

**RULES AND PROCEDURES
OF THE**

BOARD OF ZONING APPEALS OF OXFORD, OHIO

ARTICLE I - MEMBERSHIP

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The Board of Zoning Appeals is established by Section 8.08 of the Oxford Charter. Membership consists of five citizens serving three-year, staggered terms.

ARTICLE II - JURISDICTION AND FUNCTION

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According to Section 8.09 of Oxford's Charter, "The board shall have the power to hear and determine appeals from refusal of building permits and to permit exceptions to and variations from the zoning regulations in individual cases as may be required to afford justice and avoid unreasonable hardship to property owners. The standards in all instances to be applied by the board shall be established by ordinance of Council."

The standards for decisions have been enacted by Council, and they appear as Section 1139.02(c)(2) of Oxford's Code of Ordinances. A copy of Section 1139.02(c)(2) appears as Appendix "A" to these Rules and Procedures.

ARTICLE III - OFFICERS

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Section 1 - At the first meeting of each year, the Board shall elect one of its members as Chair, one as Vice-Chair, and one as Executive Secretary.

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Section 2 - The Chair shall preside at meetings of the Board, call special meetings, and perform such other duties commonly prescribed to such office.

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Section 3 - The Vice-Chair shall perform the same duties as the Chair in his/her absence.

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Section 4 - In the event the Chair and Vice-Chair are absent from a meeting, the three remaining members shall select a Chair Pro-Tem who shall perform the same duties as the Chair for the balance of the meeting.

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Section 5 - The Executive Secretary shall present the minutes of each meeting for approval at the next meeting and attest to the Board's approval of the minutes.

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ARTICLE IV - MEETINGS

Section 1 - The regular meetings of the Board will be held in the Oxford Court House at 7:30 p.m. on the third Wednesday of each month on the call of the Chair. The regular

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meeting date may occasionally change at the direction of the Board with public notice. Special meetings may be called by the Chair, or by two (2) members of the Board, provided that special meetings must be called by the delivering of a written notice thereof to each Board member, or the residence of each member, and to those news media that have requested notification, at least twenty-four (24) hours prior to the time set for the special meeting. Said notice shall contain information as to the date, time, place and purpose of the meeting. No action shall be taken by the Board at a special meeting upon any matter not listed upon said special meeting notice (See appendix "B").

ARTICLE V - VOTING

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Section 1 - No resolution over-ruling an action under interpretation of the Zoning Ordinance by an administrative office of the City shall be adopted except by the affirmative vote of three members of this Board (Section 8.08 of Oxford Charter).

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Section 2 - A majority vote of those members present shall be necessary to carry out all other regular business of the Board and a quorum of three members shall be necessary to conduct business and to constitute on official meeting of the Board.

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Section 3 - The Chair shall vote in all matters under consideration by the Board.

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Section 4 - No Board member shall participate in the discussion or vote in any matter in which the member has a personal interest. That person shall step down from the Board for that portion of the meeting in which the member has an interest.

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Section 5 - A record shall be made in the minutes showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact.

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Section 6 - The Board of Zoning Appeals shall base its decision only upon Section 1129.11 or the Decision Standards in Chapter 1139. A copy of Section 1139.02(c)(2) appears as Appendix A to these Rules and Procedures.

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ARTICLE VI - APPEALS PROCEDURE

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Section 1 - (By Whom)

- (a) An appeal and supporting documentation as provided for in Chapter 1129 and 1139 of the Planning & Zoning Code may be made to the Board by any person aggrieved or by any officer, department, board or bureau of the City of Oxford affected by a decision of the Zoning Administrator within 30 days of the date of the Zoning Administrator decision.

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- (b) If the appellant represents the owner or occupant authority of the premises under consideration, the appellant shall document on the appeal that authority to represent that owner or occupant.
- (c) The application for an appeal shall be submitted pursuant to Chapter 1129 and 1139 of the Planning & Zoning Code.
- (d) Instruction sheets may be prepared and approved by the Board for the guidance of appellants and copies of these rules and procedures shall be available to the public without charge at all times in the office of the Zoning Administrator.

Section 2 - (Action on Application)

- (a) The Zoning Administrator shall notify by regular mail the appellant and all owners of property within 200 feet of the property in question as to the date, time, place and purpose of the hearing at least 10 days prior to the hearing. The notice shall provide a form on which comments may be submitted to the Board of Zoning Appeals. This notice is not jurisdictional and is provided for only as a matter of courtesy. Failure by the Zoning Administrator to mail such notice or failure by a land owner described above to receive such notice shall not invalidate any action resulting from the public hearing.

