

Article 3: Review Procedures

3.01 PURPOSE

The purpose of this article is to identify the review procedures used in the administration of this zoning resolution.

3.02 COMMON REVIEW REQUIREMENTS

The requirements of this section shall apply to all development review applications and procedures subject to review under this zoning resolution, unless otherwise stated.

(A) Authority to File Applications

- (1) The person having legal authority to act in accordance with the approval sought shall file an application for any review in accordance with this zoning resolution. The person having legal authority shall be the recorded property owner, lessee, or the duly authorized agent of the recorded property owner and may be required to provide written proof of such authority at the time of application.
- (2) The Zoning Commission and Board of Trustees may initiate zoning text and map amendments under this zoning resolution with or without an application from the property owner who may be affected.

(B) Application Contents

(1) Submittal Requirements

- (a) Applications required under this zoning resolution shall be submitted in a form and in such numbers as established by the township and made available to the public.
- (b) The applicant shall attest to the truth and correctness of all facts and information presented with the application.

(2) Submission of Fees

- (a) Applications shall be accompanied by a fee as established by resolution of the Board of Trustees.
- (b) The township shall charge appropriate fees for any development review applications, certificates, permits, or other review processes established in this zoning resolution to cover the costs of inspection, investigation, legal notices and other expenses incidental to the enforcement of this zoning resolution. Such fees shall be paid to the Boardman Township Board of Trustees, or its designee, and shall be paid in accordance with the official zoning fee schedule as established by the Board of Trustees.

(3) Complete Application Determination

- (a) The Zoning Inspector shall only initiate the review and processing of applications submitted under this article if such application is determined to be complete.
- (b) The Zoning Inspector shall decide on whether an application is complete within a reasonable time following the submission of an application and related fee.
- (c) If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this resolution.
- (d) If an application is determined to be incomplete, the Zoning Inspector shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected.
- (e) If the applicant fails to re-submit a complete application within 60 days of the notice provided by the Zoning Inspector pursuant to Paragraph (d) above, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. No reconsideration of an incomplete application shall occur after expiration of the 60 day period and an applicant in need of further development approval under the zoning resolution shall, pursuant to all of the original requirements of Section 3.02(B), submit a new application and filing fee.

(f) If any substantive false or misleading information is submitted or supplied by an applicant on an application, that application shall be rejected.

(4) Refund of Fees

Application or review fees are not refundable except where the Zoning Inspector determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant within 60 days.

(C) Submission Schedule

The Zoning Inspector shall establish the submission and review schedule (including time frames for review where not established within the ORC) for applications. The Zoning Inspector may amend and update these requirements as determined to be necessary.

(D) Simultaneous Processing of Applications

- (1) Whenever two or more forms of review and approval are required under this code, the Zoning Inspector shall determine the order and timing of review.
- (2) The Zoning Inspector may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.

(E) Examination and Copying of Application and Other Documents

Documents and/or records may be inspected and/or copied as provided for by state law.

(F) Constructive Notice for All Proceedings

The following shall apply to all public notice requirements, regardless of decision-making body.

- (1) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the agency having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this zoning resolution, and such finding shall be made available to the decision-making body prior to final action on the request.
- (2) When the records of the township document the publication, mailing, and/or posting of notices as required by this article, it shall be presumed that notice of a public hearing was given as required by this section.

(G) Computation of Time

- (1) In computing any period of time prescribed or allowed by this zoning resolution, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by Boardman Township where the township offices are closed for the entire day.
- (2) When the township offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next day which is not a Saturday, a Sunday, or a legal holiday observed by Boardman Township in which the township administrative offices are closed for the entire day.

(H) Conduct of Public Hearing

(1) Rights of All Persons

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

(2) Continuance of a Public Hearing or Deferral of Application Review

- (a) An applicant may request that a review or decision-making body's consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Zoning Inspector prior to the publication of notice as may be required by this resolution. The Zoning Inspector may grant such requests, in which case the application will be considered at the next regularly scheduled meeting.
- (b) A request for deferral of consideration of an application received by the Boardman Township Zoning Inspector after publication of notice of the public hearing as required by this resolution shall be considered as a request for a continuance of the public hearing, and may only be granted by the review or decision-making body.
- (c) The review or decision-making body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place.

