

1105.06 SITE PLAN REVIEW.

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1105.06 SITE PLAN REVIEW.

CHAPTER 1105 Review Procedures

1105.05 MAJOR SUBDIVISIONS.

(a) Purpose. The purpose of the major subdivision process is to provide a method of review for any subdivision that exceeds the scope of a minor subdivision.

(b) Applicability. Any subdivision of land or replat of an existing subdivision that does not meet the applicability requirements of a minor subdivision in Section 1105.04(b): Applicability, shall be subject to the requirements of this section.

(c) Sale of Land in Subdivisions; Start of Construction.

(1) No owner, or authorized agent, of any land located within a subdivision shall transfer, sell, agree to sell any land by reference to, by exhibition of, or by the use of, a plan or plat of a subdivision, nor proceed with any construction work before such plan or plat has been approved and recorded in the manner prescribed in these regulations. Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not

exempt the transaction from the provisions of these regulations.

(2) The Zoning Inspector shall not issue a zoning permit for any structure or activity on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in these regulations.

(d) Major Subdivision Review Procedure. The review procedure for a major subdivision shall be as follows:

(1) Step 1 - Pre-Application Meeting (Optional). An applicant may request to have a pre-application meeting with staff or with the Planning Commission to informally discuss the application and any concept plans. Such meeting shall be subject to Section 1105.01(f).

(2) Step 2 - Application and Filing of the Preliminary Plat.

A. The applicant shall submit an application, including a preliminary plat, in accordance with Section 1105.01: Common Review Requirements, and with the provisions of this section.

B. The preliminary plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.

(3) Step 3 - Review and Recommendation on the Preliminary Plat by the Planning Commission.

A. The Planning Commission shall review the preliminary plat application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.

B. In making its recommendation, the Planning Commission shall make a recommendation to approve, approve with conditions, or deny the preliminary plat. The Planning Commission may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.

C. The Planning Commission shall make a recommendation within sixty (60) days of the filing of the preliminary plat (Step 2) unless the Planning Commission and subdivider agree to an extension of this time frame. If the Planning Commission fails to act within the sixty (60) days or there is no agreement for an extension of time, the application for a preliminary plat will be considered denied.

D. The Planning Commission shall forward their recommendation to the Clerk of Council.

(4) Step 4 - Review and Decision on the Preliminary Plat by the City Council.

A. The City Council shall review the preliminary plat application at its next regularly scheduled meeting, or at a special meeting, after Planning Commission's recommendation.

B. In making its decision, the City Council shall approve, approve with conditions, or deny the preliminary plat. The City Council may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.

C. Appropriate legislation that incorporates the total acreage and number of sublots and number of phases in the proposed subdivision shall be drafted by the Law Director for consideration by City Council.

D. The City Council shall make a decision by its second regularly scheduled meeting following receipt of the Planning Commission's recommendation (Step 4) unless the City Council and subdivider agree to an extension of this time frame.

E. If the Planning Commission recommends a denial of the preliminary plat application, then approval by City Council shall require an affirmative vote of no less than two-thirds (2/3) of the full membership of City Council to approve the preliminary plat.

F. If the City Council denies the preliminary plat, the applicant shall not move forward in the review process until a preliminary plat is approved by City Council.

G. In the event the City Council denies the preliminary plat or approves with conditions, the

Clerk of Council, on behalf of the City Council, shall provide the subdivider with a statement in writing setting forth the reasons for the denial or the conditions of approval.

H. Approval of the preliminary plat by the City Council does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat and improvement plans.

(5) Step 5 - Submission of Improvement Plans and Final Plat.

A. The applicant shall submit the final plat and related improvement plans and specifications in accordance with Section 1105.01: Common Review Requirements, and with the provisions of this section.

B. The improvement plans shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.

C. If a preliminary plat has been previously approved, the final plat shall have incorporated all changes required in the preliminary plat approval.

D. The applicant shall submit all necessary improvement plans and a final plat for review within one (1) year of the decision on the preliminary plat unless an alternative schedule is approved as part of the preliminary plat approval or the subdivider can show just cause for extending the deadline. For phased subdivisions, the deadline shall apply to the first phase of the subdivision. Failure to submit the final plat within this time frame shall void the preliminary plat approval and the subdivider will be required to submit a new application in accordance with these regulations.

