BOARD OF ZONING APPEALS

Information Packet

The Board of Zoning Appeals ("BZA") is provided for in Article XII of the Blue Ash Charter and has the authority to hear Appeals to the Zoning Code as specified in Part Eleven of the Municipal Code (Planning and Zoning):

1125.06 BOARD OF ZONING APPEALS

…

(c) Powers.

(1) Powers of the Board of Zoning Appeals.

A. Variances. To hear and decide upon requests for variances from an eligible provision of this Zoning Code. The procedure for variance application and review is found in Section 1127.07.

B. Administrative Appeals. To hear and decide appeals where it is alleged that there is an error in any interpretation, judgment, determination, or decision by the Community Development Director or the Planning Commission in the administrative and/or enforcement of the provisions of this Zoning Code. The procedure pertaining to administrative appeals is found in Section 117.08.

C. Expansion of a Nonconforming Use. To hear and decide requests for the expansion of a nonconforming use subject to Section 1139.05.

D. Location of District Boundary Lines in Question. Where the street or lot layout actually on the ground or as recorded differs from the street or lot lines as shown on the zoning map, the Board of Zoning Appeals, after due notice, shall interpret the map in a way as to carry out the intent and purpose of this chapter and map for the particular section or district in question.

SCHEDULE

Regular meetings take place on the second Monday of each month at 6:30 p.m. in City Council Chambers, 4343 Cooper Road, Blue Ash, Ohio 45242.

The deadline to file an Appeal is 13 business days in advance of the meeting date. DO NOT MISS THE FILING DEADLINE; call Community Development at 513-745-8542 to confirm meeting dates and Appeal deadlines, particularly if the regular meeting date would fall on or near a holiday. The complete Appeal must be submitted to Community Development by 4:30 p.m. on the due date.

The BZA comprises five (5) regular members and one alternate member appointed by City Council; a quorum of three (3) must be present to transact business. The BZA Chair runs the meeting. While every attempt is made to hold regularly scheduled meetings, meetings may be cancelled or rescheduled if necessary. Appellants will be notified by the City of any such changes.

MEETING

The Appellant or another representative MUST attend the hearing, be able to explain the Appeal, and answer questions from the BZA about the Appeal. Failure to have a representative at the meeting may result in the item being tabled to a later date or denied.

The typically hearing process is as follows:

1. The Chair will introduce the Appeal
2. Blue Ash staff will explain the background of the Appeal
3. The Appellant will present the Appeal to the BZA
4. The BZA will ask questions about the Appeal
5. The Chair will invite members of the public to comment
6. The BZA will close the public hearing
7. The BZA will discuss the Appeal relative to the decision requirements
8. The BZA will move to approve, approve with conditions, deny, or table the Appeal

All BZA meetings are public hearings and are open to the public.

CONSIDERATION & DECISIONS

The BZA will review and make decisions on Appeals based on direction provided in the Code. There are four different types of Appeal:

1. If the Appeal is seeking a variance to a specific provision or limitation of the Code, then the following applies:

1127.07 VARIANCES

(a) Area Variances. The Board of Zoning Appeals may authorize area variances from the terms of this Zoning Code that are not contrary to the public interest according to the following procedures:

…

(4) Review by the Board. … The Board shall review each application for an area variance to determine if it complies with the purpose and intent of this Zoning Code and evidence demonstrates that the literal enforcement of this Zoning Code will result in practical difficulty. The following factors shall be considered and weighed by the Board to determine practical difficulty:

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 adjacency 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 government services such as water, sewer, or trash pickup;

F. Whether the property owner purchased the property with knowledge of the zoning restrictions;

G. Whether special conditions or circumstances exist as a result of actions of the owner;

H. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
I. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and
J. 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.

…

(6) Additional Conditions and Safeguards. The Board may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulation(s) or provision(s) to which the variance applies will be met.

2. If the Appeal is an administrative appeal seeking to overturn a decision of the Community Development Director or Planning Commission, then the Appeal should include a description of the request together with any materials and information necessary to explain how you believe the Zoning Code should be interpreted. Administrative Appeals must be filed within 21 days of the date of the decision that is the subject of the Appeal.