(3) Withdrawal of Application

Any request for withdrawal of an application shall be either submitted in writing to the Zoning Inspector or made through a verbal request by the applicant prior to action by the review or decision-making body.

- (a) The Zoning Inspector shall approve a request for withdrawal of an application if it has been submitted prior to publication of notice for the public hearing on the application in accordance with this resolution.
- (b) If the request for withdrawal of an application is submitted after publication of notice for the public hearing in accordance with this resolution, the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review or decision-making body.
- (c) In all cases where the applicant has requested the withdrawal of an application, the application fee paid shall not be refunded.

(I) Reapplication after Denial of an Application

If an application is denied, the applicant may:

- (1) Appeal the decision in accordance with the applicable appeals procedure established in this resolution or allowed by the ORC;
- (2) Make changes to the application that will fully address all issues and findings identified for the denial and resubmit a new application, including any required fees. In such cases, any such resubmission must contain evidence that shows how the new application has substantially changed to address each of the findings of the original decision. The Zoning Inspector shall have the authority to determine if the evidence submitted substantially changes the application to address all issues as part of the complete application determination in Section 3.02(B)(3). If it does not, the Zoning Inspector shall return the application, with reasons for their determination in writing, along with any paid fees; or
- (3) Submit a new application if the proposed use and design of the site will be entirely different than the originally denied application.

3.03 ZONING TEXT OR MAP AMENDMENT

(A) Purpose

The purpose of the zoning text and zoning map amendment procedure is to provide a process for amending the zoning map and text of this resolution.

(B) Amendment Initiation

- (1) Amendments or supplements to the zoning resolution or zoning map may be initiated by:
 - (a) A motion of the Zoning Commission;
 - (b) Passage of a resolution by the Board of Trustees; or
 - (c) By the filing of an application by the owners, lessees, or their agents, of property within the area proposed to be changed or affected by the proposed amendment.
- (2) If the Board of Trustees initiates the amendment, the board shall, upon the passage of such resolution, certify such resolution to the Zoning Commission.

(C) Review Procedure

(1) Step 1 – Pre-application Conference (Optional)

- (a) If initiated by the property owners, the applicant may request to meet with the Zoning Inspector and/or Zoning Commission to discuss the initial concepts of the proposed amendment and general compliance with applicable provisions of this zoning resolution prior to the submission of the application.
- (b) Discussions that occur during a pre-application conference or any preliminary meeting with the Zoning Inspector and/or Zoning Commission, or any representative of the township, are not binding on the township and do not constitute official assurances or representations by Boardman Township or its officials regarding any aspects of the plan or application discussed.

(2) Step 2 – Application

- (a) Applications for any change of district boundaries, classifications of property as shown on the zoning map, or changes to the zoning resolution text shall be submitted to the Zoning Commission at the township offices.
- (b) The application shall include all such forms, maps, and information, as may be prescribed by the Zoning Inspector to assure the fullest practicable presentation of the facts for the permanent record.
- (c) Each application initiated by property owners shall be signed by the owners, or the owners' authorized agent, of each property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications.
- (d) Applications for amendments initiated by the Zoning Commission or the Board of Trustees shall be accompanied by the initiating board's motion or resolution pertaining to such proposed amendment.
- (e) All applications shall be submitted with the required fees as established in the Boardman Township fee schedule.

(3) Step 3 – Public Hearing and Recommendation by the Zoning Commission

- (a) Upon adoption of a motion, certification of a resolution, or the filing of an application (certified as complete by the Zoning Inspector) for an amendment (Step 2), the Zoning Commission shall set a date for a public hearing regarding the proposed amendment.
- (b) The public hearing shall not be less than 20 or more than 40 days after the date the application (Step 2) was certified as complete by the Zoning Inspector.
- (c) Notification shall be given in accordance with the ORC.
- (d) Within 30 days after the completion of the Zoning Commission's public hearing, the Zoning Commission shall recommend the approval, denial, or modification of the proposed amendment and submit such recommendation together with the subject application or resolution and the text and map pertaining thereto, to the Board of Trustees.

