

# Article 3: Development Review Procedures

## Section 3.01 Purpose

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

## Section 3.02 Exemptions

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### (A) AGRICULTURAL USE EXEMPTION

**(1)** Agricultural uses, and buildings or structures that are incident to agricultural uses, located on lots with a lot area of five acres or more shall be exempt from the requirements of this zoning resolution and property owners shall not be required to obtain a zoning certificate per such uses in accordance with Section 519.21 of the ORC.

**(2)** For any platted subdivision approved under Section 711.05, 711.09 or 711.10 of the ORC, or in any area consisting of 15 or more lots approved under Section 711.131 (711.13.1) of the ORC that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, the township may regulate:<sup>3</sup>

**a)** Agriculture uses on lots of one acre or less, except for gardens or the raising of crops, which are permitted on all size lots and in all yards;

**b)** Setbacks, heights and sizes of buildings or structures incidental to the use of land for agricultural purposes on lots greater than one acre but not greater than 5 acres.

**c)** Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least 35 percent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under Section 4503.06 of the ORC. After 35 percent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to Section 519.19 of the ORC.

**(3)** This section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal husbandry on lots greater than five acres.<sup>3</sup>

**(4)** Structures that are exempt from the provisions of the zoning resolution pursuant to this section shall not be exempt from any applicable special flood hazard area regulations established and enforced by Summit County.

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<sup>3</sup> Effective 10/28/13

**(B) PUBLIC UTILITY OR RAILROAD EXEMPTION**

**(1)** Except as otherwise provided in state law or in Paragraph **(2)** below, this resolution shall not regulate the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad, for the operation of its business. As used in this division, “public utility” does not include a person that owns or operates a solid waste facility or a solid waste transfer facility, other than a publicly owned solid waste facility or a publicly owned solid waste transfer facility, that has been issued a permit under Chapter 3734

of the ORC or a construction and demolition debris facility that has been issued a permit under Chapter 3714 of the ORC.

**(2)** This resolution shall not regulate the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road, or highway in this state, and with respect to the use of land by any such public utility for the operation of its business, to the extent that any exercise of such power is reasonable and not inconsistent with Chapters 4901, 4903, 4905, 4909, 4921, and 4923 of the ORC. This exemption does not apply to regulations related the use of land by a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants.

## **Section 3.03 Common Review Requirements**

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

**(A) AUTHORITY TO FILE APPLICATIONS**

**(1)** The person having legal authority to take action 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 record owner or the duly authorized agent of the record owner and may be required to provide 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 Zoning Administrator 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 the review or issuance of zoning certificates, temporary zoning certificates, certificates of conformance, conditional use approvals, appeals, variances, zoning amendments, nonconformity reviews, and other applicable certificates 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 Springfield Township Zoning, or its designee, and shall be paid in accordance to the official zoning fee schedule as established by the Board of Trustees.

**(3) Complete Application Determination**

a) The Zoning Administrator shall only initiate the review and processing of applications submitted under this article if such application is determined to be complete.

b) The Zoning Administrator shall make a determination of application completeness within five business days of the application filing.

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 Administrator shall provide 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 Administrator 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 3.03\(B\): Application Contents](#), submit a new application and filing fee.

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

**(4) Refund of Fees**

Application or review fees are not refundable except where the Zoning Administrator 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.

**(5) Submission Schedule**

The Zoning Administrator is authorized and shall establish the submission and review schedule (including time frames for review where not established within the Ohio Revised Code) for applications. The Zoning Administrator may amend and update these requirements as determined necessary.

**(C) EXAMINATION AND COPYING OF APPLICATION AND OTHER DOCUMENT**

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

**(D) CONSTRUCTIVE NOTICE**

The following shall apply to all public notice requirements established in each development review procedure:

**(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.

**(E) 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 Springfield 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 succeeding days which is not a Saturday, a Sunday, or a legal holiday observed by Springfield Township in which the township administrative offices are closed for the entire day.

**(F) 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 bodies' consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Zoning Administrator prior to the publication of notice as may be required by this resolution. The Zoning Administrator 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 Springfield Township Zoning Department 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 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 Administrator or made through a verbal request by the applicant prior to action by the review or decision-making body.

- a) The Zoning Administrator 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.

