

SECTION IX. BOARD OF ZONING APPEALS

(Adopted November 18, 2014 by Resolution 2014-135, effective December 18, 2014)

9.01 BOARD OF ZONING APPEALS ESTABLISHED: The Board of Zoning Appeals is hereby created in accordance with ORC 519.13.

9.02 DUTIES AND POWERS: The Board of Zoning Appeals shall have the following duties and powers:

- A. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto;
- B. Authorize, upon appeal, in specific cases, such variance 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 resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done;
- C. Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the zoning resolution. If the board considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514 of the Revised Code or activities that are related to making finished aggregate products, the board shall proceed in accordance with section 519.141 of the Revised Code.
- D. Revoke an authorized variance or conditional zoning certificate granted for the extraction of minerals, if any condition of the variance or certificate is violated.

The Board shall notify the holder of the variance or certificate by certified mail of its intent to revoke the variance or certificate under division (D) of this section and of the holder's right to a hearing before the board, within thirty days of the mailing of the notice, if the holder so requests. If the holder requests a hearing, the board shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in person, by the holder's attorney, or by another representative, or the holder may present the holder's position in writing. The holder may present evidence and examine witnesses appearing for or against the holder. If no hearing is requested, the board may revoke the variance or certificate without a hearing. The authority to revoke a variance or certificate is in addition to any other means of zoning enforcement provided by law.

In exercising the above-mentioned powers, the board may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end has all powers of the officer from whom the appeal is taken.

9.03 MEMBERSHIP

- A. Members: In accordance with ORC 519.13, Board of Zoning shall consist of five (5) members to be appointed by the Board of Township Trustees, each for a term of five (5) years and so arranged that the term of one member expires each year. Each member shall be a resident of the unincorporated, zoning areas of Painesville Township, Lake County, Ohio. Members shall be removable for the same causes and in the same manner as provided by section 519.04 of the Revised Code.
- B. Alternates: In accordance with ORC 519.13, the Board of Township Trustees may also appoint two alternates to serve one year terms from January 1 to December 31. Each alternate member shall be a resident of the unincorporated, zoned areas of Painesville Township, Lake County, Ohio. An alternate member shall take the place of an absent member and may vote on any matter on which the absent member is authorized to vote.
- C. Vacancies: Vacancies shall be filled by appointment by the Board of Township Trustees. The new member will finish the unexpired term and may be appointed to their own full term when the unexpired term is completed.
- D. Leadership: The Board of Zoning Appeals by majority vote of its members shall elect a chair and vice-chair who shall occupy such offices until their successors are duly elected at the annual

meeting of the Board of Zoning Appeals, which shall be their first meeting of the calendar year. The position of secretary of the Board of Zoning Appeals shall be fulfilled by the zoning secretary as appointed by the Board of Township Trustees.

9.04 MEETING, PUBLIC HEARINGS AND RECORDS

- A. Meeting Schedule: The Board of Zoning Appeals, with consultation from the Board of Township Trustees, shall set their meeting schedule for the year at their annual meeting.
- B. Notice: Meetings and public hearings will be open to the general public. Meeting notice and meetings will be in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.
- C. Quorum: Three members of the Board of Zoning Appeals shall constitute a quorum.
- D. Call to order: Meetings and Public Hearings shall be held at the call of the Chair or by the Vice-Chair in their absence. If both officers are not present, then the Secretary may call the meeting to order and request a Chair Pro-tem be elected per Robert's Rules of Order.
- E. Agenda: The agenda for the Board of Zoning Appeals Meetings will be set by the Secretary of Board of Zoning Appeals in accordance to rules adopted by the Board of Zoning Appeals at their annual meeting.
- F. Public Comment: Rules for public comment for the Board of Zoning Appeals Meetings and Public Hearing will be set by the Board of Zoning Appeals at their annual meeting.
- G. Rules for the setting of the agenda and for public comments may be suspended by the Board of Zoning Appeals if, in their judgment, it would expedite the functioning of the Board of Zoning Appeals, or relieve unnecessary inconvenience or hardship.
- H. RECORDS: The Board of Zoning Appeals shall keep any records pertaining to appeals, conditional uses, variances and revoking of variances or conditional uses. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member or alternative member upon each question, or if absent or failing to vote, indication of such fact, and shall keep records of its examinations and other official actions, all of which is public record and be immediately filed at the Township Hall. Any minutes pertaining to executive session are exempt from these rules. Any communication between legal counsel and the Board of Zoning Appeals are exempt from these rules.