
ARTICLE 18. BOARD OF ZONING APPEALS (BZA)

Section 1800. Purpose of the Board of Zoning Appeals

The purpose of the Board of Zoning Appeals (BZA) is to hear appeals of decisions made by the Zoning Inspector; and to review and authorize projects where there are practical difficulties or unnecessary physical hardships in carrying out the strict interpretation of this Ordinance, providing such exception is in harmony with the general purpose and intent of the Ordinance and in accordance with the procedures and provisions specified in this Article; and to perform other duties as determined by the Village Council. The BZA shall have the powers and duties as described in this Ordinance.

Section 1801. Organization and Procedures of the BZA

1801.1 Appointment of BZA Members: There is hereby established a Board of Zoning Appeals (BZA) which shall consist of five (5) voting members appointed by the Council. The Council shall choose a successor to fill

any vacancy. The five (5) voting members first appointed shall serve for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively; thereafter appointments shall be for five (5) year terms, beginning January 1st. Each member shall serve until his successor is appointed and qualified. Vacancies shall be filled by the Council and shall be for the respective unexpired term. The members of the Board of Zoning Appeals may receive such compensation as the Council provides.

1801.2 Officers and Rules of the BZA: The BZA shall organize annually and elect a President, Vice-president and Secretary. The BZA shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Ordinance, provided, however, that such rules are not consistent with any other Ordinance of the municipality.

1801.3 Quorum of the BZA. Three members of the BZA shall constitute a quorum. The concurring vote of three members of the BZA shall be necessary to reverse any order or determination of the Zoning Inspector, to decide in favor of an application in any matter in which the BZA has original jurisdiction under this zoning Ordinance, or to grant any variance from the requirements stipulated in this Ordinance.

1801.4 Meetings of the BZA: Meetings shall be held at the call of the chairman and at such other times as the BZA may determine. All meetings of the Board of Zoning Appeals shall be public. However, the BZA may go into executive session for discussion but not for vote on any case before it. The BZA shall hear testimony from any member of the public.

1801.5 Minutes and Records of the BZA: The BZA shall keep minutes of its proceedings, showing the vote of each member upon each 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 immediately filed in the office of the Clerk and shall be a public record.

1801.6 BZA Authority for Witnesses, Oaths, Etc.: The BZA shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents under such regulations as it may establish.

1801.7 Officials and Employees Shall Assist the BZA: The BZA may call upon the various officials and employees 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 BZA as may reasonably be required.

Section 1802. Appeal of Decision of the Zoning Inspector to the BZA

An appeal of a final, formal decision of the Zoning Inspector may be made to the Board of Zoning Appeals on the grounds that the decision is contrary to the laws and policies of the Village of Tuscarawas.

~~**1802.1**~~ **Submital of Appeal to BZA:** An appeal to the BZA may be made by any person who is harmed or by an officer of the municipality affected by any formal decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision, by filing with the Zoning Inspector and with the BZA a notice of appeal specifying the grounds thereof. The Zoning Inspector shall transmit to the BZA all the papers constituting the record upon which the action appealed was taken. The appeal shall include:

- An application form, available from the Zoning Inspector, to be completed and signed by the applicant or appellant. It shall also be signed by the property owner(s) if the appeal is initiated by the lessee or tenant of the premises.
- Names and addresses of all property owners and occupants of properties within two hundred (200) feet of the subject property.
- A fee as stated in this Ordinance.

1802.2 Urgent Stays of Further Action on a Project. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Inspector shall state in writing to the BZA after the notice of appeal shall have been filed with it that by reason of facts stated, a stay would, in his/her opinion, cause imminent peril

to life or property in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the BZA or by a court of equity after notice to the officer from whom the appeal is taken and on due cause shown. Documentation of the stay shall be transmitted to the applicant and owner of the property which is the subject of the appeal within one (1) business day.

1802.3 Process for Consideration of Appeal by BZA. An appeal shall be processed as follows:

- The appellant shall submit the appeal to the Zoning Inspector. The Zoning Inspector shall determine whether the appeal is complete within one (1) business day. If the application is deemed to be incomplete, it shall be the responsibility of the applicant to request a refund of the application fee from the Zoning Inspector.
- The BZA shall schedule the public hearing and shall give at least ten (10) days public notice thereof in a newspaper of general circulation in the municipality, and at least ten (10) days notice to property owners and occupants of land within two hundred (200) feet of the premises in the appeal, and at least ten (10) days notice to the appellant, and to the applicant and owner of the property which is the subject of the appeal.
- The BZA shall conduct a public hearing and decide to affirm or reverse the appeal within (thirty) 30 days of the determination that the appeal is complete.
- The Zoning Inspector shall transmit documentation of the BZA's affirmation or reversal to the appellant(s), and to the applicant and owner of the property which was the subject of the appeal.

1802.4 Appeal of Decision of Zoning Inspector Regarding Environmental Impact Certification. In such case that the Zoning Inspector issues a decision to refer an application for an Environmental Impact Certification to the Planning Commission, and the decision is appealed to the BZA, the BZA shall determine whether or not the application should be referred to the Planning Commission. It shall not be the responsibility of the BZA to review the application and determine whether to grant the Environmental Impact Certification.

Section 1803. Application for a Determination by the BZA

An application, in cases in which the BZA has original jurisdiction under the provisions of this Ordinance, may be submitted by the property owner, lessee or tenant of a premises.