(4) Step 4 – Public Hearing and Decision by the Board of Trustees

- (a) Upon receipt of the recommendation from the Zoning Commission (Step 4), the Board of Trustees shall set a time for a public hearing on such proposed amendment.
- (b) The date of the public hearing shall not be more than 30 days after the date of the receipt of such recommendation from the Zoning Commission.
- (c) Notification shall be given in accordance with the ORC.
- (d) Within 20 days after its public hearing, the Board of Trustees shall either adopt or deny the recommendations of the Zoning Commission. If the Board of Trustees denies or modifies the Zoning Commission's recommendations, the majority vote of the Board of Trustees shall be required.
- (e) If approved, a record of the approved amendment shall be maintained by the Township. The master Zoning Map shall be maintained by the Zoning Inspector.

(D) Effective Date and Referendum

- (1) Any amendment adopted by the Board of Trustees shall become effective 30 days after the date of such adoption.

- (2) A referendum of any amendments may be undertaken within the 30 days after the date of the Board of Trustees decision in accordance with the ORC.

(E) Review Criteria

The Zoning Commission and the Board of Trustees shall consider the following in decisions regarding zoning amendments:

- (1) The amendment is in accordance with the basic purpose and spirit of this resolution;
- (2) The amendment has been reviewed to determine the consistency with the Boardman Township Comprehensive Plan, or with the Mahoning County Comprehensive Plan in absence of a township plan, and any other applicable adopted plans or policy documents;
- (3) Conditions have changed since the zoning resolution was initially adopted or there was a mistake with the original zoning resolution, or amendment thereto, that justifies the amendment;
- (4) The amendment will correct an inequitable situation created by the zoning resolution rather than merely granting special privileges;
- (5) The applicant must justify the particular zoning being sought and show that it is best suited for the specific site, based upon the policies of the township;
- (6) The amendment will not result in unlawful exclusionary zoning; and
- (7) Any other substantive factor deemed appropriate by the Zoning Commission or Board of Trustees.

3.04 VARIANCE OR CONDITIONAL USE

(A) Purpose

Pursuant to the ORC, the BZA is authorized to review and make decisions on applications for conditional uses and variances to consider special exceptions to this zoning resolution, as may be specifically allowed herein. The following are the specific purposes behind each of these review procedures:

(1) Purpose for Conditional Use Review

The purpose of a conditional use procedure is to allow consideration for certain uses that may be allowed in the applicable zoning district, as specified in Section 4.07: [Permitted Uses](#), but due to the use's unique and special nature relative to location, design, size, operations, circulation, and general impact on the community, need to be evaluated on a case-by-case basis.

(2) Purpose for Variance Review

The purpose of a variance is to provide limited relief from the requirements of this resolution 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 resolution. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this resolution may impose of 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) Review Procedure

The review procedure for variances and conditional uses shall be as follows:

(1) Step 1 – Application

- (a) An application for a variance or conditional use over which the BZA has original jurisdiction under Section 2.03(D), may be made by any property owner or authorized agent.
- (b) The application shall include all such forms, maps, and information, as may be prescribed by the Zoning Inspector to assure the fullest practicable presentation of the facts for the permanent record.
- (c) The Zoning Inspector shall transmit a copy of the application to the BZA along with any reports from staff, township departments, or county agencies, as may be applicable or requested.
- (d) All applications shall be submitted with the required fees as established in the Boardman Township fee schedule.

(2) **Step 2 – Public Hearing with the Board of Zoning Appeals**

- (a) Upon application (Step 1), the BZA shall fix a reasonable time for the public hearing on any application.
- (b) Written notice of the public hearing shall be mailed to any party of interest including each owner of property, as shown on the county auditor's current tax list, whose land is contiguous to or directly across a street or roadway from the property that is the subject of the application. Such notice shall be given a minimum of 10 days prior to the date of the public hearing.
- (c) The township shall also give notice of such public hearing by publishing a legal notice in one or more newspapers of general circulation in the county at least 10 days before the date of such hearing.
- (d) Upon the day for hearing any application, the BZA may adjourn the hearing in order to obtain additional information or to cause further notice, as it deems proper, to facilitate the discussion and decision on said application. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.