E. If the applicant proposes to provide a financial guarantee for the public improvements in lieu of installing all public improvements prior to approval of the final plat, the applicant shall be required to provide all information required as part of Section 1121.05: Bond Required.

F. Upon determination by the Zoning Inspector that the final plat has been properly submitted, the final plat shall be accepted as being filed.

G. In cases where the applicant proposes to develop the subdivision in phases, the final plat and improvement plans shall be submitted for each individual phase.

(6) Step 6 - City Engineer Review and Decision on Improvement Plans.

A. Once the all comments have been collects, the City Engineer shall make a decision to approve, approve with modifications, or deny approval of the improvement plans.

B. If the City Engineer approves with modifications, the applicant shall be required to revise the improvement plans in accordance with all comments and resubmit the plans prior to proceeding with the final plat review.

C. If the City Engineer denies approval of the improvement plans, the applicant shall not proceed with final plat review and shall be required to resubmit new improvement plans (Step 6) or resubmit a new preliminary plat (Step 2).

(7) Step 7 - Review and Recommendation on the Final Plat by the Planning Commission.

A. The Planning Commission shall review the final plat at its next regularly scheduled meeting, or at a special meeting, after the improvement plans have been approved by the City Engineer and the applicant has submitted revised improvement plans.

B. The Planning Commission shall make a recommendation to approve, approve with conditions, or deny the final plat. The Planning Commission may also continue the meeting if questions regarding the plat are not satisfactorily answered by the applicant.

C. The Planning Commission shall make a recommendation within sixty (60) days of the submission of approved improvement plans (Step 8) unless the Planning Commission and subdivider agree to an extension of this time frame. If the Planning Commission fails to act within

the sixty (60) days or there is no agreement for an extension of time, the application for a final plat will be considered denied.

D. If the Planning Commission denies the final plat, the applicant shall not move forward in the review process until a final plat is approved by the Planning Commission.

E. In the event the Planning Commission denies the final plat or approves with conditions, the Planning Commission shall provide the subdivider with a statement in writing setting forth the reasons for the denial or the conditions of approval.

F. Approval of the final plat by the Planning Commission shall not be an acceptance by the public of the offer of dedication of any street, or other public ways or open space on the final plat unless they are accepted by City Council in the form of the adoption of an ordinance.

G. The final plat shall be held until acceptance of all improvements in Step 10. No final plat shall be recorded until all improvements and areas offered for parks, open space, or public rights-of-way have been accepted by City Council.

H. At the completion of construction, and before acceptance of the public improvements, the developer shall furnish the City a set of record or "as-built" reproducible drawings as well as a digital copy that is compatible with the Director of Public Service's software showing the locations of all public improvements including the sizes and elevations of all underground utilities.

(8) Step 8 - City Council Decision on the Final Plat and Acceptance of Improvements.

A. The City Council shall review the final plat application at its next regularly scheduled meeting, or at a special meeting, after Planning Commission's recommendation.

B. In making its decision, the City Council shall approve, approve with conditions, or deny the preliminary plat. The City Council may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.

C. Appropriate legislation shall be drafted by the Law Director for consideration by City Council.

D. The City Council shall make a decision by its second regularly scheduled meeting following receipt of the Planning Commission's recommendation (Step 9) unless the City Council and subdivider agree to an extension of this time frame.

E. If the Planning Commission recommends a denial of the final plat application, then approval by City Council shall require an affirmative vote of no less than two-thirds of the full membership of City Council to approve the preliminary plat.

F. If the City Council denies the final plat, the applicant shall not move forward in the review process until a final plat is approved by City Council.

G. In the event the City Council denies the preliminary plat or approves with conditions, the Clerk of Council, on behalf of the City Council, shall provide the subdivider with a statement in writing setting forth the reasons for the denial or the conditions of approval.

H. If the final plat is approved, the City, through action by the City Council, may accept public improvements made by a subdivider that meet the following conditions:

i. The public improvements have been made in accordance with the requirements of this code, and any other manuals or documents referenced in Chapter 1121: Subdivision Design Standards;

ii. Installation of the public improvements has been completed in accordance with the applicable design standards;

iii. All final inspections required by these regulations have been carried out by the City, and said public improvements were found to be acceptable by the Director of Public Service; and

iv. After all public improvements have been installed to the satisfaction of the City, the

subdivider shall submit an original copy of as-built improvement plans (showing how all public improvements were actually installed) to the Director of Public Service in a format acceptable to the Director of Public Service.

