

§ 152.012 MEMBERSHIP AND ORGANIZATION OF BOARD OF ZONING APPEALS.

(A) There shall be a New Lebanon Board of Zoning Appeals consisting of five Council members who are not on the Planning Commission, plus two members of the electorate who are not members of Council. Each Council member who is on the Board of Zoning Appeals shall serve as a member of the Board of Zoning Appeals for the duration of his or her Council term, unless he or she is otherwise appointed to the Planning Commission. Upon adoption of this division, current non-Council members of the Board of Zoning Appeals shall each be assigned by Council to terms expiring January 1, 1997, and January 1, 1999. Subsequent terms for non-Council members on the Board of Zoning Appeals shall be four years in length. Any non-Council member vacancy on the Board of Zoning Appeals shall be filled by appointment of Council for the remainder of the unexpired term.

(B) The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this chapter. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his or her absence, the Acting Chairman, may administer oaths and the Board of Zoning Appeals may compel the attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member on each question, or, if absent or failing to vote, indicating this fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Municipality of New Lebanon and shall be a public record.

(C) The Board of Zoning Appeals shall be a continuing body and proceedings which have been lawfully begun by one Board of Zoning Appeals can be prosecuted by succeeding Boards of Zoning Appeals until completed and made effective.

('80 Code, § 152.012) (Ord. 94-14, passed 7-5-94; Am. Ord. 96-02, passed 2-20-96)

§ 152.013 JURISDICTION OF BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall have the following jurisdiction:

(A) *Administrative appeal.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Inspector or the Property Maintenance Enforcement Administrator in the enforcement of the provisions of this zoning code or the property maintenance code (§ 152.094(C)).

(B) *Variances.*

(1) *Variances on lots.* To authorize, on appeal, in specific cases, such variance from the terms of this zoning code as will not be contrary to the public interest, where, owing to special conditions of the land, (that is, an irregularly shaped lot having the required area; a lot of exceptional topography; or an exceptionally narrow, shallow or irregular lot) existing and of record at the time of the passage of this zoning code, a literal enforcement of the provisions of this zoning code will result in unnecessary hardship. In granting such variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with this zoning code.

(2) *Variances on existing buildings and structures.* To grant the projection of an existing building or structure into a required yard to secure an addition to the building or structure practicable in its construction and arrangement. This projection shall not exceed 1/3 of the required depth or width of the required yard. In granting the variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with this zoning code.

(3) *Use provisions applicable.* Divisions (B)(1) and (2) shall not be construed to permit variances which shall in effect amend the use provisions in this chapter.

(C) *Conditional uses.* To grant conditional certificates for the use of land, buildings, or other structures, if such certificates for specific uses are provided for in this zoning code.

(D) *Nonconforming uses.* Nonconforming uses as provided in §§ 152.163 through 152.168.

(E) *Well field protection appeals.* To take appeals, investigate matters related to said appeals, deny, uphold, or otherwise modify or waive the Zoning Inspector's actions on a case-by-case basis as they related to well field protection.

(F) *Determination of similar use.* Where a specific use is proposed that is not specifically listed or provided for in a zoning district under this zoning code, the Board of Zoning Appeals may make a determination, upon appeal, that the proposed use is substantially similar to a specific use that is listed or provided for in such zoning district.

(G) In appeals from the Property Maintenance Enforcement Administrator, to make such findings and rulings as are set forth in this code.

('80 Code, § 152.013) (Ord. 94-14, passed 7-5-94; Am. Ord. 2019-02, passed 6-18-19)