

1353.40 PROCEDURE AT HEARINGS.

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OH

Sheffield Lake

Codified Ordinances of Sheffield Lake, OH

1353.40 PROCEDURE AT HEARINGS.

CHAPTER 1353 Flood Damage Prevention

1353.38 APPEALS.

Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 30 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal,

give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(Ord. 9-21. Passed 2-9-21.)

1353.39 VARIANCES.

Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(a) Application for a Variance.

(1) Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.

(2) Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

(3) All applications for a variance shall be accompanied by a variance application fee of two hundred dollars (\$200.00) set in the schedule of fees adopted by the City of Sheffield Lake.

(b) Notice of Public Hearing. The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

(c) Public Hearing. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

(1) The danger that materials may be swept onto other lands to the injury of others.

(2) The danger to life and property due to flooding or erosion damage.

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(4) The importance of the services provided by the proposed facility to the community.

(5) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.

(6) The necessity to the facility of a waterfront location, where applicable.

(7) The compatibility of the proposed use with existing and anticipated development.

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Variances shall only be issued upon:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.

(3) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.

(4) A determination that the structure or other development is protected by methods to minimize flood damages.

(5) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

(d) Other Conditions for Variances.

(1) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1353.39(c)(1)-(11) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 9-21. Passed 2-9-21.)

1353.40 PROCEDURE AT HEARINGS.

(a) All testimony shall be given under oath.

(b) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.

(c) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.

(d) The administrator may present evidence or testimony in opposition to the appeal or variance.

(e) All witnesses shall be subject to cross-examination by the adverse party or their counsel.

(f) Evidence that is not admitted may be proffered and shall become part of the record for appeal.

(g) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.

(h) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(Ord. 9-21. Passed 2-9-21.)

1353.41 APPEAL TO THE COURT.

Those aggrieved by the decision of the Appeals Board may appeal such decision to the Lorain County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code. (Ord. 9-21. Passed 2-9-21.)

1353.42 COMPLIANCE REQUIRED.

(a) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1353.20.

(b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1353.99.

(c) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1353.99.

(Ord. 9-21. Passed 2-9-21.)

1353.43 NOTICE OF VIOLATION.

Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (a) Be put in writing on an appropriate form;
- (b) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial actions, which, if taken, will effect compliance with the provisions of these regulations;
- (c) Specify a reasonable time for performance;
- (d) Advise the owner, operator, or occupant of the right to appeal;
- (e) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(Ord. 9-21. Passed 2-9-21.)

1353.99 VIOLATIONS AND PENALTIES.

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a second-degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Sheffield Lake. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Sheffield Lake from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Sheffield Lake shall prosecute any violation of these regulations in accordance with the penalties stated herein.

(Ord. 9-21. Passed 2-9-21.)

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- Repealed)
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- order compliance with these regulations as hereinafter provided
- order shall:

- order remedial actions, which, if taken, will effect compliance with the provisions of these regulations;
- order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, re
- ordinance with the penalties stated herein
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