I. After all public improvements have been installed in accordance with the subdivision agreement and these regulations and the subdivider has complied with this section, the City Council may, by ordinance, accept the public improvements for maintenance with any applicable financial guarantee.

(9) Step 9 - Disposition of Approved Plat and Recordation.

A. All required deeds, agreements, and other required legal instruments shall be submitted to the Zoning Inspector within forty-five (45) days from the date of the Planning Commission's approval or such approval shall thereafter be rendered null and void. Such submission shall be required in order to have time for mandatory signatures.

B. Before an approved plat can be recorded, it shall be signed by the Planning Commission Chairman, the City Engineer, the Clerk of Council, and the Law Director only provided that all conditions imposed by the Planning Commission and Council, as applicable, have been met. Any plat recorded which has not been approved according to the regulations in this chapter shall be considered invalid.

C. The subdivider shall then be responsible for submitting the signed plat to the Lorain County Recorder for the recording of the lots as legal lots of record and providing a copy of said plat to the City after recording.

D. The approval of a plat shall expire within 120 days after City Council approval is effective unless the plat has been duly filed and recorded, by the applicant as required by law, and the original tracing of the plat has been filed with the Zoning Inspector.

(e) Review Criteria. In order to approve a major subdivision, the Planning Commission and City Council, as appropriate, shall determine the following:

- (1) That the major subdivision complies with all applicable provisions of this code;
- (2) That the major subdivision does not conflict with other regulations, plans, or policies of the City;
- (3) That the proposed subdivision is designed to be harmonious with the existing immediate or surrounding area or in keeping with the intended character of such area;
- (4) That the proposed streets are in accordance with adopted plans and policies, and have been coordinated with existing streets and that adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion in public streets;
- (5) That the proposed subdivision will not adversely affect the delivery of governmental services;
- (6) That applicable review agencies have no objections that cannot be resolved by the applicant; and
- (7) That the final plat and improvement plans conform to the approved preliminary plat, if submitted and approved.

(f) Amendments and Withdrawal of Application.

(1) No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after final approval has been given by the Planning Commission and an endorsement is made in writing on the plat, unless the plat is first resubmitted and the changes approved by the Planning Commission.

(2) If the applicant finds, in the process of preparing improvement plans, that the approved preliminary plat, if submitted, is not workable and changes in layout are required, the applicant

shall inform the Director of Public Service. The Director of Public Service may require that a revised preliminary plat be submitted for re-approval following the review procedure in Section 1105.05(d): Major Subdivision Review Procedure, above if the changes significantly alter the design of the subdivision. If the proposed changes are technical or minor and do not substantively alter the approved preliminary plat, the Director of Public Service may approve the revisions. Failure to submit and receive approval of a revised preliminary plat shall void approval of the preliminary plat and any new submission shall be subject to a new application.

(3) During the final plat process, the Director of Public Service are authorized to allow minor changes related to the public improvements or design where there is minimal impact to the overall design of the subdivision. This shall not give the Director of Public Service the authority to vary the requirements of this code.

(4) Before approval of the final plat, the submitted plat may be withdrawn or modified. If modified, the review process shall be repeated. If the application is withdrawn, any application fees shall be forfeited.

(5) If during the course of construction, any changes or modifications are encountered that are not in conformance with the original approved improvement plans, the subdivider shall submit the modified improvement plans (which have now become as-built drawings) to the Director of Public Service, who, if in agreement with such modifications, shall sign these drawings to indicate approval of the modifications. If the Director of Public Service does not approve the modifications, the applicant shall be required to bring the improvements into compliance with the approved improvement plans or the City may utilize the financial guarantee to correct the issue.

(Ord. 26-22. Passed 4-26-22.)

1105.06 SITE PLAN REVIEW.

(a) Purpose. The purpose of the site plan review procedure is to ensure that multi-family residential development and all nonresidential developments comply with the development and design standards of this code. Zoning permits for any building, structure, expansions, or use of land subject to this section, shall not be issued without an approved site plan.