The Administrator shall also cause an official legal notice, which is jurisdictional, containing the date, time, place and purpose of the hearing to be published once in a local newspaper of general circulation at least 7 days prior to the hearing. At least 7 days prior to the public hearing, the applicant shall post a sign on the site, provided by the City, along, but not in, each public right-of-way that abuts the site and at other locations or intersections near or leading to the site in the right-of-way, at the discretion of the Zoning Administrator. The signs shall state that the site is the subject of a public hearing and shall list the type, time, and place of the hearing, and shall be legible from the public right-of-way. This is a courtesy notice. Failure by the Zoning Administrator to provide such signs as described shall not invalidate any action resulting from the public hearing. Removal of such signs, once set, shall be a violation of this Code in addition to any other laws against their removal that may apply.

- (b) The Zoning Administrator shall transmit to the Board, approximately one week prior to the meeting or as soon thereafter as possible, the appeal application and all papers or information required or necessary for proper hearing of the appeal, and copies as required shall be sent to all Board members.

Section 3 - (Hearings)

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- (a) The Board of Zoning Appeals shall base its review of a variance application upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. If the Board of

Zoning Appeals finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

(b) All meetings and hearings shall be open to the public.

(c) All interested parties shall be permitted to appear and be heard in person, or by his agent or attorney, in opposition to the final order, adjudication, or decision. The Board shall have the right to dismiss the appeal if the appellant or his agent or attorney is not present at the hearing.

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(d) The interested party shall present his position, arguments, and contentions.

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(e) The interested party shall be allowed to cross-examine witnesses purporting to refute his or her position, arguments, and contentions.

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(f) The interested party shall be allowed to offer evidence to refute evidence and testimony offered in opposition to his position, arguments, and contentions.

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(g) The interested party shall be allowed to proffer any such opposing evidence and testimony into the record, if the admission of it is denied by the officer or body appealed from.

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(h) All testimony adduced shall be given under oath.

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(i) The Zoning Administrator will present and explain the case, setting forth the reasons for the Board.

(j) The Board of Zoning Appeals shall prepare a transcript of proceedings containing a report of all evidence admitted or proffered by the Board.

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<#>Following the Zoning Administrator's presentation, all interested parties shall be permitted to appear and be heard in person, or by his agent or attorney, in opposition to the final order, adjudication, or decision. The Board shall have the right to dismiss the appeal if the appellant or his agent or attorney is not present at the hearing.¶

(k) The Zoning Administrator or Board shall file with the transcript, conclusions of fact supporting the final order, adjudication, or decision appealed from.

¶
<#>The interested party shall present his position, arguments, and contentions.¶

(l) Any person shall have the right to ask questions about the subject of the appeal.

¶
<#>The interested party shall be allowed to cross-examine witnesses purporting to refute his or her position, arguments, and contentions.¶

(m) At the request of the appellant or the Zoning Administrator and/or on the motion of the Board, the hearing may be postponed for further evidence or information. Such postponement shall be granted or denied in the sole discretion of the Board, and any postponement of a hearing, once commenced, shall be for more than 45 days, except with a written permission of both the Zoning Administrator and the appellant.

¶
<#>The interested party shall be allowed to offer evidence to refute evidence and testimony offered in opposition to his position, arguments, and contentions.¶

(n) At the conclusion of the hearing or hearings the Board will discuss and vote on each appeal and conduct the business section of the meeting to take care of items

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<#>The interested party shall be allowed to proffer any such opposing evidence and testimony into the record, if the admission of it is denied by the officer or body appealed from.¶

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<#>All testimony adduced shall be given under oath.¶

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on the agenda. The public may not participate in this section of the meeting except upon request of the Chair or any member of the Board.

- (o) The Board shall keep a record of its proceeding. Findings of Fact shall be included in the minutes of each case of a requested variation or appeal, and the reasons for approving or denying such variation or appeal shall be specified. All records of proceeding findings, determinations and actions of the Board shall be filed immediately in the Zoning Administrator's office and shall be retained for one year.

Section 4 - (Following Hearing)

- (a) The Board of Zoning Appeals shall grant, grant with conditions, or deny a variance application as presented and shall clearly state the findings of fact upon which its decision is based.
- (b) The Zoning Administrator shall inform the appellant by letter as soon as possible following the hearing of the decision of the Board. The Board's decision shall not become final until the expiration of five (5) days from the date such decision is made unless the Board shall certify otherwise.
- (c) The Zoning Administrator shall issue permits to permit the action for which a variance was sought per Chapter 1139.
- (d) No order of the Board permitting erection or alteration of a building or the use of a building or premises shall be valid for a period longer than six (6) months unless a building permit for such erection or alterations is obtained and the work is started within such period, or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Board.
- (e) No application for a variance that is substantially similar to an application that has been denied, wholly or in part, shall be submitted to the BZA for a decision per Chapter 1139.