### **(G) EXPIRATION OF APPROVALS<sup>3</sup>**

- (1) A preliminary development plan review approval shall expire one year after approval by the Zoning Commission if final development plan application has not been submitted to the Zoning Commission.
- (2) Final development plan approvals shall expire one year after approval by the Zoning Commission unless significant construction has commenced.
- (3) Partial development plan review approval shall expire 6 months after approval by the Zoning Commission or the Zoning Administrator.
- (4) After development plan reviews have expired a new application for the project must be submitted and associated fees paid.
- (5) Prior to expiration of approvals the applicant may request an extension from the Zoning Commission. The Zoning Commission may grant up to two extensions per approval. The allotted extension time is to be the same as though the applicant had submitted a new application for the project. If after all extensions have been exhausted and the proper development stage is not completed a new application shall be resubmitted along with submittal fees for the Zoning Commission approval.
- (6) For plans that require additional approval from the Summit County Planning Commission (i.e. Major Subdivisions), the township zoning approval will conform to the extension timelines as detailed in the current County of Summit Subdivision Regulations.

## **Section 3.04 Zoning Certificate**

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### **(A) APPLICABILITY**

A zoning certificate shall be required for any of the following:

- (1) New construction or structural alteration of any building or structure, including accessory structures, unless otherwise exempted in this resolution;
- (2) Occupancy and use of vacant land, excluding agricultural land; or
- (3) Any change in the use of a nonconforming use.

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<sup>3</sup> Effective 10/28/13

**(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 Summit County. Such application shall include:

- a) The zoning certificate application and applicable forms available from the township offices;
- b) All such forms, maps, and information as may be prescribed for that purpose by the Zoning Administrator to assure the fullest practicable presentation of the facts for the permanent record; and
- c) All required fees as established in the Springfield Township fee schedule.

**(2) Step 2 – Review**

The Zoning Administrator 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) for residential uses, or within 30 business days after an application (Step 1) for nonresidential uses, the Zoning Administrator shall either approve and issue the zoning certificate or deny the application and, in so doing, 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) In conducting the review of the application, the Zoning Administrator 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. Any costs of review shall be borne by the applicant, as stated in the Springfield Township fee schedule.
- c) Upon approval, the Zoning Administrator shall return one signed copy of the application and maintain the second copy of the application for township records.
- d) If the application is denied, the applicant may submit a revised application and sketch plan for review in accordance with this review procedure, or the applicant may appeal the decision to the BZA in accordance with [Section 3.08: Appeals](#).

**(C) REVIEW CRITERIA**

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

**(2)** No zoning certificate shall be issued in any area not serviced by sanitary sewer until the applicant has obtained a septic permit from the Summit County Health Department.

**(3)** No zoning certificate shall be granted to build any structure where there is a proposed ingress or egress point to the roadway until the owner of such property has secured a permit from the Ohio Department of Transportation, the Summit County Engineer, or the proper township official (whichever authority has jurisdiction), for permission to install a culvert of the proper size and specifications required by the respective authority and has completed the installation of such culvert.

**(D) EXPIRATION**

**(1)** Construction shall begin within 12 months of issuance of a zoning certificate. Construction shall be considered “begun” if the footers of the structure have been installed.

(2) Failure to begin construction within 12 months shall result in the expiration of the zoning certificate unless the applicant requests and receives an extension from the Zoning Administrator for good cause.

(3) Where the zoning certificate is for a use of land or a structure, such use shall be open or fully functioning within 12 months of issuance of a zoning certificate or the zoning certificate shall expire.

(4) Upon expiration of a zoning certificate, a new zoning certificate application, including all applicable fees, shall be required before construction.

**(E) TEMPORARY ZONING CERTIFICATE**

(1) Temporary buildings and uses that require a zoning certificate as established in [Section 7.02: Temporary Uses and Structures](#), shall be required to obtain a temporary zoning certificate in accordance with the procedure set forth above for approval of a zoning certificate.

(2) A temporary zoning certificate shall be valid for a period of 60 days, unless the Zoning Administrator authorizes a longer period or is approved in accordance with [Section 7.02: Temporary Uses and Structures](#).

**(F) REVOCATION OF A ZONING CERTIFICATE**

The Zoning Administrator shall hereby have the authority to revoke an approved zoning certificate or temporary zoning certificate if the information submitted as part of the application is found to be erroneous or fraudulent after the certificate has been issued.

## **Section 3.05 Certificate of Conformance**

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**(A) APPLICABILITY**

(1) A certificate of conformance shall be required for any of the following:

- a) Occupancy of a new building or structure after completion of construction;
- b) Occupancy or change of occupancy of an existing building or structure;
- c) Change of use in any building.