1803.1 Contents of Application for BZA Determination: An application to the BZA shall contain eight (8) collated sets of the information listed below, including two (2) sets with original signatures. One additional copy shall be included if there is a parking agreement which is required to be reviewed by the Village Solicitor. Applicants are encouraged, but not required, to contact the Zoning Inspector to review the requirements for applications prior to submittal.

- An application form, available from the Zoning Inspector, to be completed and signed by the applicant and property owner(s).
- A site and building plan as described in this section.
- Names and addresses of property owners and occupants of properties within two hundred (200) feet of the subject property.
- A fee as required in this Ordinance.

1803.2 Contents of Site and Building Plan in Application to BZA. The site and building plan shall show the information listed below. The scale of plans shall be sufficient to adequately evaluate whether the proposed plan complies with the regulations of this Ordinance. All plans shall be of a sufficient scale to determine compliance with the provisions of this Ordinance.

- Project name, location and address.
- Applicant's name.
- Scale and north arrow.
- Map showing the general location of the project.
- Location and names of street(s) providing access to the project, and exact location of the project in relation to the nearest cross street.
- Lot and parcel numbers of the project and all adjacent properties, including across streets.

- Dimensions of the lot(s), and location and use of existing structures (including ponds).
- Required setback lines.
- Location, height, size and use of proposed and existing structures and yards, according to all dimensions that are regulated in this Ordinance.
- Foundation plan for manufactured homes.
- Zoning district of project and adjacent properties, including across streets.
- Location, width and names of existing streets, railroad rights-of-way, and easements.
- Existing sewers, water lines, culverts and other underground structures, and power transmission poles and lines, within and adjacent to the site.
- Location and sites of proposed easements and municipal utilities.
- Location and dimensions of all vehicular and pedestrian facilities within and without the site.
- Location and dimensions of all off-street parking areas, including entrance driveways, maneuvering lanes, service lanes, loading areas, and similar areas.
- Location, dimensions and proposed uses of all on-site recreation areas.
- Location of fire lanes.
- Location of refuse disposal, storage and removal areas.
- Location, type and size of plant material or fences for any required buffers.
- Statement that no part of the land involved in the application has been previously used to provide required setback space or lot area for another structure.
- Statistical data on all relevant characteristics of the proposed development, including number and size of dwelling units, percentage of lot coverage, total gross and net acreage, numbers and dimensions of parking spaces including handicapped accessible spaces.
- Survey by a registered engineer or surveyor.
- Any other information which in the judgment of the Zoning Inspector may be necessary to provide for the enforcement of this Ordinance.

1803.3 Zoning Inspector May Waive Data for the Site and Building Plan. The Zoning Inspector shall have the authority to require additional data in the application if he/she determines that it is necessary to determine if the proposed project conforms to the requirements of this Ordinance. The cost of additional information shall be borne by the applicant. Additionally, the Zoning Inspector shall have the authority to waive some data required in the application if he/she determines that it is not needed to evaluate whether the application complies with the provisions of this Ordinance. The intent of this provision is to provide sufficient data and to avoid unnecessary delay or expense to the applicant and Village in the preparation and review of applications for Zoning Certificates. It is not the intent of this section to waive all requirements for a site and building plan, because such documentation is necessary to verify conformance with, for example, setbacks, buffers, use of primary and accessory structures, and parking requirements.

Section 1804. Process for BZA Application Review

Applications to the BZA shall be processed as follows:

- The application shall be submitted to the Zoning Inspector. The Zoning Inspector shall determine whether the application is complete within three (3) business days.
- The Zoning Inspector shall transmit the proposed
- If the application is determined to be complete, the BZA shall schedule the hearing and shall give at least ten (10) days public notice thereof in a newspaper of general circulation in the municipality and at least ten (10) days notice to property owners and occupants of land within two hundred (200) feet of the premises in the application.
- The BZA shall conduct the public hearing and decide to approve or disapprove the application. As part of the review process, the BZA may require modifications, request additional information, and/or submit the application to the Tuscarawas County Regional Planning Commission for recommendation. It is recommended but not required that modifications, revisions, and conditions should be recorded in the form of a list as a convenience in reviewing further submittals and inspections.

- The BZA shall decide to approve or disapprove the application within sixty (60) days of the date of determination that the application is complete.
- Approval of the application shall not be final until any revised plans required by BZA have been submitted by the applicant and approved by the Zoning Inspector for conformance with the approval by BZA.
- The Zoning Inspector shall issue a Zoning Certificate, as appropriate, for an application which has been approved. The Zoning Inspector shall transmit one copy of the approved application and Zoning Certificate to the applicant, and shall maintain one copy in the Village files. Alternatively, the Zoning Inspector shall transmit documentation of any application which is disapproved, along with the reasons for the disapproval, to the applicant and shall maintain one copy in the Village files.

Section 1805. BZA Decisions are Binding

Decisions of the BZA shall be binding upon the Zoning Inspector and observed by him/her, and he/she shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the BZA.

Section 1806. BZA Decisions May be Appealed to the Court of Common Pleas

The BZA may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirements, 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 whom the appeal is taken. Any party adversely affected by a decision of the BZA may appeal to the Court of Common Pleas of the county on the ground that the decision was unreasonable or unlawful.