(3) **Step 3 – Decision**

- (a) Within 30 days after the hearing concludes (Step 2), the BZA shall make a decision to approve, approve with conditions, or deny the application.
- (b) A copy of the BZA's decision shall be transmitted to the applicant or appellant at the applicant's address as shown on the records of the BZA. A copy shall be maintained by the Zoning Inspector.
- (c) In authorizing a variance or conditional use, the BZA may attach such conditions regarding the location, character and other features of the proposed structure or use as the BZA may deem necessary in the interest of the furtherance of the purposes of this resolution. In authorizing a variance or conditional use with conditions, the BZA may require such other evidence, guarantee, or bond as it may deem necessary. The applicant shall be required to comply with the conditions.
- (d) Failure to comply with the conditions of a decision shall be deemed a violation of this zoning resolution.
- (e) Any party adversely affected by a decision of the BZA may appeal the decision to the Mahoning County Court of Common Pleas.
- (f) If the subject development requires a site plan review in addition to a conditional use or variance approval, a zoning certificate shall not be issued until such site plan review is also approved.
- (g) The BZA's decision on a variance or conditional use shall be duly recorded in the minutes of the BZA. The minutes shall record the findings of fact relative to each application, the grounds for the action taken, and any conditions imposed in conjunction with approval.

(C) **Variance Review Criteria**

- (1) The BZA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this resolution as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this resolution will result in practical difficulty for an area/dimensional variance or unnecessary hardship for a use variance. The factors for an area/dimensional variance and use variance, as individually specified in this section, shall be considered and weighed by the BZA.

(2) **Area/Dimensional Variance**

- (a) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

- (i) 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 adjacency to nonconforming and inharmonious uses, structures or conditions;
 - (ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - (iii) Whether the variance is the minimum necessary to make possible the reasonable use of the land or structures;
 - (iv) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
 - (v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
 - (vi) Whether special conditions or circumstances exist as a result of actions of the owner;
 - (vii) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;
 - (viii) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and/or
 - (ix) 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.
- (b) No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

(3) Use Variance

In order to grant a use variance, the BZA shall determine that strict compliance with the terms of this resolution 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 which is unique to the property at issue and not ordinarily found in the same zone or district;
- (c) The variance requested cannot otherwise be resolved by a zoning map amendment;
- (d) The essential character of the neighborhood will not be substantially altered as a result of the variance;
- (e) There is an existing structure that cannot be reasonably used for a permitted use or a conditionally permitted use in the applicable zoning district;
- (f) The proposed use is listed in [Table 4.07-1: Permitted Use Table](#);
- (g) The hardship condition is not created by actions of the applicant;
- (h) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- (i) The granting of the variance will not adversely affect the public health, safety or general welfare;
- (j) The variance will be consistent with the general spirit and intent of this Resolution;
- (k) The requested use is permitted in another district in this resolution; and
- (l) The variance sought is the minimum that will afford relief to the applicant.

(D) Conditional Use Review Criteria

In reviewing conditional uses, the BZA shall consider the following:

- (1) The use is a conditional use, permitted with approval by the BZA, in the district where the subject lot is located;

