

1. WHAT IS THE BOARD OF ZONING APPEALS?

The Board of Zoning Appeals (BZA) consists of five resident volunteer members appointed by the mayor. One member is a member of the planning commission and all five members have an equal vote.

It is the duty of the BZA to hear and decide applications for exceptions to and variances from the zoning ordinances of the municipality and to hear and decide all appeals from orders, decisions and regulations of municipal administrative officials or agencies in regard to the zoning ordinances. The BZA shall not permit any exception or variance from the zoning ordinances unless it finds that a practical difficulty would exist as a result of the literal application of the zoning ordinances because of some peculiarity of the property in question as distinct from the other properties in the same district. In such cases the granting of the exception or variance must not be detrimental to the public welfare or injurious to the property in the immediate surrounding area, and must be in keeping with the general purpose, intent and objective of the municipal zoning ordinances.

To grant a variance, the BZA has to make certain findings of fact. These findings must be based upon the physical relationships and characteristics of the particular property and how it differs from similarly zoned properties. Personal needs of the current owner are not necessarily a basis for granting zoning variances. The practical difficulty has to be unique to the property, and not the current owner. The Supreme Court of Ohio established the following factors to be considered and weighed in the review and granting of

variances in the 1986 case *Duncan v. Village of Middlefield*:

- whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance;
- whether the variance substantial;
- whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- whether the variance would adversely affect the delivery of governmental services;
- whether the property owner purchase the property with the knowledge of the zoning restriction;
- whether the property owner's predicament feasibly can be obviated through some other method other than a variance;
- whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The Court indicated that these factors should be considered, however they also stated that this is not an exclusive list. Lastly, financial reasons or personal hardship is not grounds for granting a variance.

2. SUBMITTAL OF VARIANCE REQUESTS

Initial inquires are directed to the building department. Generally when a building permit is requested that does not comply with the municipal zoning ordinances, the permit is denied and a variance is then required if the applicant wishes to proceed with the request. You will be given a BZA application and cover sheet explaining what is to be submitted. The building department will issue a memo to the clerk of commissions stating what zoning ordinance a variance is being requested to. BZA will also address any appeals from orders, decisions and regulations of municipal administrative officials or agencies in regard to the zoning ordinances.

You will need to submit the following to the clerk of commissions:

Fee:

- \$100.00 (Make checks payable to the City of Westlake; Visa & MC accepted)

10 collated sets which include one of each:

- Completed application form.
- Letter and/or brief explaining in detail a reason for applying and indicating a practical difficulty as stipulated in Chapter 1233.04(d) subsection (1),(2) and (3) or Chapter 1223.19.
- Copy of the Building Department application, including all drawings, etc.
- Copy of plot plan or map showing the proposal.

Address letter to:

Westlake Board of Zoning Appeals
Attn: Nicolette A. Sackman, MMC
Clerk of Commissions
27700 Hilliard Boulevard
Westlake, OH 44145

The deadline for submittals is the first Thursday of the month. The BZA meets the last Tuesday of the month when an application has been received.

3. SUBMITTAL OF APPEAL REQUESTS

An appeal from any decision of the director of inspections or director of planning, in regard to zoning ordinances may be made to the BZA by any elected city official or by any person aggrieved or affected by such decision. The applicant will, within thirty days after the decision is rendered file a notice of appeal application with the clerk of commissions. A \$100 nonrefundable fee is required. When filing notice of an appeal, the applicant will also file ten copies of a brief setting forth in detail the grounds of the appeal. The deadline for submittals is the first Thursday of the month. The BZA meets the last Tuesday of the month when an application has been received.

4. BZA REVIEW PROCESS

Once an application for appeal or variance is received by the clerk of commissions, she will publish notice of a public hearing twice monthly in a newspaper of general circulation, no less than four days before the hearing. Not more than ten days nor less than five days prior to the public hearing, written notice of the hearing for an appeal or variance will be sent by regular mail to any person, firm or corporation owning premises located within 300' of the land to which such appeal or application relates.

The applicant or representative is required to be in attendance at the BZA public hearing to present their request. You will need to bring copies of any drawings, photographs, letters or documentation supporting your request to the hearing.

At the BZA hearing the chairman will announce the appeal or variance request. You will be asked to come forward, be sworn in, state your name and address for the record and asked to present your case. Afterwards the board will discuss and review the request. The chairman will open the floor for testimony or questions from the audience. After review the board may reverse, deny or affirm, wholly or in part, the appeal or variance request. The board is also within its powers to table the matter, to subpoena and require the attendance of witnesses, compel testimony and the production of books, papers and other evidence pertinent to any issue before the board.

The board will make a motion and vote at the hearing so you will know if your request has been tabled, approved or denied. If your request is approved the building department will be notified no later than forty-eight hours of the granting of any request and if there were any special conditions.

If you have questions please contact the clerk of commissions at 440-617-4310.

www.cityofwestlake.org

What you need to know about the Board of Zoning Appeals

Review Process



City of Westlake
Planning Department
440-617-4310

The information in this brochure is intended as a general guideline. Please refer to the Codified Ordinances of the City of Westlake for additional information and any updates.