

Date: _____

MEMBERS OF THE BOARD OF APPEALS
City of Bowling Green, 304 North Church Street
Bowling Green, Ohio 43402

Dear Members:

I am requesting a variance from the Board of Zoning Appeals in order to:

The variance is requested because of the following reasons:

I have enclosed a sketch of the improvement and the required \$50.00 fee as stated under Section 130.32 (G)(1) of the Zoning Code.

Name

Address

Telephone number (**Staff use only**)

If the property is owned by a privately held corporation, please attach a separate sheet listing all the names and addresses of the shareholders and officers of the corporation. If you are represented by an agent, also list the name and address of each agent.

I give permission for the Zoning Board of Appeals and City Staff to enter the property for purposes of viewing the property, excluding all buildings, for purposes of this request.

Signature of property owners, agents, and tenants if applicable.

Requesting A Variance

The Zoning Board of Appeals is the body which grants variances from Chapter 150, the zoning regulations. A variance is a deviation from the strict rules contained in Chapter 150. For example, if you desire to erect a five foot high fence where a four foot fence is allowed, a variance could be granted.

The Zoning Board of Appeals is composed of five citizens, appointed by the Mayor and confirmed by City Council. There are seven (7) members of the Board. A quorum for the Board is four members.

An application to the Board consists of a letter of application, a scale drawing, and the \$50.00 fee. The Board meets the second Wednesday of each month and the deadline for each meeting is **three weeks prior** to the meeting. An application form is available for your use. **It is necessary that you, or someone representing you attend the hearing!**

The three week period is necessary to comply with the notice requirements specified in the Code of Ordinances. The City will notify all adjoining property owners, run a notice in the newspaper of general circulation, ask you to post a site notice, and other notices will be posted as required by law during this time period. During this time, the Board members will visit your site to review your request, so they will be familiar with your property at the time of your hearing.

At the meeting, you will be sworn in and, after the City explains why you need a variance, asked to explain your request. The Board will ask questions of you and there will be an opportunity for anyone who desires to comment on your request to have their say. At the conclusion of your hearing the Board will take a vote. A majority of the members present will determine if your request is granted or not. Appeal of the Board's decision is to the Common Pleas Court.

BOARD OF ZONING APPEALS

§ 150.130 ORGANIZATION AND PROCEDURES.

(A) *Appointments.* Members of the board of zoning appeals shall be constituted and selected as provided in Charter §§ 7.03 and 30.113.

(B) *Organization and procedure.* The board shall organize annually to elect a chairman, a vice- chairman, and a secretary. It shall further adopt rules for its own government not inconsistent with the zoning code, the Charter of the city, general law, or any other ordinance of the municipality to carry into effect the provisions of this chapter.

(1) Meetings of the board shall be held at the call of the chairman and at such other times as the board shall determine. The chairman, or in his absence, the vice-chairman, may administer oaths and the board may compel the attendance of witnesses. All board meetings shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if a member is absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the council clerk within 72 hours after each meeting, examination, or other official action. A court stenographer shall take the verbatim testimony of all persons testifying at a zoning hearing, which shall be available to any party upon paying the cost thereof to the court stenographer. In event of appeal, the transcript shall be made for the zoning board of appeals by the court stenographer and shall be taxed as part of the costs in the appeal.

(2) *Quorum.* Four members of the board shall constitute a quorum. The board shall act by resolution, and the concurring vote of a majority of the members of the board present shall be necessary to reverse any order of determination of the zoning inspector or to grant any variance from the requirements of this chapter.

(3) *Acting board members.* In the event that any member of the board shall be an owner, part owner, partner, or shareholder of an owner, part owner, tenant, or optionee of any premises for which an application is pending before the board of zoning appeals for variance or by way of appeal, or shall be financially interested in the sale or development of any such property, they shall not serve on the board in making any determination with respect to such property.

(4) *Department assistance.* The board may call upon the various departments of the municipality for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the board as may reasonably be required.

(Ord. 3200, passed 1-6-75; Am. Ord. 3397, passed 2-17-76; Am. Ord. 6917, passed 2-4-02)

§ 150.131 HEARINGS.

(A) The board shall fix a reasonable time for the hearing of an appeal or for the hearing on any application on which the board has original jurisdiction.

(B) Notice of the hearing on an appeal, or on any application for variance or exception shall be given by publishing once in a newspaper of general circulation in the city at least five days prior to the hearing, and by posting in accordance with the administrative code. Notice in writing shall be sent by first class mail mailed at least ten days before the hearing to the owner of the property for which the permit, variance, or exception was requested, to all adjoining property owners, and to the applicant or appellant. A notice that an appeal or application for a variance or exception is pending shall be displayed on the property before the hearing.

(C) The hearing of the board shall be public. The board may go into executive session for discussion but must take all official action in public.

(D) On the day for hearing an application or appeal, the board may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners or parties in interest it decides may be substantially interested in the application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of the resumption of the hearing unless the board so decides.

(Ord. 3200, passed 1-6-75)

§ 150.132 POWERS OF THE BOARD.

The board shall have the power to hear and decide applications in accordance with the provisions of this chapter as follows:

(A) *Exceptions.*

(1) Nonconforming uses. The extension of a nonconforming building upon a lot occupied by such building or on an adjoining lot, provided that such lot was under the same ownership as the lot in question at the time the use of such building became nonconforming, and that such extension is necessary and incidental to such existing nonconforming use; and provided that the extent of such extension shall not exceed in all 20% of the existing ground floor area of the existing building devoted to a nonconforming use and that such extension shall be within a distance of not more than 25 feet of the existing building or premises, and provided further only one such extension will be permitted.