- (2) The use is in accordance with the objectives of the Boardman Township Comprehensive Plan and zoning resolution; and
- (3) The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare.
- (4) The BZA shall also consider the following as applicable to the subject application:
 - (a) The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding properties. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - (i) The location and screening of vehicular circulation and parking areas in relation to surrounding development;
 - (ii) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development;
 - (iii) The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses; and
 - (iv) The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
 - (b) The proposed conditional use shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
 - (c) The location of the proposed conditional use shall minimize the impact of traffic generated. In determining whether this requirement has been met, consideration shall be given to the following:
 - (i) Recommendations of a traffic impact study, if required by Mahoning County or the Ohio Department of Transportation;
 - (ii) Proximity and access to major thoroughfares;
 - (iii) Estimated traffic generated by the proposed use;
 - (iv) Proximity and relation to intersections;
 - (v) Adequacy of driver sight distances;
 - (vi) Location of and access to off-street parking;
 - (vii) Required vehicular turning movements; and
 - (viii) Provision of pedestrian traffic.
 - (d) The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.
 - (e) The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by nonresidential development, and further, the location of the proposed conditional use shall not result in a small nonresidential area being substantially surrounded by incompatible uses.

(E) Expiration and Effect of Approval

- (1) Upon approval, a conditional use or variance shall be deemed a conforming use permitted in the applicable zoning district, subject to any conditions imposed and final approval of the application. Such approval shall affect only the lot or portion thereof on which the proposed use is located.
- (2) Conditional use and variance approvals shall run with the land and shall not expire or be voided if there is a change in ownership.
- (3) A conditional use or variance approval shall be voided if the applicant has not received approved zoning certificates within 12 months of the date the BZA approved such conditional use or variance.

- (4) A conditional use approval shall expire if the allowed conditional use is discontinued for a period of more than six months.
- (5) Upon expiration of a variance or conditional use approval, a new variance or conditional use application, including all applicable fees, shall be required.

(F) Revocation of Approvals

Approval of a conditional use or variance may be revoked by the BZA if construction is not in conformance with the approved plans. In such a case, the Zoning Inspector shall ask that the conditional use or variance be placed on the agenda of the BZA. Written notice shall be provided to the applicant at least 10 days prior to the meeting at which the case will be considered. The applicant shall be given the opportunity to present information and to answer questions. The BZA, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the notice.

3.05 SITE PLAN REVIEW

(A) Purpose

The purpose of the site plan review procedure is to provide an opportunity for staff level and board level review of proposed site plans prior to zoning certificate approvals. For the purposes of this resolution, site plan review shall be undertaken administratively with township staff, including the Zoning Inspector, and the chairperson of the Architectural Review Board without a full review of the Architectural Review Board unless the initial administrative review determines a failure to comply with the standards and guidelines of this resolution or if a variance application is required, in which case the full Architectural Review Board shall convene in accordance with this section.

(B) Applicability

- (1) Unless specifically exempted in Section 3.05(B)(5), no construction, exterior alteration, expansion of floor area, relocation, change in occupancy, or change in use shall be permitted without the review and approval of a site plan pursuant to this section.
- (2) Site plan review shall be required for all variance and conditional use applications.
- (3) A change in use shall be construed in accordance with the Ohio Basic Building Code where such changes in use would exceed 30 percent of the original use.
- (4) Site plan review shall also be required for the resumption of any use greater than 30 percent of total building square footage that has been vacant for more than six months, or for the expansion of any existing use. "Expansion" shall include a floor space increase of 25 percent or more within any 10-year period, or the introduction of new materials and/or processes not previously associated with the existing use when, in the opinion of the Zoning Inspector, the introduction of new materials and/or processes warrants the review of a revised site plan based upon the impact of said new materials and/or processes on the existing site and surrounding or adjacent properties.

(5) Exemptions

The following shall be exempted from site plan review:

- (a) The construction or enlargement of single-family dwellings and two-family dwellings, or any accessory uses related to such dwellings, even when a variance is required for such uses;
- (b) The construction or enlargement of any multi-family dwellings with six or fewer units in a single structure, or any accessory uses related to such dwellings, even when a variance is required for such uses;
- (c) The construction or alteration of any building used exclusively for agricultural uses as defined by the ORC;
- (d) Temporary uses as allowed in Section 6.02: [Temporary Uses and Structures](#); and
- (e) Construction or alteration of buildings or structure that do not exceed 200 square feet of floor area after construction.