(b) Applicability. The following forms of development shall require site plan review by the Planning Commission in accordance with this section:

(1) New construction, structural alterations, and site improvements of all uses in nonresidential zoning districts and in R-2 and R-3 Districts;

(2) All conditional uses, in all zoning districts;

(3) Any proposal to alter, reconstruct, or otherwise modify any existing or previously approved site plan for a permitted use, conditional use, or similar use that increases the number of dwelling units in a multi-family development; or changes the use in a manner which requires an increase in the amount of parking or a change in the site's circulation.

(4) Exemptions. The following forms of development within the above zoning districts shall be exempt from site plan review:

A. Single-family dwellings; and

B. Re-occupancy of an existing building or the internal construction or change in floor area of a building or structure that does not increase the gross floor area, increase the intensity of use, or affect parking or landscaping requirements on a site that meets all of the development standards of this code; and

C. Accessory and temporary uses as established in Chapter 1111: Accessory and Temporary Use Regulations.

(c) Site Plan Review Procedure. The site review procedures shall proceed as follows:

(1) Step 1 - Pre-Application Meeting (Optional). An applicant may request to have a pre-application meeting with staff or the Planning Commission to informally discuss the application and any concept plans. Such meeting shall be subject to Section 1105.01(f).

(2) Step 2 - Application. The applicant shall submit an application in accordance with Section 1105.01: Common Review Requirements, and with the provisions of this section.

(3) Step 3 - Planning Commission Review and Decision.

A. The Planning Commission shall review the site plan application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.

B. In reviewing the application, the Planning Commission shall at a minimum, consider the review criteria of this section.

C. Within sixty (60) days of the Zoning Inspector determining that the application is complete, the Planning Commission shall make a decision on the application. In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.

D. If the Planning Commission fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed approved.

(d) Review Criteria. In order to approve a site plan, the Planning Commission shall determine that:

(1) The proposed development is consistent with all the requirements of this code, and other related codes and ordinances of the City;

(2) The proposed development is in compliance with the applicable zoning district regulations;

(3) The proposed development complies with any established standards or requirements in any adopted City plans;

(4) The proposed development meets all the requirements or conditions of any applicable development approvals (e.g., previously approved Planned Residential Developments, conditional use approvals, variance approvals, etc.);

(5) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;

(6) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this code;

(7) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;

(8) The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas;

(9) The building materials are appropriate to ensure that they can withstand weathering and they are consistent with material used for adjacent buildings;

(10) The architectural details and ornaments are meaningful to the overall design and appropriate for the size and scale of the building and for weathering;

(11) Lighting, signs, and landscaping are all appropriately sized and located in relation to the proposed development;

(12) Points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments;

(13) Adequate provision is made for emergency vehicle access and circulation; and

(14) If the project is to be carried out in progressive stages, each stage shall be so planned that the foregoing criteria are complied with at the completion of each stage.

(e) Significance of an Approved Site Plan.

(1) An approved site plan shall become, for the proposed development, a binding commitment of the specific elements approved for development. The approved site plan may be transferred to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit. Such a transfer shall occur only upon approval of the Zoning Inspector. A request for such a transfer or change of ownership shall be presented to the Zoning Inspector and granted only if the new ownership entity satisfies the administrative, financial, legal, and all other financial guarantees approved with the original site plan.

(2) All construction and development under any zoning permit and building permit shall be in accordance with the approved site plan. Any departure from such plan shall be cause for revocation of the zoning permit and/or building permit, and the property owner or other responsible parties are subject to penalties as prescribed by this code.

(f) Time Limit.

(1) The applicant shall submit a completed application for a zoning permit within one (1) year of the date the site plan was approved or the site plan approval shall expire.

(2) Upon expiration of a site plan approval, a new application, including all applicable fees, shall be required before a new site plan will be reviewed.

(3) Upon written request, one extension of six (6) months may be granted by the Planning Commission if the applicant can show good cause for a delay.

(g) Appeals. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the BZBA as established in Section 1105.10: Appeals.

(Ord. 26-22. Passed 4-26-22.)

1105.07 ALTERNATIVE EQUIVALENT REVIEW.

(a) Purpose. Alternative equivalent review is a procedure that allows applicants to propose unique design options as an alternative to a development standard established in this code provided it meets or exceeds the intent of the design-related provisions of this code. It is not a variance, waiver, or weakening of regulations; rather, this procedure permits a site-specific plan that is equal to or better than the strict application of a design standard specified in this code. Alternative equivalent compliance shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.

