



Board of Zoning Appeals
Administrative Appeal

Planning & Zoning Department
100 Dayton St, 2nd Floor
Yellow Springs, OH 45387
(937) 767-1702

[FOR OFFICE USE ONLY]

Case #: _____

Hearing Date: _____

FOR VILLAGE USE ONLY

Address:		Tax Map Page:	
Owner:		Business Name:	
Lot:		Use:	
Parcel:		Subdivision:	

On (date) _____ (applicant name) _____

approached the Planning and Zoning office for a permit for the following project: _____

The permit application was denied for the following reasons: _____

Zoning Administrator

Date

FOR APPLICANT

Members of the Board:

The undersigned, being the owner or duly authorized agent of the owner of the property described above, wishes to appeal the decision of the Zoning Administrator.

I affirm that the zoning standards applying to my particular case have been fully explained to me. I further affirm that the general application of zoning standards in Yellow Springs has been explained to me, along with the constraints under which the Board of Appeals must operate in ruling on applications for variances and exceptions.

The six primary points listed below, excerpted from the Codified Ordinances, have been specifically addressed on a point-by-point basis within the space provided for each condition.

1125.064 Variances.

The provisions or requirements of the Zoning Code as will not be contrary to the public interest, but only in the case of peculiar conditions involving irregular, abnormally narrow, shallow or steep lots, or other unusual conditions, whereby strict and literal application of provisions or requirements of this Code would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land or buildings involved. No variance from the strict application of any provision of this Zoning Code shall be granted by the Board unless it finds that all of the following facts and conditions exist:

1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, buildings, or structures within the same zoning district.

2) That literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under terms of this Zoning Code.

3) That the special conditions and circumstances do not result from the actions of the applicant.

4) That granting the variance requested will provide the minimum necessary relief to alleviate the hardship.

5) The granting the variance will be in harmony with the general purpose and intent of this Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

6) That the purposed variance will neither constitute a change of zoning district, on the Official Zoning District Map, nor be of so general or recurrent a nature as to constitute a defacto change in zoning regulations if approved. In no case shall the Board of Appeals approve a variance for a use which is not a permitted use in the zoning district in which the property, building or structure is located.

The narrative, a scale drawing plot plan, a list of the owners names and addresses of those properties that directly adjoin the subject property, and such materials that I may choose to bring to the Board’s attention all constitute my application.

Applicant Signature

Date

FOR VILLAGE USE ONLY

Appellant

Date Materials received (including fee)

Scheduled Hearing Date

Advertising Date

Neighbors

1)

2)

3)

4)

5)

6)

DECISION OF THE BOARD OF APPEALS

And

Whereas. Special conditions and circumstances exist/do not exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, buildings, or structures within the same zoning district, and;

Whereas, the literal interpretation of the provisions of this Zoning Code would/would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Code, and

Whereas, the special conditions and circumstances do/do not result from the actions of the applicant, and;

Whereas, the granting variance requested will/will not provide the minimum necessary relief to alleviate the hardship, and;

Whereas, granting the variance will be/will not be in harmony with the general purpose and intent of the Zoning Code and will not be/will be injurious to the neighborhood or otherwise detrimental to the public welfare, and;

Whereas, proposed variance will/will not constitute a change of zoning district, on the Official Zoning District Map, nor be of so general or recurrent a nature as to constitute a defacto change in zoning regulations if approved. In no case shall the Board of Appeals approve a variance for use which is not a permitted use in the zoning district in which the property, building or structure is located.

Now, therefore, be it resolved, that the Application is approved. (Any special conditions are recorded in the Official minutes of the Board Meeting.)

Now, therefore, be it resolved, that the Application is denied.

Chairperson, Board of Appeals		Date	
ROLL CALL			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

1278.04 VARIANCES.

The Board's power to grant variances from the dimensional provisions of the zoning code, including by way of example, lot size, width, setbacks, parking requirements and height, shall be in harmony with the intent and purposes of the code, as provided below.

(a) Variance Standards. Variances from the terms of the code shall be granted only where the applicant shows that the strict application of a zoning requirement causes practical difficulties in the use of the property. The factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties in the use of the property include, but are not limited to:

(1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(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 such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection;

(5) Whether the property owner purchased the property with knowledge of the zoning restriction;

(6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

(7) Whether the existing conditions from which a variance is being sought were self-created; and

(8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

(b) The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

(Ord. 2013-19. Passed 9-16-13.)

1278.05 ADMINISTRATIVE APPEAL.

(a) An administrative appeal of an order, requirement, decision or determination by the Zoning Administrator or body charged with enforcement and administration of this code must be submitted no more than 20 calendar days after the action or decision has been made that is being appealed.

(b) A submitted application for an administrative appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to Village Council, after the notice of appeal is filed, that by reason of facts stated in the application, a stay would cause imminent peril to life and property. In such case, and upon concurrence by the Council, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record.

(c) In deciding the appeal, the Board shall determine whether or not the decision that was made was done so using the proper requirements and standards in this code. The decision of the Board is limited to the information that was available to the administrative official or body who made the decision being appealed.

(d) Decision. After the Board of Zoning Appeals public hearing and review, the Board of Zoning Appeals may determine to reverse or affirm, wholly or in part, or may modify the administrative decision. When the Board reverses the administrative decision, the Board shall have all powers of the Zoning Administrator or administrative body from whom the appeal is taken.

(Ord. 2013-19. Passed 9-16-13.)