(C) Review Procedure

(1) Step 1 – Pre-application Conference (Optional)

- (a) An applicant may request to meet with the Zoning Inspector and/or Architectural Review Board to discuss the initial concepts of the site plan and general compliance with applicable provisions of this zoning resolution prior to the submission of the application.
- (b) Discussions that occur during a pre-application conference or any preliminary meeting with the Zoning Inspector and/or Architectural Review Board, or any representative of the township, are not binding on the township and do not constitute official assurances or representations by Boardman Township or its officials regarding any aspects of the plan or application discussed.

(2) Step 2 – Application

The applicant shall submit an application for a site plan review prior to submitting for a building permit from Mahoning County. The Zoning Inspector shall acknowledge receipt of these plans by endorsing them with his/her signature and the date of receipt.

(3) Step 3 – Administrative Review

- (a) After determining that the application is complete, the Zoning Inspector shall transmit copies of the proposed site plan to the Chairperson of the Architectural Review Board, Police Chief, Fire Chief, Road Superintendent, and Township Administrator for review and comment. The recipients of the plan have 10 working days to respond to the Zoning Inspector concerning the following:
 - (i) Whether the site plan should be approved based upon a determination that the proposed plan or project complies with the applicable standards set forth in this resolution;
 - (ii) Whether the site plan should be denied based upon a determination that the proposed site plan or project does not comply with the applicable standards set forth in this resolution;
 - (iii) Whether the site plan or project should be approved subject to any conditions, modifications, or restrictions as noted by the respective recipient of the plan, or conditions, modifications or restrictions as required by the Zoning Inspector that will assure that the project meets the applicable standards set forth in this resolution; or
 - (iv) Whether the proposed site plan should be placed on the Architectural Review Board's next agenda for a full review and recommendation in accordance with Section [3.05\(C\)\(4\)](#), below, due to the fact that the application:
 - A. Involves a proposed conditional use;
 - B. Involves a proposed development subject to a variance application that the Zoning Inspector determines to be substantial based on the number of variances and/or the significance of the variance request compared to surrounding development;
 - C. Involves a significantly large development or redevelopment project that justifies a review by the full board; and/or
 - D. Where the administrative review of the site plan review application results in disagreement on compliance with standards of this resolution.
- (b) The Zoning Inspector shall take all of the recommendations from the recipients and make a final decision to forward the application to the full Architectural Review Board or shall have the authority to approve, approve with conditions, or deny the site plan review application.

(4) Step 4 – Review and Recommendations by the Full Architectural Review Board, If Applicable

- (a) Where the Zoning Inspector decides to forward the application to the full Architectural Review Board, the application shall be forwarded to the full Architectural Review Board for their next regularly scheduled meeting or a special meeting.
- (b) The Architectural Review Board shall have the authority to:
 - (i) Review the proposed site plan and provide comment regarding the intent and application of the applicable standards of this resolution;

- (ii) Make suggestions for improvements or modifications regarding compliance with the applicable standards of this resolution;
 - (iii) Make suggestions and written recommendations to applicants for eliminating the need for variances to this resolution;
 - (iv) Make written recommendations to applicants regarding the final acceptance of the proposed or revised site plans or projects which are presented to the BZA regarding the approval and/or denial of requests and/or applications for variances or conditional uses to this or any other article of this resolution.
- (c) The Chairperson of the Architectural Review Board shall report all findings, suggestions and/or written recommendations of the Architectural Review Board, in writing, to the Zoning Inspector and applicant. The Zoning Inspector shall provide a copy of such findings to the BZA prior to the BZA's review of the subject application.
- (d) If all necessary variance requests or conditional use is approved, the site plan application shall be considered approved with all applicable conditions as decided on by the BZA. The applicant shall be required to revise any site plan documents to reflect the approved variances and related conditions and submit the revised plans for administrative review in accordance with Section 3.05(C)(3), above.

(D) Review Criteria

All applications for a site plan review shall demonstrate conformity with the provisions of this zoning resolution.

