

## ORDINANCE NO. 2019-01

### MENDON BOARD OF ZONING APPLICATIONS AND APPEALS

PREAMBLE: In order to preserve the best interests of all residents of the Village of Mendon, Ohio as concerns real estate located in the Village, it is hereby determined that there be legislation to establish a Board of Zoning Appeals which is fair, affordable, accessible and efficient to the residents of the Village.

#### SECTION 1

##### ORGANIZATION AND PROCEDURE

(A) The Council of the Village of Mendon Ohio shall be the Board of Zoning Appeals. [Hereinafter referred to as the "Board of Zoning Appeals" or "Board"]. When acting as said Board of Zoning Appeals, there shall be at least five members present to consider any issue before the board. The members present shall decide all issues properly before it by a majority vote of its members.

##### (B) Hearings

(1) The hearings of the Board of Zoning Appeals shall be public. However, the Board may go into executive session for discussion, but at all times, hearings shall conform to the open meeting requirements of R.C. § 121.22.

(2) The Board shall hear any owner of property adjacent to the lot for which the granting of any zoning permit is pending, and shall also hear any other parties having substantial interest as determined by the Board.

(C) Quorum. Five members of the Board of Zoning Appeals shall constitute a quorum. Any decision of the Board must be approved by a vote of at least a majority of all the members of the Board.

(D) Minutes and records. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question; or, if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other officials' actions, all of which shall be immediately filed in the office of the Village Administrator and shall be a public record.

(E) Witnesses, oaths, and the like. The Board shall have the power to subpoena witnesses, punish for contempt, and may require the production of documents. Oaths may be administered to witnesses by a notary public.

(F) Department assistance. The Board may call upon the various departments of the municipality for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

## SECTION 2

### POWERS AND DUTIES

The Board of Zoning Appeals shall have the following powers and it shall be its duty:

(A) To hear and decide appeals where it is alleged there has been error in any order, requirement, decision or determination made by the Zoning Inspector in the enforcement of this chapter or any amendments thereto.

(B) The Board shall have the power to authorize variances from the provisions or requirements of the Mendon zoning ordinance as will not be contrary to the public interest. In authorizing variances the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of the best interests of the Village.

(C) As a guideline for the granting of a variance or an appeal, the following factors shall be considered along with any other factor(s) the Board deems relevant:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions generally created by the provisions of the zoning code in the neighborhood or district in which the property is located.

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That the variance, if authorized, will not alter the essential character of the area in which the property is located, nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

(4) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(B). The Board shall have the authority to grant an extension of or permit completion of a building devoted to a nonconforming use upon a lot occupied by such building, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building became nonconforming, and where such extension is necessary and incidental to the existing use of such building.

### SECTION 3

#### APPLICATIONS OR APPEALS

##### APPLICATIONS

An application (typically a "variance") or appeal shall be filed with the Village of Mendon Zoning Inspector by any person, including a tenant, or by a governmental officer, department, board or bureau. The Zoning Inspector shall transmit same to the Village Clerk acting for the Board. A fee of \$75 shall be paid to the Zoning Inspector at the time notice of appeal or application is filed, which the officer shall forthwith pay over to the Village Clerk to be deposited in the general revenue fund.

##### APPEALS

(A) An appeal to the Board may be taken by any person aggrieved or by an officer of the municipality affected by any decision of the Zoning Inspector. Such appeal shall be taken within 20 days after the decision. If the notice is mailed, the post-mark date shall determine the timeliness of the appeal. The appeal shall be initiated by filing a written notice of appeal by delivering a copy to the Zoning Inspector and to the Village Clerk.

Notices may be mailed or dropped at the fire hydrant in front of the Village Hall. The notice of appeal shall identify the person or entity filing the appeal, that person's address and phone number and shall specify the grounds for the appeal.

(B) An appeal shall stay all further activity in furtherance of the action appealed from.

(C) The Board may, in conformity with the provision of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or

determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises.

### SECTION 3

#### HEARINGS ON APPLICATIONS OR APPEALS, NOTICE

(A) The Board shall fix a reasonable time for the hearing of an appeal. The Board shall give at least 30 days public notice of the date, time and place of any and all hearings thereof in a newspaper of general circulation in the Village and at least 20 days' notice to parties having any proprietary interest in land adjacent to or across the street from the property in issue.

(1) The hearings of the Board shall be public. However, the Board may go into executive session for discussion, but all hearings shall conform to the open meeting requirements of R.C. § 121.22.

(2) The Clerk of the Board of Zoning Appeals shall mail a registered letter to the appellant or applicant advising the appellant or applicant of the date, time and place of the hearing and further, that he/she/it or a representative must appear to have the appeal heard.

(B) At the hearing, the Board may adjourn in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners or interested persons as it decides may be substantially interested in the application or appeal. In the case of an adjourned hearing, persons previously notified of the hearing shall be notified of the time of resumption of the hearing.

(C) The Board, in its discretion, may dispense with the 30 days public notice required in Section A of this Section 3 when the application for variance is limited to relief from rear yard and/or side yard requirements of this chapter in "R" Districts and/or is limited to relief from the prohibition of improvements to an existing dwelling and/or structures accessory thereto which are nonconforming uses in the district where located; provided, however, the Board shall not dispense with the public notice unless there is first filed with the application for variance written and signed consents to the relief requested by all of the owners of all of the property adjacent to or across the street from the property for which the application for variance is filed.

SECTION 4

DECISIONS OF THE BOARD

(A) The Board shall decide all applications and appeals within ten days after the completion of the final hearing thereon.

(B) A copy of the Board's decision shall be mailed to all parties notified of the hearing. Such decision shall be binding upon the Zoning Inspector. (S)he shall incorporate the terms and conditions of the decision in the permit to the applicant or appellant.

(C) A decision of the Board shall not become final until the expiration of five days from the date such decision is made, unless the Board shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

(D) The Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken. Any party adversely affected by a decision of the Board may appeal as provided by law.

REPEAL OF PREVIOUS SECTIONS OF THE ZONING ORDINANCE

Sections 152.150, 152.151, 152.152 152.153, 152.154, 152.155 and 152.156 of the Zoning Code of Mendon, Ohio are hereby REPEALED.

NOTE: This ordinance is passed on an emergency basis due to a recent application for a variance having been filed and the fact that there is currently no zoning board of appeals for the Village of Mendon, Ohio.

Vote on Emergency: Yea 6 Nay \_\_\_  
Vote on Passage: Yea 6 Nay \_\_\_

Passed on this 17th day of December 2019.

Attest:

Kristina Beatty  
Clerk/Fiscal Officer

[Signature]  
Mayor

[Signature]  
President of Council

Kris Hughes- yea <input checked="" type="checkbox"/> nay ___
Terry Seibert -yea <input checked="" type="checkbox"/> nay ___
April Grunden-yea <input checked="" type="checkbox"/> nay ___
Seth Seibert- yea <input checked="" type="checkbox"/> nay ___
Steve Hughes- yea <input checked="" type="checkbox"/> nay ___
Kayle Heckler- yea <input checked="" type="checkbox"/> nay ___