(b) Applicability. The alternative equivalent review procedure shall be available only for the following sections of this code:

- (1) Section 1113.08: Exterior Lighting;
- (2) Chapter 1115: Landscaping and Screening Standards; and
- (3) Chapter 1117: Parking and Access Standards.

(c) Review Timing. A request for alternative equivalent review shall be made concurrently with a site plan review.

(d) Alternative Equivalent Review Procedure. The review procedure for any alternative equivalent review application shall be as follows:

(1) Step 1 - Application. The applicant shall submit an application in accordance with Section 1105.01: Common Review Requirements, as part of a site plan review application, and in addition to any other provisions of this section.

(2) Step 2 - Planning Commission Review and Recommendation.

A. The Planning Commission shall review the code text or map amendment application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be

complete.

B. In reviewing the application, the Planning Commission shall at a minimum, consider the comments from staff and the review criteria of this section.

C. The Planning Commission shall make a recommendation on the application. In making its recommendation, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.

D. If approved, any zoning permit or other related applications shall demonstrate compliance with the alternative equivalent review approval.

(3) Step 3 - City Council Review and Decision.

A. Following receipt of the recommendation from the Planning Commission (Step 2), the application shall be placed on City Council's agenda for the next regularly scheduled meeting, if in compliance with notification requirements, or City Council shall set a time for a public hearing on the proposed alternative equivalent review.

B. Notification of the public hearing shall be provided in accordance with Section 1105.01(i): Public Notification for Public Hearings.

C. City Council shall review an alternative equivalent review application during a public hearing. In reviewing the application, City Council shall at a minimum, consider the recommendation from Planning Commission and the review criteria of this section.

D. Within a reasonable time after the close of the public hearing, City Council shall adopt, adopt with some modification, or deny the recommendation of the Planning Commission.

i. If the Planning Commission recommends a denial of the conditional use application, then approval by City Council shall require an affirmative vote of no less than two-thirds (2/3) of the full membership of City Council.

ii. In all other cases, then approval by City Council shall only require concurring vote of a simple majority of the full membership of City Council.

(e) Review Criteria. Decisions on an alternative equivalent review application shall be based on consideration of the following criteria:

(1) That the proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;

(2) That the proposed alternative achieves the goals and policies of the comprehensive plan to the same or better degree than the subject standard;

(3) That the proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and

(4) That the proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this code.

(f) Conditions. The Planning Commission or City Council may impose conditions on an approval for alternative equivalent review provided such conditions are related to ensuring the performance of the alternative equivalent review to meet or exceed the subject standard. Such conditions may include, required timeframes, amendments or revisions to the proposal, or the ability to revoke an approval for alternative equivalent review.

(g) Decisions. Any decision on an alternative equivalent review application shall not be binding on the City related to future applications requesting an alternative to any of the applicable standards. Each case shall be review and decided upon based on the individual circumstances.

(h) Time Limit.

(1) An approval of an alternative equivalent review application shall expire if the zoning permit expires.

(2) Upon expiration of an alternative equivalent review approval, a new application, including all applicable fees, shall be required before a new application will be reviewed.

(i) Appeals. Any person or entity claiming to be injured or aggrieved by any final action of City Council shall have the right to appeal the decision the Court of Common Pleas.

(Ord. 26-22. Passed 4-26-22.)

1105.08 VARIANCES.

(a) Purpose. The purpose of a variance is to provide limited relief from the requirements of this code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this code. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

(b) Variance Review Procedure. The review procedure for a variance shall be as follows:

(1) Step 1 - Application. The applicant shall submit an application in accordance with Section 1105.01: Common Review Requirements, and with the provisions of this section.

(2) Step 2 - BZBA Review and Decision.

A. The BZBA shall hold a public hearing on the variance application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.

B. Notification of the public hearing shall be provided in accordance with Section 1105.01(i): Public Notification for Public Hearings.

C. In reviewing the application, the BZBA shall at a minimum, consider the review criteria of this section.

D. The BZBA may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance.

E. In making its decision, the BZBA may approve, approve with modifications or supplementary conditions, or deny the application.

F. In making its decision, the BZBA shall make specific findings of fact based directly on the particular evidence presented that the reasons set forth in the application and as presented by the applicant during the public hearing, justify the approval, approval with modifications or supplementary conditions, or denial of the variance application that will make possible a reasonable use of the land, building, or structure.