(2) Nonconforming trailer communities can be expanded by increasing the number of trailers by not more than 20% over the number at the date of the passage of this chapter.

(3) Notwithstanding any other provision of this chapter the board of zoning appeals shall have the power to grant a variance for setback requirements to any owner of property.

(B) *Extension of use on border of district.*

(1) The extension of a use or building into a more restricted district immediately adjacent thereto but not more than 25 feet beyond the dividing line of the two districts, under such conditions as will safeguard development in the more restricted district.

(2) The extension of a use or building into a more restricted district when the district boundary divides a lot or lots in single ownership at the time of the adoption of this chapter. Such extension shall not be for more than 25 feet or to the edge of the divided lot, whichever is greater.

(C) *Temporary structures and uses.* The temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this chapter for the district in which it is located; provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

(D) *Variances.* The board shall have original jurisdiction to grant variances from the provisions or requirements of this chapter as may be required to afford justice and avoid unreasonable hardship.

(1) In exercising its authority under this section, the board must first find:

(a) The existence of practical difficulties or unnecessary hardship or, where due to peculiar circumstances, strict enforcement will cause needless expense, difficulty, or hardship without serving any useful public purpose; or

(b) That the grant of a variance will be in the best interest of the neighborhood and community.

(2) If the board finds the existence of either (1) or (2) above, the board must also find the granting of the variance will be in harmony with the general purpose and intent of the chapter.

(3) Examples of situations in which the board might grant a variance are determination that by reason of exceptional narrowness, shallowness, unusual shape of a specific piece of property on the effective date of this chapter or by reason of topographic conditions or other extraordinary situations or conditions of such piece of property, or the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties or cause undue hardship unnecessary to carry out the spirit and purpose of this chapter.

(4) The board may find other situations meeting the standards set forth above.

(5) The zoning inspector shall have no authority to grant variances. If application for a permit is made which does not meet the requirements of this chapter the zoning inspector shall inform the applicant and reject the application. The applicant may either appeal to the board of zoning appeals from the zoning inspector's determination that the application does not comply with this chapter, or the applicant may apply directly to the board of zoning appeals for a variance, or may do both. In exercising its variance power, the board may impose such

reasonable conditions upon the applicant as it deems necessary to accomplish the purposes of this chapter.

(6) The board may also grant a variance in an R-2 District for the construction of a two-family dwelling if it finds that there is a minimum lot area of 9,000 square feet and all other bulk and density regulations in an R-2 Zone can be applied and if it finds the evidence of either the practical difficulties or unnecessary hardship or peculiar circumstances set forth in (1)(a) above, or that the granting of the variance will be in the best interests of the neighborhood and community as set forth in (1)(b) above.

(E) *Appeals to the board.*

(1) An appeal to the board may be taken by any party in interest or by the city attorney in matters of interpretation or administration of this chapter. The appeal shall be taken from the decision of the zoning inspector by filing a notice of appeal with the zoning inspector and with the board within 20 days from the zoning inspector's decision. The notice of appeal shall specify the grounds thereof. The zoning inspector shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken. If the appeal is from the action of the zoning inspector in granting a zoning permit, the time for appeal shall not begin to run until a sign is posted on the premises showing that a permit has been granted.

(2) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning inspector shall certify to the board of zoning appeals, after the notice of appeal shall have been filed with it, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property; in which case proceedings shall not be stayed otherwise than by a restraining order from a court of general jurisdiction.

(3) The board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the zoning inspector from when the appeal is taken.

(4) The board shall hear all appeals arising from the jurisdiction granted in § 152.52.

(5) The board may grant a variance on § 150.55(F) only in an M-District. The board's authority is limited because there is no natural drainage for the city, so storm water drainage shall be controlled by maintaining approved grading plans with asphalt or concrete driveways, off-street parking, loading or storage areas. In addition, the dust associated from dustless surfaces is a public health nuisance incompatible with any R, S, I, or B District. The granting of such a variance is limited to the board finding, in addition to division (1) and (2) above that all the following conditions are met:

(a) That the property is no closer than 1000 feet to any R or S-1 or S-5 District;

(b) The facts in evidence support that the parking, loading, or storage area will not average traffic greater than one vehicle per hour;

(c) That because of the nature of the items parked, stored, or loaded, that an asphalt surface would not withstand the weight of the items or vehicles or that the minimum depth of the

concrete would have to exceed six inches because of the weight of the vehicles being loaded or used to move the stored items;

(d) And that an agreement for annual dust control, as approved by the city engineer and annual inspection by a project inspector, has been recorded with the deed to the property.

(F) *Fees.*

(1) An appeal from a decision of the zoning inspector shall be accompanied by a fee of \$50.

(2) The fees payable under this section shall be paid, by the appellant, to the fiscal officer of the city for deposit to the credit of the general fund. Copies of proceedings and transcripts shall be made available at the cost of preparing such reproductions.

(G) Appeals from the board of zoning appeals. Appeals from the board of zoning appeals shall be to the county court of common pleas as provided by R.C. § 2506. (Ord. 3200, passed 1-6-75; Am. Ord. 3561, passed 5-2-77; Am. Ord. 4307, passed 3-21-83; Am. Ord. 4600, passed 11-4-85; Am. Ord. 5653, passed 12-20-93; Am. Ord. 6022, passed 8-5-96; Am. Ord. 6186, passed 8-18-97; Am. Ord. 6868, passed 11-5-01; Am. Ord. 6951, passed 5-6-02)
Cross-reference:

Board of zoning appeals, see Charter § 7.03,
§ 30.113

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