3. If the Appeal is seeking expansion or substitution of a nonconforming use, then the following applies:

1139.07 EXPANSION OR SUBSTITUTION OF NONCONFORMING USES
The Board of Zoning Appeals may approve, approve with conditions, or disapprove an application for expansion or substitution of a nonconforming use, as described in Section 1125.06, based on written findings of fact in consideration of the following standards. The failure of the proposed work to conform to any single factor or standard may not necessarily be a sufficient basis for denial:

(a) Consistent. The proposed use is consistent with the general purposes and intent of the Code;
(b) Safety and Efficiency. The proposed use promotes the safe and efficient use of land;
(c) Compatibility. The proposed use is compatible with other adjacent land uses and buildings existing in the surrounding area;
(d) Neighborhood Compatibility. The proposed use is not inconsistent with the purposes of the zoning district in which the use is located and does not negatively impact the value of surrounding property; and
(e) Limited Purpose Building. The proposed use would be located in a building that is specially equipped or structurally designed for that use.

4. If the Appeal is seeking a clarification of the boundary lines between zoning districts, then the Appeal should include a description of the location in question together with any materials and information necessary to explain how you bel9ieve the Zoning Map should be interpreted.

APPEAL SUBMITTAL

Submit one (1) copy of the Board of Zoning Appeals Appeal Form (the last page of this packet). **All printed plans must be to scale**. Submit six (6) printed copies of the submittal (collated and stapled in sets) and an electronic copy in PDF format.

The following non-refundable fee is due at the time of submittal (Res. 2020-67):

Residential:	$150
Commercial:	$300
Sign(s):	$300
Appeal of decision:	$200

Any person may file a Zoning Appeal.

The Zoning Code does not provide specific guidance on what materials and information should be submitted with an Appeal, but it does provide decision criteria on which the BZA will base its decisions for variances and for expansion or substitution of a nonconforming use.

The Appeal should include whatever information is necessary to explain the request and to address the decision criteria that the BZA will consider. This may include:

- A written description of whatever is proposed or of the issue subject to the Appeal
- Scaled, dimensioned site plan(s)
- building diagrams (exterior)
- Proposed wall and ground sign(s)
- Proposed accessory building(s)
- Location and type of proposed fences and decorative or retaining walls
- Site photos

Appellants have an opportunity to explain their Appeal and answer questions at the public hearing, but the submittal should be thorough enough to clarify all aspects of the Appeal and to make clear why the BZA should find in your favor.

In cases where a survey is not necessary to establish a precise location in advance of the hearing, site plans can be developed from information available on CAGIS online: https://cagis.hamilton-co.org/cagisonline/

QUESTIONS

If you have any questions, please contact the Community Development Department for assistance at 5613-745-8542. The Zoning Code is online: https://codelibrary.amlegal.com/codes/blueash/latest/blueash_oh/0-0-0-11546

BOARD OF ZONING APPEALS

Appeal Form

	APPLICANT	PROPERTY OWNER*
Name		
Company (if applicable)		
Address (if applicable)		
City, State ZIP		
Phone Number		
Fax Number		
E-mail Address		

*If more than one owner, submit additional sheet containing all pertinent information and signatures.

PROJECT DESCRIPTION (variance, appeal of decision, etc.)

_____

_____

_____

SUBJECT PROPERTY

Address (if applicable)	
Tax Parcel Number(s)	
Total land area	
Current zoning district	

I acknowledge the following: I have read and understand all of the laws and administrative requirements that apply to this application; incomplete or false application information may result in a postponed hearing or the application being tabled or denied; any consultation or advice with City Staff or other City representatives either before or after filing this application shall not compel the Board of Zoning Appeals in any way relative to action on the appeal.

SIGNATURE	DATE
Applicant	
Property Owner	

Submit to the Community Development Department at 4343 Cooper Road, Blue Ash, Ohio 45242

CITY USE ONLY

Payment method:

Amount: