

CITY OF OBERLIN, OHIO

ORDINANCE NO. 18-48 AC CMS

AN ORDINANCE AMENDING SECTIONS 1325.05 AND 1351.08 OF THE OBERLIN CODIFIED ORDINANCES TO PROVIDE THE AUTHORITY TO HEAR REQUESTS FOR EXCEPTIONS TO AND VARIANCES FROM SIGN REGULATIONS TO THE ZONING BOARD OF APPEALS AND TO CLARIFY OTHER PROVISIONS RELATING TO ZONING BOARD OF APPEALS' CONSIDERATION OF APPEALS, REQUESTS FOR EXCEPTIONS AND VARIANCES.

WHEREAS, the Planning and Development Department staff have identified a need to provide for the hearing of requests for exceptions and variances from certain of the City sign regulations as well a need to clarify other procedural provisions contained in Sections 1325 and 1351.08 of the Oberlin Codified Ordinances as they relate to the hearing and consideration of appeals generally and requests for exceptions to and variances from certain City's zoning regulations; and

WHEREAS, the authority for the hearing of requests for appeals, exceptions to and variances from certain aspects of the City zoning regulations resides in the Zoning Board of Appeals; and,

WHEREAS, the Zoning Board of Appeals is best suited to hear and consider requests for exceptions to and variances from the City sign regulations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, 5/7ths of all members elected thereto concurring:

SECTION 1: That Sections 1325.05 and 1351.08 of the Oberlin Codified Ordinances are hereby amended to read as is set forth on Exhibit A attached hereto and incorporated herein by reference.

SECTION 2: It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.


SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit: to adopt procedures for the consideration of requests for exceptions to and variances from existing sign regulations and to clarify existing procedures for the granting of exceptions to and variances from certain provision of the zoning regulations of the City of Oberlin as soon as is practicable so as to provide relief from hardship and practical difficulties arising from the strict application of those regulations, and shall be in effect immediately upon its passage.

PASSED: 1st Reading: June 18, 2018 (E)

2nd Reading: _____

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



BRYAN BURGESS
PRESIDENT OF COUNCIL

POSTED: 06/19/2018

EFFECTIVE DATE: 06/18/2018

EXHIBIT A

1325.05 JURISDICTION; VARIANCES.

(a) Authority. Upon hearing an appeal or variance application, the Zoning Board of Appeals shall have the following authority provided in the case of an appeal, the appeal has been perfected in accordance with the provisions of Section 1324.04:

- (1) To review the actions of the administrative officer from which the appeal is taken and render a determination as to whether the actions of the officer are in accordance with the ordinances of the City. If the Board finds that the actions are not in accordance with City ordinances, the Board shall reverse the actions and render findings and judgment in accordance with such ordinances.
- (2) If the Board determines that the actions of the administrative officials are in accordance with the ordinances of the City, upon proper application, it shall hear evidence on the questions of permitting either an exception or a variance to such ordinances.

(b) Variations and Exceptions. The following are the classes of exceptions and variances that the Zoning Board of Appeals may properly authorize when they are brought before the Board:

- (1) Approve exceptions and modifications to the height, side, front or rear setback line or lines or area regulations as prescribed in City ordinances;
- (2) Permit the extension of an existing building on the same lot, but not into another zoning district;
- (3) Grant a permit for a temporary building or use incidental to a development. Such permit shall be issued for an initial period of not more than two years and, in the case of a building, only upon written application to the City accompanied by a receipted bill of sale of such building, effective in case the building is not removed prior to the expiration of the permit;
- (4) Permit the reconstruction within twelve months of a nonconforming building which has been damaged by explosion, fire, act of God or the public enemy. If the damage is less than fifty percent of the fair market value of the building, no variance approval from the Zoning Board of Appeals is necessary. If the damage is more than ninety percent of the fair market value of the building, reconstruction is not permissible and a variance cannot be granted therefore.

Determination of the percent of damage shall be made by the Zoning Board of Appeals based on the report of three (3) practicing building construction contractors, one to be selected by the owner, one to be appointed by the City, and the third to be selected by the mutual consent of the two (2) parties. The fair market value of the building shall be determined by the fair market value as set forth in the records of the County Auditor.

(5) Variances, on a hardship basis where the applicant shows that a strict application of City ordinances:

- A. Relating to the construction, alteration, or extension of a building, will impose upon the property practical difficulties; or
 - B. Relating to the use of building, will impose a particular hardship(s) upon the property owner;
- (6) Extend a nonconforming use within a building or change one nonconforming use to a use of the same or similar character or to a more restricted classification within a building;
- (7) Hear and decide appeals and requests for variances from requirements of Chapter 1191: Flood Damage Prevention of the Codified Ordinances, as provided for under Section 1191.06 of the Code.
- (8) Approve exceptions and modifications to the height, location, size and regulations for all types of permitted signs.

(c) Findings of the Board. In granting any of the foregoing exceptions and/or variances, the Board shall make the following findings:

- (1) That the exception or variance is upon one of the foregoing grounds, subsections (b)(1) through (6), inclusive, and specify the same;
- (2) That the proposed exception or variance is not found to:
 - A. Be unreasonable and unnecessary;
 - B. Be contrary to the public interest;
 - C. Impair an adequate supply of air and light to adjacent property;
 - D. Unreasonably increase congestion of public streets;
 - E. Increase the danger of fire or endanger the public safety;
 - F. Unreasonably diminish or impair established property values in the surrounding areas; and
 - G. In any respect, impair the public health, safety, or general welfare of the inhabitants of the City.
- (3) In addition, for variances under subsection (b)(5) above, the Board shall define the specific practical difficulty/difficulties or hardship found by the Board.
- (4) In the event the foregoing findings of fact, where applicable, are not made, the Board shall disapprove the exception or variance.

(d) For appeals which relate solely to area requirements, the Board shall consider and weigh the following factors in determining whether the appellant has shown practical difficulties in the use of the property:

- (1) Whether the property will yield a reasonable return or whether there can be any beneficial use of the property without a variance;
- (2) Whether the variance is substantial;
- (3) 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;
- (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and
- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done in granting the variance.

1351.08 APPEALS.

An applicant for a sign permit or sign approval may appeal an adverse decision of the Building Official or apply for a sign variance to the sign's size, height, location, or sign requirements by filing an application with the Zoning Board of Appeals. Proceedings for sign appeals or variances shall follow the Zoning Board of Appeals procedures prescribed in Chapter 1325.