(E) Effect of Decision or Recommendation

- (1) If the site plan review application is approved, then the applicant shall be required to submit applications for zoning certificate approval.
- (2) If the site plan review application is approved with conditions, the applicant shall be required to revise the site plan documents to reflect compliance with any conditions and submit the revised documents to the Zoning Inspector prior to applying for a zoning certificate.
- (3) If the site plan review application is denied, the applicant shall have the opportunity to appeal the decision as established in Section 3.07: Appeals.

(F) Expiration

Approved site plan applications shall be subject to the same standards of expiration as zoning certificates in Section 3.06(D).

3.06 ZONING CERTIFICATE

(A) Applicability

- (1) A zoning certificate shall be required for any of the following:
 - (a) New construction or structural alteration (excluding interior-only alterations) of any building or structure, including, but not limited to, accessory structures, signs, fences, walls, or other structures, unless otherwise exempted in this resolution;
 - (b) Establishment of a temporary use or structure that requires a certificate in Section 6.02: Temporary Uses and Structures;
 - (c) Occupancy and use of vacant land, excluding any exempted lands or uses in Section 1.07(D);
 - (d) Any change in use in an existing building (not applicable to a change in tenancy when the use remains the same); or
 - (e) Any change in the use of a nonconforming use.
- (2) The Zoning Inspector shall have the authority to develop separate application forms and permits for special purposes that are reviewed in the same manner as the zoning certificate. These special permits may include, but are not limited to, occupancy permits, sign permits, temporary use permits, fence permits, etc. For the purposes of this resolution, such permits shall be considered a zoning certificate.
- (3) Where a site plan review is required in Section 3.05(B), such site plan review approvals shall be considered an approval of the applicable zoning certificates under this section.

(B) Review Procedure

(1) Step 1 – Application

The applicant shall submit an application for a zoning certificate for review and approval prior to submitting for a building permit from Mahoning County.

(2) Step 2 – Review by the Zoning Inspector

The Zoning Inspector shall review the application for conformance with the provisions of this zoning resolution.

(3) Step 3 – Decision

- (a)** Within 10 business days after an application (Step 1) is determined to be complete, the Zoning Inspector shall either approve and issue the zoning certificate or deny the application and state in writing the reasons for the action taken. Such statement of denial shall include, but not be limited to, a list of regulations that would be violated by the proposed use, and shall transmit one copy thereof to the applicant along with one copy of the plot plan, signed, dated, and noted as denied.
- (b)** Prior to a denial, the Zoning Inspector may provide comments to the applicant on the reasons for the potential denial and may provide the applicant with up to 30 days to revise the submitted plans to demonstrate compliance with the standards of this resolution.
- (c)** In conducting the review of the application, the Zoning Inspector may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this resolution.
- (d)** Upon approval, the Zoning Inspector shall give to the applicant one signed copy of the zoning certificate and maintain the second copy of the permit for township records.

(C) Review Criteria

All applications for a zoning certificate shall demonstrate conformity with the provisions of this zoning resolution.

(D) Expiration

- (1)** Zoning certificates shall expire within one year of the date of issuance of a zoning certificate and within this period of time, construction shall have been completed on all exterior walls, roofs, doors, and windows of all buildings. The Zoning Inspector may authorize an extension of up to six months if just cause is shown.
- (2)** Once construction has begun, all construction must be completed within two years. For large projects, the applicant may submit a phased construction schedule for approval by the Zoning Inspector if just cause can be shown for an extended construction schedule.
- (3)** Upon expiration of a zoning certificate, a new zoning certificate application, including all applicable fees, shall be required before construction can recommence.

(E) Revocation of a Zoning Certificate

- (1)** The Zoning Inspector shall hereby have the authority to revoke an approved zoning certificate if the information submitted as part of the application is found to be erroneous or fraudulent after the certificate has been issued.
- (2)** The Zoning Inspector may also revoke a zoning certificate if the applicant has not conformed with all applicable federal, state, county, and township regulations, resolutions, and rules including, but not limited to, the Ohio Administrative Code, the Ohio Revised Code, State of Ohio departments and agencies, the Mahoning County Planning Commission, Mahoning County Public Health, Mahoning County Engineer, the Mahoning Soil and Water Conservation District, and the applicable water and sewer districts/agencies.