(2) A certificate of conformance shall not be required for agricultural uses.

(3) A certificate of conformance shall not be required for occupancy of a new residential use or change in occupancy of a residential dwelling unit.

**(B) REVIEW PROCEDURE**

**(1) Step 1 – Application**

The applicant shall submit an application for a certificate of conformance after completion of construction or prior to occupancy of a building or structure. Such application shall include:

- a) The certificate of conformance application and applicable forms available from the township offices;
- b) All such forms, maps, and information as may be prescribed for that purpose by the Zoning Administrator to assure the fullest practicable presentation of the facts for the permanent record;
- c) A certificate from the Summit County Building Administrator indicating compliance with the Summit County Building Code;
- d) A certificate from the Summit County Health Department indicating compliance with all the requirements of said department; and
- e) All required fees as established in the Springfield Township fee schedule.

**(2) Step 2 – Review and Decision**

a) The Zoning Administrator shall review the application for conformance with the provisions of this zoning resolution. In conducting the review of the application, the Zoning Administrator 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. Any costs of review shall be borne by the applicant, as stated in the Springfield Township fee schedule.

b) If the Zoning Administrator finds that the application is not in compliance with the zoning resolution, the application shall be considered denied and the Zoning Administrator shall 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 application, signed, dated and noted as denied.

c) If the Zoning Administrator approves the application for a certificate of conformance, they shall then forward it to the Fire Safety Inspector who shall review the application, make any applicable inspection, and sign off on the application before issuance of a certificate of conformance.

d) Upon approval, the Zoning Administrator shall return one signed copy of the application and maintain the second copy of the application for township records.

e) If the application is denied, the applicant may appeal the decision to the BZA in accordance with [Section 3.08: Appeals](#).

**(C) REVIEW CRITERIA**

All applications for a certificate of conformance shall demonstrate conformity with the provisions of this zoning resolution and any plans approved by the township related to the application.

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**Section 3.06 Zoning Text or Map Amendment**

**(A) 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 (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.

**(B) 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 Administrator 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 Administrator are not binding on the township and do not constitute official assurances or representations by Springfield 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 for that purpose by the Zoning Administrator to assure the fullest practicable presentation of the facts for the permanent record.
- c) Each application initiated by property owners shall be signed by at least one of the owners, or the owners authorized agent of the 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 Springfield Township fee schedule.

**(3) Step 3 – Referral to the Summit County Planning Commission**

- a) Within five days after the adoption of a motion, certification of a resolution, or the filing of an application (Step 2), the township shall transmit a copy thereof to the Summit County Planning Commission.
- b) The Summit County Planning Commission shall recommend the approval, approval with modifications, or denial of the proposed amendment and shall submit such recommendation to the Zoning Commission.
- c) Such recommendation shall be considered at the public hearing held by the Zoning Commission on such proposed amendment.

**(4) Step 4 – Public Hearing and Recommendation by the Zoning Commission**

- a) Upon adoption of a motion, certification of a resolution, or the filing of an application 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 submitted.
- c) Notification shall be given in accordance with Section 519.12 of the ORC.
- d) Within 30 days after 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 such application or resolution, the text and map pertaining thereto, and the recommendation of the Summit County Planning Commission to the Board of Trustees.

**(5) Step 6 – 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 Section 519.12 of 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.

**(C) 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 ORC Section 519.12.

**(D) REVIEW CRITERIA**

The following criteria shall be used in decisions regarding zoning amendments:

(1) The amendment is in accordance with this resolution;

(2) The amendment has been reviewed to determine the consistency with the Springfield Township Comprehensive Land Use Plan;

(3) The need for and availability of centralized water and sewer facilities compared to the capacity of the existing facilities and plans for future extensions;

(4) Where more than one zoning district is available to implement the land use designation, 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; and

(5) Any other substantive factor deemed appropriate by the Zoning Commission or Board of Trustees.

**(E) PLANNED UNIT DEVELOPMENTS**

Planned Developments (PDs) shall be subject to the review procedure established in [Article 6: Planned Development Districts](#).

## **Section 3.07 Variance or Conditional Use**

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**(A) 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 2.05: Board of Zoning Appeals \(BZA\)](#), may be made by any property owner, including an authorized agent, or by a governmental officer, department, board or bureau.

b) The application shall include all such forms, maps, and information, as may be prescribed for that purpose by the Zoning Administrator to assure the fullest practicable presentation of the facts for the permanent record.

c) The Zoning Administrator shall transmit a copy of the application to the BZA.

d) All applications shall be submitted with the required fees as established in the Springfield 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, give at least ten days of notice in writing to the parties in 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) 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 on the application.

