

**RULES AND PROCEDURES**

**FOR THE**

**MAD RIVER TOWNSHIP**

**BOARD OF ZONING APPEALS**

ADOPTED ON DECEMBER 14, 2017

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## DUTIES OF OFFICERS AND MEMBERS OF THE BZA

### CHAIRMAN

(or Vice-Chairman in absence of Chairman)

1. Schedule meetings of the Board. Meetings are always scheduled in response to applications for Variance and Conditional Use, and appeals from a decision of the Zoning Inspector; see Section 522. More than one application may be considered at a given meeting, at the discretion of the Chairman. A Special Meeting may also be scheduled to discuss a particular issue, or take an action, if the issue or action cannot be conveniently or timely addressed at a meeting requiring a decision of the Board. See attachment entitled: Procedure for Scheduling a BZA Meeting.
2. Conduct meetings of the Board and record the meeting. See attachment entitled: Procedures for BZA Meetings.
3. By mid-December, prepare and submit a summary of annual out-of-pocket expenses associated with the above duties. Expenses to include: postage, envelopes, CD or other minutes recording media, and printed/copied pages at the rate of 5 cents per page.

### CLERK

1. Take minutes of the meetings of the Board. Written (hard copy) minutes must at least include: names of attending Members, proposed and seconded motions for vote by the Board, the votes cast by each Board Member (including abstentions), and actions taken by the Board.
2. File written minutes and Findings of Fact supplied by Board members in the public records filing cabinet at the Township Building.
3. E-mail meeting minutes to other Board Members within two (2) weeks of the meeting.
4. Inform the Zoning Inspector and Trustees of decisions by the Board on applications for (a) Variance, (b) Conditional Use, and (c) appeal from a decision of the Zoning Inspector.
5. By mid-December, prepare and submit a summary of annual out-of-pocket expenses associated with the above duties. Expenses to include: postage, envelopes, CD or other minutes recording media, and printed/copied pages at the rate of 5 cents per page.

6. By mid-December, prepare and submit an end-of-year report to the Fiscal Officer. Report to include, for each meeting of the Board during that year, a listing of the Board members in attendance.

#### MEMBERS GENERALLY

1. Attend scheduled meetings of the Board and cast a Yes or No vote on all seconded Motions. A member should abstain from voting when the outcome of the vote could directly benefit that member; this avoids the appearance of impropriety.
2. Submit written Findings of Fact to the Secretary for each decision of the Board on an application for (a) Variance, (b) Conditional Use, and (c) appeal from a decision of the Zoning Inspect. The Findings of Fact should be submitted by either email or postal mail within two (2) weeks of the meeting. The Findings of Fact should explain/justify the member's vote by applying facts presented or discussed during the meeting to the standards/criteria set forth in the Zoning Resolution. See Section 544 for the Variance Standards; and Section 563 for the Conditional Use Standards. A sample Finding of Facts for a recent decision of the BZA is attached.

## SAMPLE FINDING OF FACTS

Mark Navarre <mnavarre@ctcn.net>

September 30, 2016 10:59 AM

To: John Ridder

Findings

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Hi John,

Following are my findings relative to vote taken at the 29SEPT2016 BZA meeting. Please confirm your receipt.

This is a summary of my findings in support of my vote on 09/29/2016 in favor of granting the variance requested by Mr. Paul Baker.

The underlying premise of property rights is that a landowner can do what he wants with his property absent a zoning restriction to the contrary. Here, Mr. Baker wants to divide off and sell the buildings at the East end of his 79.8 acre cropland parcel, including the existing access lane to Coffin Station Rd which has always served the buildings. But the zoning regulations require 150' road frontage for a building lot, and the zoning inspector correctly denied the zoning permit because the proposed lot has only 24' of road frontage (at the road right-of-way). As pointed out by the zoning inspector, the 150' requirement could be met in this case by extending the proposed building lot to North Hampton Donnelsville Rd, which forms the West border of the parcel.

I voted in favor of granting the requested variance because:

- (1) Requiring Mr. Baker to run the building lot westward to North Hampton Donnelsville Rd (as would be required by strict application of the zoning regulations) would be an unnecessary hardship under Section 543. The parcel is farmed as one field with the parcel South of it, and the westward strip would cut the field in two, which is an absurd and wasteful thing to demand.
- (2) There are special conditions and circumstances peculiar to this land and buildings (as specified in Sections 544.4.a and 544.4.c), foremost of which is the fact that these buildings have always (for at least 100 years) been accessed by the lane to Coffin Station Rd. Granting the variance does nothing more than put into legal effect that which has always existed in practice. These special conditions and circumstances are not generally applicable to other land and buildings in the area, and did not result from the actions of the applicant. Furthermore, there are other building lots in the immediate vicinity that are accessed by narrow lanes (for example the parcels north of this parcel); consequently, a literal enforcement of the zoning regulations would not grant Mr. Baker a special privilege, but rather would deprive Mr. Baker of the right to do what his neighbors have done; see Sections 544.4.b and 544.4.d.
- (3) Finally, granting the variance is not contrary to the public interest, as mentioned in Section 522.2. Granting the variance simply puts into legal effect that which has always existed in practice as noted above, and prevents wasteful diversion of good farm cropland.

