

**ARTICLE 3: RESPONSIBILITIES OF THE BOARD OF ZONING APPEALS**

**Section 301: Board of Zoning Appeals**

The Township Trustees shall appoint five (5) residents of the Township to the Board of Zoning Appeals. Two (2) additional citizens may be appointed to the Board of Zoning Appeals as alternates. None of the members shall concurrently serve as a member of the Zoning Commission.

301.01 The terms of all members shall be so arranged that the term of one member shall expire every year. Each member shall serve until his successor is appointed and qualified. Members of the Board of Zoning Appeals may be removable for nonperformance of duty, misconduct in office, or other cause by the Township Trustees, upon written charges being filed with the Township Trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served either personally, by registered mail, or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by resolution of the Township Trustees and shall be for the unexpired term.

301.02 The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Resolution. Meetings shall be held at the call of the Chairman and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board of Zoning Appeals.

301.03 In exercising its duties, the Board of Zoning Appeals may, as long as such action is in conformity with the terms of this Resolution, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the power of the Zoning Inspector from whom the appeal is taken. The concurring vote of three (3) members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution.

301.04 For the purpose of this Resolution, the Board of Zoning Appeals has the following specific responsibilities:

- A) To hear and decide appeals in accordance with Section 306 where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector;
- B) Where the applicant has provided sufficient evidence to warrant the granting of a Variance, to authorize such Variances from the terms of this Resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Resolution will result in unnecessary hardship, and so that the spirit of this Resolution shall be observed and substantial justice done. The consideration of such Variances shall be in accordance with Section 307;
- C) To grant Conditional Use Permits as specified in Section 302 and such additional safeguards as will uphold the intent of the Resolution; and
- D) To determine the exact location of any District boundary in accordance with Section 503 if there is uncertainty as to the exact location.

**Section 302: Conditional Use Permits**

An application for a Conditional Use Permit by at least one (1) owner of the property is required prior to any authorization by the Board of Zoning Appeals. At a minimum, the application shall contain the following information:

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- 302.01 Name, address, and telephone number of applicant;
- 302.02 Date of application;
- 302.03 The lot, name, and number or legal description of the property;
- 302.04 Description of existing zoning District;
- 302.05 Description of the proposed Conditional Use;
- 302.06 A site plan of the proposed site for the Conditional Use showing the scale, north arrow, location of all Buildings, parking and loading areas, traffic access and traffic circulation, sidewalks, curbs, Open Spaces, Landscaping and grading plan, refuse and service areas, fire hydrants, utilities, Rights-of-Way, Signs, yards, drainage plan, and such other information as the Board of Zoning Appeals may require to determine if the proposed Conditional Use meets the intent and requirements of this Resolution;
- 302.07 A plan for screening when applicable;
- 302.08 A narrative statement discussing the merits of the proposal;
- 302.09 Such other information as may be required by the Board of Zoning Appeals; and
- 302.10 A fee as established by the Township Trustees.

**Section 303: Conditional Use Standards**

Conditional Uses may be permitted provided that such Uses shall be found to comply with the following requirements and all other applicable requirements as set forth in this Resolution:

- 303.01 The Use is so designed, located and proposed to be operated so that the public health safety, welfare and convenience will be protected.
- 303.02 The Use will not result in the destruction, loss or damage of natural, scenic, or historic features of major importance.
- 303.03 The Use will be designed, constructed, operated, and maintained so that it shall not cause substantial injury to the value of the property in the area or neighborhood where it is to be located.
- 303.04 The Use shall be compatible with adjoining development and the proposed character of the zoning District where it is to be located.
- 303.05 The Use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed Use shall be able to provide any such services adequately.
- 303.06 The Use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. Public facilities and services include but are not limited to: fire and police protection or other emergency services, roadways, intersections, traffic lights, and sanitary and storm sewers.
- 303.07 Adequate Landscaping and screening are provided, as required under Article 20.
- 303.08 Adequate off street parking is provided, and ingress and egress is so designed as to cause minimal interference with traffic on abutting streets.
- 303.09 The Use conforms to all applicable regulations governing the District in which it is located.
- 303.10 The Use is compatible with the standards, objectives, and policies of Genoa Township Comprehensive Plan as amended and any revisions thereof.
- 303.11 The Use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations.

303.12 Any other supplementary requirements as prescribed by the Board of Zoning Appeals.

**Section 304: Processing of Conditional Uses**

The Board of Zoning Appeals shall hold a public hearing within a reasonable time after the receipt of the application.

- 304.01 Before holding the public hearing, notice of such hearing shall be given in one (1) or more newspapers of general circulation within 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 Conditional Use.
- 304.02 Before holding the public hearing, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals or designee, by first class mail, at least ten (10) days before the day of the hearing to the parties in interest including the owners of property contiguous to and directly across the street from the applicant's property. The applicant shall provide a list of such property owners and one set of pre-addressed, letter size envelopes, provided with sufficient postage, which shall be used by the Board of Zoning Appeals' Secretary to notify property owners. The notice shall contain the same information as required of notices published in newspapers.
- 304.03 Within a reasonable time after the hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the application as presented. If the Board of Zoning Appeals disapproves the application the applicant may seek relief through the Court of Common Pleas.

**Section 305: Expiration of Conditional Use Permit**

A Conditional Use Permit shall be deemed to authorize only one particular Conditional Use. The Conditional Use Permit shall automatically expire if, for any reason, the Conditional Use shall cease for more than six (6) months, or construction is not begun within six (6) months.