G. Within sixty (60) days of the close of the public hearing, the BZBA shall render a decision on the variance application. The Zoning Inspector shall notify the appellant in writing of the decision of the BZBA.

H. If the BZBA fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed approved.

I. The decision of the BZBA shall become effective immediately.

J. In approving a variance, the BZBA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to be ensure compliance with the standards of this section and the purpose of this code. Any conditions established by the BZBA shall relate directly to the requested variance.

K. Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of Chapter 1129: Enforcement and Penalties.

(c) Review Criteria.

(1) Area or Dimensional Variance. Where an applicant is seeking an area or dimensional

variance, the following factors shall be considered and weighed by the BZBA to determine if a practical difficulty exists that would justify approval of the variance. However, no single factor listed below may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or proximity to non-conforming and inharmonious uses, structures or conditions;

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

C. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;

F. Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);

G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;

I. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district; and

J. Whether a literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code.

(2) Use Variance. In order to grant a use variance, the BZBA shall determine that strict compliance with the terms of this code will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;

B. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;

C. The hardship condition is not created by actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);

D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;

E. If there is an existing building on the lot, such building, due to its design, cannot be reasonably reused for a permitted use in the district;

F. The granting of the variance will not adversely affect the public health, safety or general welfare;

G. The variance will be consistent with the general spirit and intent of this code; and

H. The variance sought is the minimum that will afford relief to the applicant.

(d) Time Limit.

(1) The applicant shall submit a completed application for a zoning permit and start work within one (1) year of the date the variance was approved or the approval shall expire.

(2) Upon expiration of a variance approval, a new application, including all applicable fees, shall be required before a variance application will be reviewed.

(3) Upon written request, one extension of one (1) year may be granted by the Zoning Inspector if the applicant can show good cause for a delay.

(4) As part of the variance approval, the BZBA may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(e) Demolition Related to Variance Approval.

(1) The BZBA may grant a variance conditioned on the applicant demolishing an existing structure. Should the applicant fail to demolish the structure within thirty (30) days of completion of the structure, or within six (6) months from the issuance of the building permit, whichever occurs first, the variance shall be rescinded. The Building Inspector shall inspect the property and shall revoke any building permits issued pursuant to the order of the BZBA if the variance applicant fails to timely comply with all conditions set by the BZBA.

(2) Whoever fails to comply with the provisions of this section by not demolishing a structure within the time limits set forth herein shall be in violation of this code and subject to the penalties established in Chapter 1129: Enforcement and Penalties.

(f) Appeals. Any person or entity claiming to be injured or aggrieved by any final action of the BZBA shall have the right to appeal the decision the court of common pleas as provided in ORC Chapters 2505 and 2506.

(Ord. 26-22. Passed 4-26-22.)

1105.09 ZONING PERMIT.

(a) Purpose. A zoning permit shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of this code, and to otherwise protect the public health, safety, and general welfare of the citizens of the City.

(b) Applicability.

(1) No building or other structure shall be erected, moved, altered or added to, nor shall any building, structure or land be used or changed in use without a zoning permit issued by the Zoning Inspector. A change in tenancy or ownership of a residential dwelling unit shall be exempt from the zoning permit requirement.

(2) A zoning permit may be required for the establishment of certain temporary or accessory use as established in Chapter 1111: Accessory and Temporary Use Regulations.

(3) The use of vacant land shall require the issuance of a zoning permit.

(4) Unless otherwise specifically exempted in Section Chapter 1119: Signs, signs shall require a zoning permit.

(5) Zoning permits shall be issued only in conformity with the provisions of this code unless the application is subject to an approval by the BZBA or Planning Commission providing for additional standards, conditions, or modifications, in which case, the zoning permit shall be issued in conformity with the provisions of those approvals, as applicable.

(6) Failure to obtain a zoning permit shall be a violation of this code subject to the provisions of Chapter 1129: Enforcement and Penalties.

(c) Terminology and Simultaneous Review.

(1) For the purposes of this code, the zoning permit review shall be an administrative review that may be applied to permits or certificates of other names (e.g., sign permits, temporary use

permits, etc.) if stated in this code. In such cases, the procedure of this section shall still apply.

(2) Where a zoning permit or similar administrative permit is required in addition to a building permit, such permits may be reviewed simultaneously under the building permit application.