3.07 APPEALS

(A) **Appeal Applicability**

An appeal to the BZA may be taken by the applicant or any person affected or aggrieved by a decision of the Zoning Inspector or administrative official in the enforcement of this zoning resolution. Such appeal shall be taken within 20 days after receipt of notification of the decision, by filing with the Zoning Inspector and with the BZA, a notice of appeal specifying the grounds thereof including applicable sections of the Boardman Township Zoning Resolution.

(B) **Stay**

An appeal to the BZA shall stay all proceedings in furtherance of the appealed action, unless the Zoning Inspector certifies to the BZA, that by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed other than by an injunction granted by the Court of Common Pleas.

(C) **Review Procedure**

The review procedure for an appeal shall be as follows:

(1) **Step 1 – Filing of Appeal**

- (a) Upon the filing of an appeal, the Zoning Inspector shall transmit to the BZA all the documents and other evidence constituting the record.
- (b) The filing of an appeal shall stay all proceedings unless the Zoning Inspector or any affected person certifies to the BZA that, by reason of facts pertaining to the matter in question, a stay, in their opinion, would cause imminent peril to life or property. When such certification is made, proceedings shall not be stayed except by order granted by the BZA.
- (c) All appeals shall be submitted with the required fees, if applicable, as established in the Boardman Township fee schedule.

(2) **Step 2 – Public Hearing with the Board of Zoning Appeals**

- (a) Upon the filing of an appeal (Step 1), the BZA shall fix a reasonable time for the public hearing on the appeal, give notice in writing at least ten days prior to the hearing to the parties of interest, and give notice of such public hearing by one publication in one or more newspapers of general circulation in the county at least ten days before the date of such hearing.
- (b) Written notice of the public hearing shall be mailed to any party of interest including each owner of property, as shown on the county auditor's current tax list, whose land is contiguous to or directly across a street or roadway from the property that is the subject of the application. Such notice shall be given a minimum of 10 days prior to the date of the public hearing.
- (c) The township shall also give notice of such public hearing by publishing a legal notice in one or more newspapers of general circulation in the county at least 10 days before the date of such hearing.
- (d) Upon the day for hearing any appeal, the BZA may adjourn the hearing in order to obtain additional information or to cause further notice, as it deems proper, to facilitate the discussion and decision on said appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.
- (e) At the hearing, any person may appear in-person or by an attorney.

(3) **Step 3 – Decision**

- (a) Within 30 days after the hearing concludes (Step 2), the BZA shall decide on the appeal.
- (b) A decision of the BZA shall not become final until the expiration of 30 days from the date of such decision unless the BZA 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.

- (c) A certified copy of the BZA's decision shall be transmitted to the applicant or appellant at the applicant's address as shown on the records of the BZA and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him and he shall incorporate the terms and conditions of the decision in the permit to the appellant, whenever the BZA authorizes a zoning certificate.
- (d) The BZA may, in conformity with the provisions of this section, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as necessary; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.
- (e) Failure to comply with the conditions of a decision shall be deemed a violation of this zoning resolution.
- (f) Any party adversely affected by a decision of the BZA may appeal the decision to the Mahoning County Court of Common Pleas.

(D) Appeal Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified by the BZA unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation:

- (1) Was arbitrary or capricious;
- (2) Was based on an erroneous finding of a material fact;
- (3) Was based on erroneous interpretation of this Resolution or zoning law; or
- (4) Constituted an abuse of discretion.

(E) Record of Decision and Order

- (1) The BZA shall prepare and retain a record of each appeal, and shall base its decision on this record. This record shall include:
 - (a) The relevant administrative records and the administrative orders issued thereon relating to the appeal;
 - (b) The notice of the appeal; and
 - (c) Such documents, exhibits, plans, photographs, or written reports as may be submitted to the Board for its consideration.
- (2) The written findings of fact, the decisions, and the conditions imposed by the Board in acting on the appeal shall be entered into the official record, after being signed by the Chairperson of the Board.