

ORDINANCE NO. 561 AC CMS

AN ORDINANCE AMENDING CODIFIED ORDINANCE
1325.02, 1325.04, 1325.05 and 1325.06

BE IT ORDAINED by the Council of the City of Oberlin, Lorain County,
State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. Codified Ordinances 1325.02, 1325.04, 1325.05 and 1325.06
are hereby amended to read as follows:

1325.02 Appeals

Appeals may be taken to and before the Zoning Board of Appeals by any
person aggrieved or by any officer, department head or official of the City.
Such appeal shall be taken within ten days from the date of the decision
by filing the following:

1. A notice of appeal specifying the grounds thereof
2. A filing fee of \$25.00
3. A list of the names and addresses of all property owners within a
200' radius of the property for which the appeal is taken.
4. The name and address of the appellant or his agent
5. A detailed plot, plan, specifications and description of the
proposed building, addition or remodeling.

The Building Inspector when the foregoing have been filed with him
shall immediately transmit the same together with the other papers constit-
uting the records, plus a concise statement of the reasons for his actions
citing a specific ordinance or ordinances justifying his action, to the
Board of Zoning Appeals.

The Zoning Board of Appeals shall fix a reasonable time for a hearing
to be held on the appeal and shall give notice of said hearing by certified
mail, return receipt requested, upon those property owners named in the
appeal, process an additional notice by a legal ad published once in three
newspapers having a general circulation in the City of Oberlin, all of said
notices to be sent and/or published at least two weeks before the date set
for the hearing. Notice shall also be sent to Council for placing said
hearing on the next Council agenda.

At the hearing any person may appear and testify. All persons so
wishing to testify shall do so under oath and both the appellant and appellee
shall not only have the right to present testimony, but shall also have the
right of cross-examination.

The entire record of the proceedings shall be taken either by tape recorder or by a shorthand or stenotype means of recording upon request of the appellant or appellee and upon payment of the costs thereof, the record shall be transcribed into typewritten form.

Upon the conclusion of all testimony, the Board may go into executive session for discussion but not for vote on any case before it. The Board shall render its decision within 30 days from the date of the hearing. Upon failure to render a decision, such failure shall be deemed to have been decided adversely to the appellant.

Each party receiving notice of the Board meeting shall also receive notice of its decision.

1325.04 Jurisdiction Variances

Upon hearing an appeal, the Zoning Board shall have the following authority provided the appeal has been perfected in accordance with the provisions of C. O. 1325.03.

1. To review the actions of the administrative officer from which the appeal is taken and render a determination as to whether the actions of said administrative officer are in accordance with the ordinances of the City of Oberlin. If the Board of Zoning Appeals finds that said actions are not in accordance with said ordinances, said Board shall reverse said actions and render findings and judgement in accordance with the ordinances of the City of Oberlin.

If the Board determines that the actions of the administrative officials are in accordance with the ordinances of the City of Oberlin, it shall hear evidence on the questions of permitting exceptions and variances to the ordinances of the City of Oberlin.

The following are the classes of exceptions and variances that said Board may properly authorize when brought before the Board of Zoning Appeals.

1. The question of permitting the extension of an existing building or the construction of a proposed building into or in more restricted district or where the boundary line of a district or where the boundary line of a district divides a lot held in single ownership.
2. Approve exceptions and modifications to the height, side, front or back set-back line or lines or area regulations as prescribed in the City ordinances.
3. Waive or reduce the parking and/or loading requirements in any of the districts wherever the character or use of the building is such as is unnecessary to comply with the full provision of parking and/or loading facilities.
4. Grant a permit for a temporary building or use incidental to a development. Such permit shall be issued for an initial period of not more than two years and, in the case of a building, only

upon written application, accompanied by a receipted bill of sale to the City of such building, effective in case the building is not removed prior to the expiration of the permit.

5. Permit the reconstruction within twelve months of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy. If the damage is less than fifty percent, no variance from the Zoning Board of Appeals is necessary. If the damage is more than ninety percent, reconstruction is not permissible.
6. Variances, on a hardship basis where the appellant can show that a strict application of the ordinances of the City of Oberlin, relating to the construction, alteration, extension, or use of a building will
 - a. impose upon said property unusual or impractical difficulties or
 - b. will impose particular hardship upon said property owner.
7. Extend a nonconforming use or substitute one nonconforming use for another or similar character.

In granting any of the exceptions and/or variances, the Board shall make the following findings:

1. That the appeal is upon one of the foregoing grounds (1-2-3-4-5-6-7) and specify same.
2. That the proposed appeal is:
 - a. reasonable and necessary
 - b. will not be contrary to the public interest
 - c. will not impair an adequate supply of air and light to adjacent property
 - d. unreasonably increase congestion of public streets
 - e. increase the danger of fire or endanger the public safety
 - f. unreasonably diminish or impair established property values in the surrounding areas
 - g. in any respect impair the public health, safety, morals or welfare of the inhabitants of the City of Oberlin.
3. In addition, under hardship appeals, the Board shall define the specific practice or hardship found by the Board.
4. In the event the foregoing findings of fact are not made, the Board shall disapprove the appeal.

1325.05 Appeal of the Board's Decision to Council

Any inhabitant of the City of Oberlin, property owner affected, or party to the appeal may, within 30 days of the Board's decision, appeal to the City Council by filing a Notice of Appeal with the Board of Zoning

Appeals and with the Clerk of Council.

Within 20 days from the date of filing the Notice of Appeal, said person so appealing shall, at his expense, file a transcript of the testimony presented at the hearing before the Board of Zoning Appeals, to City Council, and City Council shall hear and decide the appeal within 30 days from the filing of the transcript and may hear any additional evidence presented.

Council shall affirm the decision of the Board of Zoning Appeals unless it finds:

1. That the Board of Zoning Appeals erred as a matter of law, or
2. That the decision is not supported by reliable and probative evidence.

1325.06 Fee

A fee of \$25.00 shall accompany a Notice of Appeal to the Board of Appeals to be accredited to the general fund; if same is not paid, the Board of Zoning Appeals shall have no jurisdiction to hear the appeal.

SECTION 2. This ordinance shall be in full force and effect from the earliest period allowed by law.

PASSED: 1st reading: 3/18/68
2nd reading: 4/1/68
3rd reading: 4/15/68

ATTEST:


CLERK OF COUNCIL


CHAIRMAN OF COUNCIL

POSTED: 5/20/68 thru
6/5/68