(d) Zoning Permit Review Procedure. The review procedure for a zoning permit shall be as follows:

(1) Step 1 - Application. The applicant shall submit an application in accordance with Section 1105.01: Common Review Requirements, and with the provisions of this section.

(2) Step 2 - Zoning Inspector Review and Decision.

A. The Zoning Inspector may distribute the application to other staff members and other City departments to solicit comment on the zoning permit application.

B. For any zoning permit application for development or applicable activities in a special flood hazard area, the City Engineer shall be required to also review and make a decision on the zoning permit application as it relates to any flood-related regulations. If the City Engineer recommends denial based on flood-related regulations, such recommendation shall be made to the Zoning Inspector who shall not approve the application.

C. Within thirty (30) days after the application is determined to be complete, the Zoning Inspector shall make a decision either approving or denying the permit application. An extension on the decision may be granted with approval from the applicant. Where the proposed development is within a special flood hazard area, the City Engineer shall be required to make a decision within the same timeframe.

D. Prior to finalizing approval of the application, the Zoning Inspector shall have the authority to provide comments to the applicant regarding necessary revisions to bring the application into full compliance. The application shall not be deemed formally approved until the applicant makes all of the appropriate changes and submits all necessary revised forms, maps, and documents to the Zoning Inspector.

(e) Review Criteria. In order to approve any zoning permit, the Zoning Inspector shall determine the following:

(1) The application complies with all applicable provisions of this code and the applicable zoning district; and

(2) The application complies with all approved plans, conditions, or other development approvals.

(f) Time Limit and Abandoned or Suspended Work.

(1) The applicant shall obtain an approved building permit, and begin construction, within one (1) year of the date the zoning permit is approved or the approval shall be revoked. The date of approval shall be the date the Zoning Inspector provides a signed copy of the permit to the applicant.

(2) For activities that do not require a building permit, the activity shall have been substantially begun within one (1) year of approval and is thereafter pursued to completion, as determined by the Zoning Inspector.

(3) The deadlines in paragraph (1) or (2) may be reduced if the work is mandated by this code or by order of the Zoning Inspector, Director of Public Service, or BZBA. In such cases, the deadline for construction shall be noted on the zoning permit.

(4) Time limits for permitted temporary uses and structures shall be as authorized in Section 1111.02: Temporary Uses and Structures. An approval of a zoning permit for a temporary use shall include the approved start and end dates for the proposed temporary use.

(5) If construction activities for which a zoning permit has been issued are abandoned or

suspended for a period of six (6) months after the time of commencing the work, the zoning permit approval shall be revoked. Abandonment shall be defined as the lack of building activity or progress towards achieving the scope of work defined in the zoning permit.

(6) Upon written request, up to two extensions of six (6) months may be granted by the Zoning Inspector if the applicant can show good cause for a delay.

(7) The Zoning Inspector shall notify the application of the revocation of a zoning permit including notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.

(8) Upon revocation of a zoning permit approval, a new application, including all applicable fees, shall be required before a new zoning permit application will be reviewed.

(9) The above time limits shall not apply if alternative time limits have been approved by Planning Commission or City Council as part of a site plan or Planned Residential Development approval.

(10) For the purposes of this section, construction is deemed to have begun when all necessary excavation and piers or footings for one or more principal buildings included in the plan shall have been completed.

(g) Revoking a Zoning Permit. A zoning permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the BZBA in accordance with Section 1105.10: Appeals, of this code.

(h) Appeals. Any person or entity claiming to be injured or aggrieved by any final action of the Zoning Inspector shall have the right to appeal the decision to the BZBA as established in Section 1105.10: Appeals.

(Ord. 26-22. Passed 4-26-22.)

1105.10 APPEALS.

(a) Purpose. This section sets out the procedures to follow when a person claims to have been aggrieved or affected by an administrative decision made in the administration or enforcement of this code.

(b) Applicability.

(1) An appeal may be made regarding any administrative decision made in the administration and enforcement of this code including administrative decisions by the Zoning Inspector, Planning Commission, or Director of Public Service.

(2) An appeal may not be made to the BZBA when the Planning Commission is making a recommendation to City Council as part of a legislative action such as a code text or map amendment.

(c) Initiation. Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this code.

(d) Appeals Review Procedure. The review procedure for appeals shall be as follows:

(1) Step 1 - Submission of Appeal. Within thirty (30) days of the administrative order, decision, determination, or interpretation, the person appealing the decision or their authorized agent shall submit all required information to the Zoning Inspector in accordance Section 1105.01: Common Review Requirements.

