CHAPTER 1293

VARIANCES

A. VARIANCE REQUIRED – No one may deviate from the requirements of this Zoning Code except as approved by variance by the Board of Appeals and/or City Council as further prescribed within this code.

B. BOARD OF ZONING APPEALS REVIEW OF AREA VARIANCES - The Board of Zoning Appeals shall be authorized to make recommendations to City Council regarding area variances from the requirements of the Zoning Code. In determining whether the recommendation of a variance is consistent with the public health, safety, and welfare the Board of Zoning Appeals will apply the Practical Difficulties Test as specified by Duncan v. Village of Middlefield, 23 Ohio St.3d 83d, 491 N.E. 2d 692 (1986). The Board of Zoning Appeals shall have authority to make recommendations as to the approval, denial or modification of any variance request that is brought before the Board.

C. COUNCIL REVIEW OF VARIANCES –

1. **VARIANCE(S) APPROVED BY THE BOARD OF ZONING APPEALS -** The Secretary of the Board of Zoning Appeals shall immediately notify City Council of any variance(s) that are granted by the Board of Zoning Appeals. City Council shall by motion, within its next three (3) regularly scheduled meetings, take action to affirm, reverse, or modify the action of the Board of Zoning Appeals relating to the variance(s) in question. If no action is taken by City Council at any of its next three (3) regularly scheduled meetings the decision of the Board of Zoning Appeals shall be final. However, notwithstanding the above, City Council shall have the discretion to continue the variance review process beyond three (3) meetings if requested to do so by the applicant in writing. Said request shall specify the date of the regularly scheduled City Council meeting at which final action on the variance(s) in question is proposed. If said extension is granted, and if no action is taken by City Council at or before this meeting to either affirm, reverse, or modify the action of the Board of Zoning Appeals, then the decision of the Board of Zoning Appeals shall be final.

(Ordinance 2011-14, passed 1/18/11, effective 2/27/11)

2. **VARIANCE(S) DENIED BY THE BOARD OF APPEALS –** The Secretary of the Board of Zoning Appeals shall send notification by certified mail to the applicant of any final action by the Board of Zoning Appeals to deny a variance. The applicant may appeal such action to City Council within fourteen (14) days of the receipt of notification by the Secretary of the Board of Zoning Appeals. Following established procedure, the appeal shall be placed before City Council at its next available regular meeting. If no action is taken by City Council within the its first three (3) available regular meetings the decision of the Board of Zoning Appeals shall be final. In the interest of public notification and in consideration of the time provisions of this Section, any person that files a timely appeal may only request a continuation of the appeal for reasons of emergency and/or other unforeseeable circumstances, otherwise Council, at its discretion will consider the appeal.

D. APPLICATION FOR VARIANCE – In order to apply for a variance from the requirements of this Code the applicant shall submit a completed "VARIANCE APPLICATION FORM" (available through the Solon Department of Planning and Economic Development) to the Secretary of the Planning Commission. Such application shall be submitted with the materials required for the Site Plan Review Process as specified herein for the relevant structure or land use type. Said application will be considered by the Board of Zoning Appeals at the next available regular meeting of the Board, according to the specific requirements of this code and according to the policies and procedures established by the Board.

E. RE-APPLICATION FOR VARIANCE - Any variance request which has been approved, denied, or modified by the Board of Zoning Appeals and/or City Council may not be re-filed or entertained by the Board of Zoning Appeals and/or City Council within six (6) months of date of the final determination of the variance.

F. EXPIRATION OF VARIANCE - No order of the Board of Zoning Appeals and/or City Council granting a variance from the requirements of this code shall be valid for a period longer than one (1) year from the date of the issuance of the variance unless a building permit has been issued, and the erection or alteration of the structure has commenced within that time period.