obviated through some method other than variance; and

7. Whether the spirit and the intent behind the resolutions, ordinances, regulations, measures and orders would be observed and substantial justice done by granting the variance.

B. Findings of the Board of Zoning Appeals. No such variance of the provisions or requirements of this Zoning Code shall be authorized by the Board of Zoning Appeals unless the Board of Zoning Appeals finds that all of the following facts and conditions exist and they determine that the hardship was not self-created:

1. Exceptional Circumstances. Where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the original effective date of this Zoning Code (March 15, 1966), or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property, that do not apply generally to other properties or classes of uses on the same zoning district.

2. Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights which are possessed by other properties in the same zoning district and in the same vicinity.

3. Absence of Detriment. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Zoning Code or the public interest.

4. Not of General Nature. That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such condition or situation.

(3) An application for an Appeal or Variance shall contain the following information:

A. Name, address and telephone number of the applicant.

B. A brief narrative description of the existing use of the property.

C. Statement of location of the property (subdivision, township, range, section number, lot number).

D. A statement indicating the zoning of the property.

E. A brief narrative description of the proposed appeal or variance being requested, citing the section of the Zoning Code from which the appeal or variance is being requested.

F. A plan, drawn at an appropriate scale, showing the following:

1. Location of the property, indicating all existing and proposed structures and lot lines.
2. Locations of the nearest public rights-of-way and location of all access points to the site, existing or proposed.
3. Locations of any easements existing or proposed.
4. Locations of any existing or proposed parking areas and driveways, showing intent to comply with all parking requirements specified by these regulations.

G. Such other information as may be required by the Board of Zoning Appeals.

H. Names and mailing addresses of owners of property adjacent to the subject property as recorded by the Hamilton County Auditor's Office.

I. Notification. A reasonable time will be fixed for the hearing of the application for appeal, giving ten (10) days' notice in writing to the parties of interest and giving notice of such public hearing by publication in one or more newspapers in general circulation in the Village at least (10) days before the date of such hearing.

J. Fees. Each application for appeal shall be accompanied by a check or money order, payable to Greenhills, in the amount to be determined and set by Village Council to cover the cost of publishing and/or posting and mailing the notice of the hearing or hearings and other expenses in conjunction therewith.

(4) Appeal of Board of Zoning Appeals Decision. Any party aggrieved by a decision of the Board of Zoning may appeal within thirty (30) days of the date of decision to the Court of Common Pleas of Hamilton County on the ground that such decision was unreasonable or unlawful.