



WAYNE TOWNSHIP

BUTLER COUNTY, OHIO

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25.03 APPLICATIONS, APPEALS, HEARINGS AND STAY OF PROCEEDINGS.

25.031 Applications - When and by Whom Taken. An application, in cases in which the Board has original jurisdiction under the provisions of this Resolution, may be filed by any property owner, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be filed with the Zoning Inspector who shall transmit same to the Board.

25.032 Appeals - When and by Whom Taken. An appeal to the Board may be taken by any person aggrieved or by any officer of the Township affected by any decision of the Zoning Inspector. Such appeals shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

25.033 Hearings. The Board shall fix a reasonable time for the hearing of the application or appeal, giving ten (10) days' notice in writing to the parties in interest and giving notice of such public hearing by one (1) publication in one (1) or more newspapers in general circulation in the county at least ten (10) days before the date of such hearing, and decide the same within a reasonable time after it is submitted. Each application or appeal shall be accompanied by a check, payable to the Wayne Township Department of Zoning, in an amount to be determined by the Board of Appeals, to cover the cost of publishing and/or posting and mailing the notice of the hearing or hearings and other expenses in conjunction therewith. At the hearing any party may appear in person or by attorney. Any person adversely affected by the decision of the Board may appeal to the Court of Common Pleas of Butler County on the ground that the decision was unreasonable or unlawful. A notice of appeal shall be accompanied with a check made payable to the Wayne Township Trustees in an amount to be determined by the Board of Zoning Appeals to cover the cost of preparing a transcript of the proceedings. The Court may affirm, reverse, vacate or modify the decision being appealed.

25.034 Conduct of Hearing.

25.035 Appeals. In the case of an appeal from an action of the Zoning Inspector, the Zoning Inspector shall first present a description of the action taken and may also present documents (including but not limited to maps, photographs, letters, etc.) and witnesses to explain the reason(s) for the Zoning Inspector's action. Upon conclusion of the Zoning Inspector's presentation, the appellant may ask questions of the inspector to clarify or question the reasons for his action. Thereafter, the appellant shall present evidence in support of the appeal; the appellant may also call witnesses in support of the appeal.

25.036 In the case of an application for a variance or a conditional use permit, the applicant shall first proceed with presentation of the evidence in support of the application; the applicant may also call witnesses in support of the application. Thereafter, any persons in favor of the application may testify, followed by any persons opposed to the application. Following testimony from members of the public, the Zoning Inspector shall present evidence (including, but not limited to, his/her recommendation) concerning the application. Following the Zoning Inspector's testimony, the applicant shall be provided with an opportunity to present any evidence to rebut evidence presented by any other person.

25.037 The following due process requirements shall be observed in regards to the hearing:

1) The Board shall provide for the making of a complete and accurate record of its proceedings. No other recording of the proceeding shall be regarded as the official record.

2) In the event that an interested party desires that a method, other than that employed by the Board, be used to record the proceedings, such party shall make such request to the Chair of the Board in writing not less than ten (10) days prior to the hearing; such request shall describe the alternate recording method.

3) Such request may be allowed in the discretion of the Chair of the Board provided that the party making the request agrees to be responsible for any additional cost associated with the alternate method requested, and prior to the hearing, makes a deposit with the Secretary in an amount determined by the Chair of the Board.

4) All persons presenting testimony shall swear or affirm that their testimony is true to the best of their knowledge and belief. Notwithstanding the foregoing, the Zoning inspector, and any attorney representing a client in the course of a hearing, shall be deemed to be under oath and need not be separately sworn, but shall be advised that all testimony is being presented under penalty of perjury.

5) All testimony must be based upon the witness's personal knowledge. An attorney may present a statement on behalf of his client, provided that the client is present at the hearing. any such

statement shall be deemed to be the testimony of the client; and the client shall be subject to cross-examination as provided herein.

6) A witness may testify to an opinion if either; the witness would qualify as an expert witness if his testimony were being presented in a court proceeding under the Ohio Rules of Evidence; or the witness is not an expert but his opinion is rationally based on the perception of the witness and is helpful to a clear understanding of his testimony or the determination of a fact in issue.

7) Any witness presenting testimony in opposition to an appeal or application shall be subject to cross-examination by the appellant/applicant. Any witness presenting testimony in support of an appeal or application shall be subject to cross-examination by the Zoning Inspector. In the discretion of the Chair, cross-examination may also be permitted by any other person whose interest is adverse to the testimony of the witness.

8) The Board may, in its discretion, receive signed, written statements, either sworn or unsworn, from persons who are not present at the hearing. However, because any such statement is not subject to cross-examination, the statement shall not be received for the truth of any information contained in the statement, but only to indicate the persons support or opposition to the appeals or application.

9) The Chair of the Board shall determine whether any testimony or evidence shall be received into the record of the hearing, provided that the Chair may consult with other members of the Board, or with legal counsel for the Board, prior to making any ruling. In the event that the Chair decides that testimony or evidence shall not be received, the person offering the testimony or evidence shall be permitted to proffer the same.

10) Pursuant to R.C. 519.15, at the written request of either the appellant/applicant, or the Zoning Inspector, the Chair of the Board, on behalf of the Board, shall issue a subpoena commanding the appearance of any witness at the hearing. The request shall be filed with the Secretary of the Board not less than seven (7) days prior to the date of the hearing and shall set forth the name and address of the witness to whom the subpoena is to be issued; the request may also describe documents, or other tangible evidence, which the witness shall be directed to produce at the hearing.

11) Any person, who is denied any of the foregoing rights concerning the conduct of the hearing, shall be deemed to have waived any such denial unless an objection is raised during the hearing in time for the denial to be cured.

25.038 Decision of the Board.

25.039 The Board shall decide all applications and appeals within ten (10) days after the final hearing.

25.0310 A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board.

25.0311 A decision of the Board shall not become final until the expiration of ten (10) days from the date of such decision unless the Board shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

25.0312 After the decision is final, the applicant or appellant has thirty (30) days to appeal the decision to the Butler County Court of Common Pleas.

25.0313 Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board, after notice of appeals shall have been filed with him, that by reasons of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause be granted by the board on application after notice to the Zoning Inspector, or by judicial proceedings.