**Section 306: Administrative 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.

- 306.01 An 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 was taken.
- 306.02 An appeal stays all proceedings in furtherance of the action appealed unless the Zoning Inspector certifies to the Board of Zoning Appeals that in his opinion, by reason of facts stated in the application, a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order that 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 was taken.
- 306.03 The Board of Zoning Appeals shall select a time and place for the hearing of an appeal and give at least ten (10) days written notice to the parties in interest including the owners of property contiguous to and directly across the street from the applicant's property.  
  
In addition, public notice of such hearings including place, date and subject of the hearing, shall be published in a newspaper of general circulation at least ten (10) days prior to the date of the hearing. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.
- 306.04 The Board of Zoning Appeals shall have all the powers of the Zoning Inspector with respect to such decision. The concurring vote of a majority of the members of the Board of Zoning Appeals shall be necessary to reverse or modify any decision of the Zoning Inspector under this Resolution. The

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Board of Zoning Appeals shall render a written decision on the application without unreasonable delay after the close of a hearing. A copy of the decision and findings of fact shall be sent to the Township Trustees and Zoning Commission, and by certified mail to the applicant.

- 306.05 A fee, the amount of which is established by the Township Trustees, shall accompany a notice of appeal.

**Section 307: Variances**

If the Zoning Inspector rejects an application for a Zoning Permit or Certificate of Zoning Compliance the applicant may appeal for a Variance to the Board of Zoning Appeals.

- 307.01 The Board of Zoning Appeals may authorize, in specific cases, a Variance from the terms of this Resolution as will not be contrary to the public interest or the intent of this Resolution, but only where strict interpretation would result in practical difficulty as defined in Ohio Revised Code, Section 519.14. No Nonconforming Use of neighboring lands, Structures, or Buildings in the same District and no permitted or Nonconforming Use of lands, Structures, or Buildings in other Districts shall be considered grounds for issuance of a Variance.

- 307.02 A Variance from the terms of this Resolution shall not be granted by the Board of Zoning Appeals unless the applicant has provided sufficient evidence to warrant the granting of a Variance, and a written application for a Variance is submitted to the Zoning Inspector and to the Board of Zoning Appeals.

- 307.03 An application for a Variance shall contain, at a minimum, the following information:

- A) Name, address and telephone number of applicant;
- B) Legal description of the property;
- C) Description of nature of Variance requested;
- D) A narrative statement demonstrating that the requested Variance conforms to the following standards:
  - 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, Structures or Buildings in the same District;
  - 2) That a literal interpretation of the provisions of this Resolution would deprive the applicant of rights commonly enjoyed by other property owners in the same District under the terms of this Resolution;
  - 3) That special conditions and circumstances do not result from the actions of the applicant;
  - 4) That granting the Variance requested will not confer on the applicant any special privilege that is denied by this Resolution to other lands, Structures, or Buildings in the same District; and
  - 5) That an economic hardship, requesting a more intensive Use of the property than would normally be permitted, is not the only nor the primary factor for requesting the Variance.
- E) A fee as established by the Township Trustees.

- 307.04 The burden of proof for granting a Variance shall rest with the applicant. In granting any Variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Resolution. Any violation of such conditions and safeguards, when made part of the terms under which the Variance is granted, shall be deemed a violation of this Resolution and punishable under Section 116 of this Resolution. Under no circumstances shall the Board of Zoning Appeals grant a Variance to allow a Use not permissible under the terms of this Resolution in the District involved, or any Use expressly or by implication prohibited by the terms of this Resolution in said District.

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- 307.05 The Board of Zoning Appeals shall not grant a Variance unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, which support conclusions that:
- A) The Variance requested arises from special conditions of, or involving, the property. The special conditions must be unique to the property and not ordinarily found in the same zoning District. Furthermore the special conditions must result from the enforcement of this Resolution and not by an action or actions of the property owner, the applicant, or any other person or party who has had control of the property;
  - B) The strict application of the provisions of this Resolution from which a Variance is requested will constitute practical difficulty upon the property owner represented in the application;
  - C) The Variance desired will not adversely affect the public health, safety and morals; and
  - D) The Variance desired will not compromise the general spirit and intent of this Resolution.
- 307.06 The Board of Zoning Appeals shall hold a public hearing within a reasonable time after the receipt of an application for a Variance from the Zoning Inspector or an applicant.
- 307.07 Before holding the required public hearing, notice of such hearing shall be given in one (1) or more newspapers of general circulation within 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 Variance. Written notice of the public hearing shall be mailed by the Chairman of the Board of Zoning Appeals or designee, by first class mail, at least ten (10) days before the day of the hearing to the parties in interest including the owners of property contiguous to and directly across the street from the applicant's property. The applicant shall provide a list of such property owners and one set of pre-addressed, letter size envelopes provided with sufficient postage which shall be used by the Zoning Secretary to notify property owners. The notice shall contain the same information as required of notices published in newspapers.
- 307.08 In granting a Variance, the Board of Zoning Appeals may impose such conditions, safeguards and restrictions upon the premises benefited by the Variance as may be necessary to comply with the standards set out in Section 307 of this Article to reduce or minimize potentially injurious effects of such Variance upon other property in the neighborhood, and to carry out the general purpose and intent of this Resolution.
- 307.09 The Board of Zoning Appeals shall have all the powers of the Zoning Inspector with respect to such decision. The concurring vote of a majority of the members of the Board of Zoning Appeals shall be necessary to reverse or modify any decision of the Zoning Inspector under this Resolution. The Board of Zoning Appeals shall render a written decision on the application without unreasonable delay after the close of a hearing. A copy of the decision and findings of fact shall be sent to the Township Trustees, the Township Zoning Commission, and by certified mail to the applicant.
- 307.10 A Variance granted by the Board of Zoning Appeals shall terminate at the end of six (6) months from the date on which the Board grants the Variance, unless within such six (6) month period, a Zoning Permit is obtained.

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