
1105.07 VARIANCES

(a) **Purpose**

The purpose of a variance is to provide limited relief from the requirements of this code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this code. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

(b) **Variance Review Board**

- (1) The BZA shall have the authority to review and make decisions on area and dimensional variance applications.
- (2) The Planning Commission shall have the authority to review and make decisions on use variance applications.

(c) **Variance Review Procedure**

The review procedure for a variance shall be as follows, regardless of which review board is responsible:

(1) **Step 1 – Application**

The applicant shall submit an application in accordance with Section 1105.02: Common Review Requirements and with the provisions of this section.

(2) **Step 2 – Village Administrator Review**

- A. Upon determination that a variance application is complete, the Village Administrator shall distribute the application to the applicable review board and may distribute the application to other departments or agencies for review and comment.
- B. Upon receipt of comments, the applicant shall have the option to make revisions to the application and plans based on the comments prior to being forwarded to the applicable review board or may request that the application be forwarded to the applicable review board without revisions.
- C. The Village Administrator shall place the variance application on the agenda for the next meeting of the applicable review board, provided notice is given, or may work with the applicable review board to set a special meeting to hear the variance application.

(3) **Step 3 – Board Review and Decision**

- A. The applicable review board shall hold a public hearing on the variance application after notification is provided pursuant to Section 1105.02(i).
- B. In reviewing the application, the applicable review board shall, at a minimum, consider the review criteria of this section.
- C. The applicable review board may request that the applicant supply additional information that the applicable review board deems necessary to review and evaluate the request for a variance.
- D. Within 90 days of the determination that the application is complete, or an extended timeframe approved by the applicant, the applicable review board shall render a decision. In making its decision, the applicable review board may approve, approve with modifications or supplementary conditions, or deny the application.
- E. In making its decision, the applicable review board shall make specific findings of fact based directly on the particular evidence presented that the reasons set forth in the application and as presented by the applicant during the public hearing, justify the approval, approval with modifications or supplementary conditions, or denial of the variance application that will make possible a reasonable use of the land, building, or structure.
- F. The Secretary of the applicable review board shall notify the applicant of the decision of the applicable review board.
- G. If the applicable review board fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.

- H. In approving a variance, the applicable review board may impose conditions on the approval, the proposed use, or the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the standards of this section and the purpose of this code. Any conditions established by the applicable review board shall relate directly to the requested variance.
- I. Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of Chapter 1127: Enforcement and Penalties.

(4) Step 4 – Village Council Review and Confirmation

- A. Village Council shall review the applicable review board's decision at a regularly scheduled meeting or special meeting.
- B. Village Council may confirm the decision of the applicable board by a simple majority vote or may overturn the decision of the Planning Commission or BZA, as applicable, by a three-fourths vote of all of the total Village Council membership. The decision of the Village Council shall stand.
- C. Failure of the Village Council to act within 45 days from the date the Village Council receives the decision from the applicable review board shall be deemed a confirmation of the applicable review board's decision.
- D. The decision of the Village Council on the confirmation shall become effective immediately.

(d) Review Criteria

(1) Area or Dimensional Variance

Where an applicant is seeking an area or dimensional variance, the following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify approval of the variance. However, no single factor listed below may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts. The application for a variance shall not be based exclusively upon a desire to increase the value or income potential of the parcel of land or any structures or uses thereupon. The BZA shall take into consideration the following:

- 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 proximity to nonconforming 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 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 a substantial detriment as a result of the variance;
- E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and trash pickup;
- F. Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice is done by granting a variance;
- I. 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; and
- J. Whether a literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code.

(2) **Use Variance**

In order to grant a use variance, the Planning Commission shall determine that strict compliance with the terms of this code will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;
- B. The variance requested stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district;
- C. The hardship condition is not created by actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- E. The granting of the variance will not adversely affect the public health, safety, or general welfare;
- F. The variance will be consistent with the general spirit and intent of this code; and
- G. The variance sought is the minimum that will afford relief to the applicant.

(e) **Time Limit**

- (1) The applicant shall submit a completed application for zoning compliance review and start work within one year of the date the variance was approved, or the approval shall expire.
- (2) Upon expiration of a variance approval, a new application, including all applicable fees, shall be required before a variance application will be reviewed.
- (3) Upon written request, one extension of six months may be granted by the Village Administrator if the applicant can show good cause for a delay.
- (4) As part of the variance approval, the applicable review board may authorize alternative time limits for zoning compliance review based on the scale of the proposed development.