(2) Step 2 - Forwarding of the Record to the BZBA. Upon receiving the written appeal of an administrative decision or determination, the Zoning Inspector shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision or determination

to the BZBA. This material shall constitute the record of the appeal.

(3) Step 3 - BZBA Review and Decision.

A. The BZBA shall hold a public hearing on the variance application at its next regularly scheduled meeting, or at a special meeting, after the appeal has been filed with the Zoning Inspector.

B. Notification of the public hearing shall be provided in accordance with Section 1105.01(i): Public Notification for Public Hearings.

C. In reviewing the appeal, the BZBA shall at a minimum, consider the review criteria of this section.

D. Within thirty (30) days of the close of the public hearing, the BZBA shall render a decision on the appeal. The Zoning Inspector shall notify the appellant in writing of the decision of the Board.

E. If the BZBA fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed approved.

F. The decision of the BZBA shall become effective immediately.

(e) Review Criteria. A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this code.

(f) Stay. A properly submitted appeal shall stay all administrative proceedings by the City in furtherance of the action appealed, unless the Zoning Inspector certifies to the BZBA that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the BZBA or by a court of competent jurisdiction, for good cause shown.

(g) Appeals of BZBA Decisions. Any person or entity claiming to be injured or aggrieved by any final action of the BZBA shall have the right to appeal the decision the court of common pleas as provided in ORC Chapters 2505 and 2506.

(Ord. 26-22. Passed 4-26-22.)

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- ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO
- ORDINANCE NO. 116-84
- ORDINANCES OF SHEFFIELD LAKE
- orded in the manner prescribed in these regulations
- ordance with Section 1105
- ordance with these regulations
- ordance with all comments and resubmit the plans prior to proceeding with the final plat review
- ordinance. G
- orded until all improvements and areas offered for parks, open space, or public rights-of-way have been accepted by City Council
- ord or "as-built" reproducible drawings as well as a digital copy that is compatible with the Director of Public Service's software showing the locations of all public improvements inc
- ordance with the requirements of this code, and any other manuals or documents referenced in Chapter 1121: Subdivision Design Standards;
- ordance with the applicable design standards;
- ordance with the subdivision agreement and these regulations and the subdivider has complied with this section, the City Council may, by ordinance, accept the public improvements for
- ordation
- order to have time for mandatory signatures
- orded, it shall be signed by the Planning Commission Chairman, the City Engineer, the Clerk of Council, and the Law Director only provided that all conditions imposed by the Planning
- orded which has not been approved according to the regulations in this chapter shall be considered invalid
- order for the recording of the lots as legal lots of record and providing a copy of said plat to the City after recording
- effective unless the plat has been duly filed and recorded, by the applicant as required by law, and the original tracing of the plat has been filed with the Zoning Inspector
- order to approve a major subdivision, the Planning Commission and City Council, as appropriate, shall determine the following:
- ordance with adopted plans and policies, and have been coordinated with existing streets and that adequate measures have been taken to provide ingress and egress so as to minimize tra
- Ord. 26-22
- ordance with this section:
- order to approve a site plan, the Planning Commission shall determine that:
- ordinances of the City;

- adopted City plans;
- ordinance with the approved site plan
- ordinary, exceptional, or unique situations that were not caused by the applicant's act or omission
- effective immediately
- order to grant a use variance, the BZBA shall determine that strict compliance with the terms of this code will result in unnecessary hardship to the applicant
- ordinarily found in the same zone or district;
- order relief to the applicant
- order of the BZBA if the variance applicant fails to timely comply with all conditions set by the BZBA
- ordinance with the provisions of this section in order to ensure that proposed development complies with the standards of this code, and to otherwise protect the public health, safety,
- order to approve any zoning permit, the Zoning Inspector shall determine the following:
- order of the Zoning Inspector, Director of Public Service, or BZBA
- order, decision, determination, or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this code
- order, decision, determination, or interpretation, the person appealing the decision or their authorized agent shall submit all required information to the Zoning Inspector in accordance
- order to the BZBA
- order of the appeal
- order that the decision or determination fails to comply with either the procedural or substantive requirements of this code
- order is granted by the BZBA or by a court of competent jurisdiction, for good cause shown
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