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 Administrator.

d) In authorizing a variance or conditional use, the BZA may attach thereto 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 attached conditions, the BZA may require such evidence and guarantee or bond as it may deem to be necessary, that the applicant is and will comply with the attached conditions.

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 Summit County Court of Common Pleas.

**(B) 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 following factors 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 substantial and 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
- (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 reasonable used for a use permitted within the applicable zoning district;
- f) The hardship condition is not created by actions of the applicant;
- g) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- h) The granting of the variance will not adversely affect the public health, safety or general welfare;
- i) The variance will be consistent with the general spirit and intent of this Resolution;
- j) The requested use is permitted in another district in this resolution; and
- k) The variance sought is the minimum that will afford relief to the applicant.

### **(C) 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 Springfield Township Comprehensive Land Use 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 application:

- a)** The comparative size, floor area and mass of the proposed structure(s) in relationship to adjacent structures and buildings in the surrounding properties and neighborhood;
- b)** The frequency and duration of various indoor and outdoor activities and special events and the impact of these activities on the surrounding area;
- c)** The number of transit movements generated by the proposed use and relationship to the amount of traffic on abutting streets and on minor streets in the surrounding neighborhood;
- d)** The capacity of adjacent streets to handle increased traffic in terms of traffic volume;
- e)** The added noise level created by activities associated with the proposed use and the impact of the ambient noise level of the surrounding area and neighborhood;
- f)** The requirements for public services where the demands of the proposed use are in excess of the individual demand of adjacent land uses in terms of police and fire protection, and the presence of any potential or real fire or other hazards created by the proposed use;
- g)** The general appearance of the neighborhood will not be adversely affected by the location of the proposed use on the parcel;
- h)** The impact of night lighting in terms of intensity and duration and frequency of use as it impacts adjacent properties and in terms of presence in the neighborhood;
- i)** The impact of the landscaping of the proposed use in terms of maintained landscaped areas versus areas to remain in a natural state, and the openness of landscape versus the use of buffers and screens;
- j)** The impact of a significant amount of hard-surfaced areas for building, sidewalks, drives, parking areas and service areas in terms of noise transfer, water runoff and heat generation;
- k)** The potential for the proposed use to remain in existence for a reasonable period of time and not become vacant or unused. Consideration should also be given to unusual single purpose structures or components of a more temporary nature; and
- l)** Any other physical or operational feature or characteristic that may affect the public health, safety and welfare.

**(D) EXPIRATION**

**(1)** Construction shall begin within 12 months of approval of a variance or conditional use.

Construction shall be considered “begun” if the footers of the structure have been installed.

**(2)** Failure to begin construction within 12 months shall result in the expiration of the variance or conditional use approval unless the applicant requests and receives an one-time extension from the Zoning Administrator for good cause.

**(3)** Where a conditional use approval is for a use of land or a structure, such use shall be open or fully functioning within 12 months of approval of the conditional use or the conditional use approval shall expire.

**(4)** Upon expiration of a variance or conditional use approval, a new application for a variance or conditional use, including all applicable fees, shall be required before approval.

## **Section 3.08 Appeals**

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### **(A) APPEAL APPLICABILITY**

An appeal to the BZA may be taken by any person aggrieved by a decision of the Zoning Administrator of the township in interpreting or applying the provisions of this zoning resolution. Such appeal shall be taken within 20 days of receipt of notification of the decision in question, by filing with the Zoning Administrator and with the BZA, a notice of appeal specifying the grounds thereof including applicable sections of the Springfield Township Zoning Resolution.<sup>1</sup>

### **(B) 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 Administrator shall transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.
- b) The filing of an appeal shall stay all proceedings unless the Zoning Administrator 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 Springfield 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 at least ten days of notice in writing to the parties in 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) 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.

#### **(3) Step 3 – Decision**

- a) Within 30 days after the hearing concludes (Step 2), the BZA shall make a decision 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 Administrator. Such decision shall be binding upon the Zoning Administrator 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.

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<sup>1</sup> Effective 8/12/13

**d)** The BZA may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the 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 Administrator 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 Summit County Court of Common Pleas.

**(C) 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 fails to comply with either the procedural or substantive requirements of this zoning resolution, state law, or federal law.