(f) **Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the Village Council shall have the right to appeal the decision to the Lorain County Court of Common Pleas as provided in ORC Chapters 2505 and 2506.

1105.08 APPEALS

(a) **Purpose**

This section sets out the procedures to follow when a person claims to have been aggrieved or affected by an administrative decision made in the administration or enforcement of this code.

(b) **Applicability**

- (1) An appeal may be made regarding any administrative decision made in the administration and enforcement of this code, including, but not limited to, administrative decisions by the Village Administrator or Zoning Administrator.
- (2) An appeal may not be made to the BZA when the decision is part of a legislative action such as a code text or map amendment.

(c) **Initiation**

Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this code.

(d) **Appeals Review Procedure**

The review procedure for appeals shall be as follows:

(1) **Step 1 – Submission of Appeal**

Within 30 days of the administrative order, decision, determination, or interpretation, the person appealing the decision or their authorized agent shall submit all required information to the Village Administrator in accordance with Section 1105.02: Common Review Requirements.

(2) **Step 2 – Forwarding of the Record to the BZA**

- A. Upon receiving the written appeal of an administrative decision or determination, the Village Administrator shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision or determination to the BZA. This material shall constitute the record of the appeal.
- B. The Village Administrator shall also place the appeal on the agenda for the next meeting of the BZA, provided notice is given, or may work with the BZA to set a special meeting to hear the appeal.

(3) **Step 3 – BZA Review and Decision**

- A. The BZA shall hold a public hearing with notification provided pursuant to Section 1105.02(j).
- B. In reviewing the appeal, the BZA shall, at a minimum, consider the review criteria of this section.
- C. Within 90 days of the date the appeal was submitted to the BZA, the BZA shall render a decision on the appeal. The BZA may reverse or affirm, wholly or in part, or modify any such order, requirement, decision, or determination.
- D. The Secretary of the BZA shall notify the appellant of the decision of the BZA.
- E. If the BZA fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.
- F. The decision of the BZA shall become effective immediately.

(e) **Review Criteria**

A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this code.

(f) **Stay**

A properly submitted appeal shall stay all administrative proceedings by the Village in furtherance of the action appealed unless the Village Administrator certifies to the BZA that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the BZA or by a court of competent jurisdiction, for good cause shown.

(g) **Appeals of BZA Decisions**

- (1) If the BZA confirms the administrative decision subject to appeal, any person or entity claiming to be injured or aggrieved by such final action of the BZA shall have the right to appeal the decision the Lorain County Court of Common Pleas as provided in ORC Chapters 2505 and 2506.
- (2) If the BZA overturns the administrative decision subject to appeal, any person or entity claiming to be injured or aggrieved by such final action of the BZA shall have the right to appeal the BZA's decision to Village Council, as follows:
 - A. Village Council shall review the BZA's decision at a regularly scheduled meeting or special meeting following the submission of a request to appeal the BZA's decision.
 - B. Village Council may confirm the decision of the BZA by a simple majority vote or may overturn the decision of the BZA by a three-fourths vote of the total Village Council membership. The decision of the Village Council shall stand.
 - C. Failure of the Village Council to act within 45 days from the date the Village Council receives the application for an appeal shall be deemed a confirmation of the applicable BZA's decision.

VARIANCE APPLICATION FORM
Village of Sheffield, Ohio

Please Note: The Applicant must be the owner of record of the subject property in this request or the applicant must submit written authorization from the legal property owner at the time that the application is submitted.

Property Owner's Name: _____	
Address: _____	
Telephone: _____	
Email address: _____	
Applicant's Name: _____	
Company: _____	
Address: _____	
Telephone: _____	
Email Address: _____	
Location of Property:	
Property Address: _____	
Permanent Parcel Number: ____ - ____ - ____ - ____ - ____	
Zoning District: _____	
Present Use: _____	
Proposed Use: _____	
Applicant's Signature:	Date:

Factors Used to Determine Unnecessary Hardship for a Use Variance

A use variance would require the applicant to demonstrate that the applicant will suffer unnecessary hardship if strict compliance with the terms of the Code is required and such hardship must be demonstrated by clear and convincing evidence that all of the following criteria are satisfied. Please provide your written responses below. It is important to be as thorough and detailed as possible.

A. The property cannot be put to any economically viable use under any of the permitted uses in the Zoning District.

B. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district.

C. The hardship condition is not created by actions of the applicant.

D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.

E. The granting of the variance will not adversely affect the public health, safety or general welfare.

F. The variance will be consistent with the general spirit and intent of the Code.

G. The variance sought is the minimum which will afford relief to the applicant.