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APPENDIX “A”

1139.02(c)(2) Decision Standards.

All variances shall satisfy the Decision Standards of this section. Variances and nonconformities on other land, sites, or structures shall not be considered grounds for a variance.

- A. The variance would not permit or result in a use that is not permitted in the zoning district. Use variances are prohibited; and
- B. Conditions of the land, site, structure, or element for which the application is submitted are substantially different from other sites in the same zoning district because of physical characteristics of the land including dimensions, elevation, topographical variations, soil conditions, or other extraordinary situations, and the difference supports the application; and
- C. The conditions upon which the application is based are not the result of actions of the applicant; and
- D. The variance would not confer a special privilege to the applicant but would relieve a practical difficulty; and
- E. The literal interpretation of this Zoning Code would deprive the applicant of the ability to develop a site or use the land as a conforming permitted use in that district; and
- F. The variance will be the minimum variance necessary to permit reasonable use of the land, site, structure, or element for which the variance is sought; and
- G. The situation permitted by the variance will be in harmony with the general vicinity, will not be detrimental to the public health, safety, or general welfare, and will satisfy the general intent of this Zoning Code.

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APPENDIX "B"

RULES AS REQUIRED BY R.C. 121.22, COMMONLY KNOWN AS THE SUNSHINE LAW

SECTION 1: All meetings of the Board of Zoning Appeals, other than authorized Executive Sessions, shall be open to public attendance.

SECTION 2: The Board will fully comply with both the letter and the spirit of R.C. 121.22.

SECTION 3: The regularly scheduled meetings of this body shall be held on the third Wednesday of each month in the Oxford Court House, commencing at 7:30 p.m. The regular meeting date may occasionally change at the direction of the Board with public notice. Within the context of this rule, a special meeting is deemed to be any meeting scheduled or called for a date or place or time other than as herein above specified. Such special meeting, as so defined solely for the purpose of this rule, may be for the purpose of:

- (1) Continuing or commencing a regular meeting of the Board in discussing and acting upon all such business as may come before the Body; or
- (2) A true Special Meeting within the context of parliamentary definition wherein the purpose of the meeting shall be to consider only specific and enumerated matters, and in which action will not be taken on matters unrelated to the matter, or matters, for which such a meeting is held. No special meeting, as defined herein, shall be held unless the Zoning Administrator shall have given at least 24 hours advanced notice of the date, time and place and purpose of such meeting, to those news media that have requested notification except in the event of an emergency. An emergency exists when immediate official action is necessary and in that event the member, or members, calling such a meeting shall immediately notify such news media as have requested notification of the date, time, place and purpose of such meeting.
- (3) Any person may determine the date, time and place of regularly scheduled meetings by phoning or contacting the Zoning Administrator at the City Building.
- (4) Any person may determine the date, time, place and purpose of special meeting, as defined herein, by making such a request, in writing, to the Zoning Administrator and sending forth their name, address and telephone number. The Zoning Administrator shall notify such person of the date, time, place and purpose of special meetings, either by mail or telephone and will in any case endeavor, with all reasonable effort and dispatch, to make such notification immediately.

When time permits reasonable anticipation of timely mail delivery, the Zoning Administrator may notify such person by mail. When, in the judgment of the Zoning Administrator, it seems reasonable to believe mail notification will not be timely, the Zoning Administrator will make all reasonable efforts to contact such person by telephone. Long distance calls will only be placed collect.

SECTION 4: Any person desiring information as to any specific business to be discussed at a meeting, may obtain advance notification of the proposed discussion by securing a copy of the meeting agenda by any or all of the following methods:

- (1) Agendas for regularly scheduled meetings will be available, without charge, at the Police Department Dispatcher's office on the Saturday, Sunday, Monday or Tuesday preceding the regularly scheduled meeting.
- (2) Agendas for special meetings will be available immediately upon their preparation at the Police Department Dispatcher's office, without charge.
- (3) Persons paying an annual fee of \$10.00 to the Zoning Administrator, and providing said Zoning Administrator with self-addressed business-size envelopes (approximately 9" x 4"), with sufficient first class postage affixed thereto, will be mailed all Board agendas upon their preparation, for so long as the Zoning Administrator has a supply of the required envelopes. It shall be the sole obligation of the person requesting such mailings, to determine that the Zoning Administrator has sufficient envelopes to continue mailing agendas for so long as such person desires to receive agendas. The fee required hereunder shall be a calendar year fee and shall be due once each calendar year regardless of the date upon which the request for such mailings is filed.

SECTION 5: This Resolution promulgating the foregoing rules and procedures shall be effective immediately.