Respectfully submitted,

Mark Navarre, BZA Chairman

## PROCEDURES FOR BZA MEETINGS

1. Turn on recording device.
2. Chairman begins the meeting by:
  - (a) Announcing that “The MRT BZA meeting of (date) is now called to order”, and that the entire meeting will be recorded and preserved in the public records of the township;
  - (b) Introducing the Board Members; and
  - (c) Distributing a pad of paper and pen for attendees to list their names & addresses; list to be maintained with records of the meeting.
3. Chairman states the purpose(s) for the meeting; e.g., “This meeting is has been convened to consider the Variance application submitted by Mr. and Mrs. X”.
4. Chairman reads or summarizes the standards governing the Board’s decision on the application. The standards for variances are in Section 544, and the general standards for Conditional Uses are in Section 563. The Chairman further states:
  - (a) these are the standards that govern voting of the Board members, and
  - (b) concurring votes of at least three (3) Board members are required to decide in favor of the applicant.
5. Chairman administers Oath to all who expect to offer any testimony. The Oath is administered by stating the following:
  - (a) Please raise your right hand; and
  - (b) Do you swear that the statements you give in this meeting will be factual and truthful? If so, respond by saying “I Do”.
6. Chairman instructs attendees that:
  - (a) a person giving testimony is to state his/her name, and address all remarks to the Board; and
  - (b) others are to remain silent when someone is speaking to the Board.
7. The Applicant is invited to explain why the Board should approve the requested action. Others are then invited to offer testimony for or against the requested action. Board members are invited to ask any questions of the applicant.
8. After all testimony has been given, the Chairman asks for silence while the Board Members discuss the testimony, facts, standards, etc.
9. The Chairman asks the Board if they are ready to make a motion in favor of or against the requested action.
  - (a) If no motion or decision can be established because further investigation is needed, the Chairman will table the application for further investigation, and schedule a follow-up meeting to reconsider the application.

(b) If there is a motion, the Chairman asks the Clerk to read the Motion, asks for a Second, and a vote of the Members, and then informs the Applicant that the application has been Granted or Denied.

10. The Chairman thanks the public for their attendance at the meeting, and advises them that they may leave or stay for the remainder of the meeting. The remainder of the meeting is as follows:

(a) The Chairman asks the Board members if there are any additions or corrections to the minutes from the previous meeting of the Board. Any such additions or corrections are noted on the file copy of the minutes. The Chairman then initials the file copy of the minutes, and the initialed file copy is returned to the public records cabinet.

(b) The Chairman invites the Board members to bring up and discuss Old Business, if any.

(c) The Chairman asks for a Motion to Adjourn & a Second of the Motion; and then adjourns the meeting.

11. Turn off recording device and save/make permanent record for the township files.

## PROCEDURE FOR SCHEDULING A BZA MEETING

Legal Notice Publication. A Legal Notice for any meeting of the Board is to be posted on the Township website. To do this, email the Legal Notice (for example, as a pdf attachment) to the Fiscal Officer with a request for its publication on the township website. Publication in the Urbana Citizen is also required for Board meetings called to consider an appeal or an application for variance or conditional use. To do this, email the Legal Notice (for example, as a Word or pdf document) to [classified@urbanacitizen.com](mailto:classified@urbanacitizen.com); see attached Sample Publication Request. Special Meetings do not require newspaper publication of the Legal Notice; posting the Legal Notice on the Township website is sufficient.

Choosing a Meeting Date. Board meetings to consider an appeal or an application for variance or conditional use are to be held within 20 days of the application for appeal, and at least 10 days after the Legal Notice is published in the Urbana Citizen. You may be unable to satisfy the 20-day requirement due to delay in receiving the application from the zoning inspector, holidays, etc. Obtain a list of the township building availability dates from the Fiscal Officer; from the available dates, pick a day at least two weeks away, prepare the Legal Notice, and request that it be posted on the Township website and published in the Urbana Citizen.

Prepare an owner and address list for properties adjacent the property that is the subject of the appeal (includes properties across the road). Use the County Auditor's website; preferably the terminal in the Auditor's lobby, in case assistance is needed.

Prepare & Mail Neighbor Notice Letters to neighboring property owners using the above-mentioned owner list. Should be mailed on or before the expected publication date. See attached Sample Notice to Neighboring Property Owner.

Prepare & Mail Member Information Packet to each of the BZA members. The mailing should include a copy of the Legal Notice, along with the submitted application and any attachments. Should be mailed on or before the expected publication date.

Prepare & Mail Applicant Meeting Notice Letter to the party that filed the application. Should be mailed on or before the expected publication date. See attached Sample Notice to Applicant.

Mail or E-mail a Copy of the Legal Notice to the Zoning Inspector; Invite Zoning Inspector to attend the meeting.

### Pertinent Zoning Regulations

- Section 546: The hearing shall be within 20 days of the application for appeal.
- Section 547: The Legal Notice must be published at least 10 days prior to the hearing. It should include time, place, and nature of appeal.
- Section 548: Notice to neighbors should be mailed at least 10 days prior to the hearing.



## SAMPLE NOTICE TO APPLICANT

March 29, 2010

To: Mrs. Pamela Moore:

The following Notice of Public Hearing concerns your variance request, and is being published in the Urbana Citizen. A copy is also being mailed to owners of neighboring properties. Please make every effort to attend the meeting, as you will be asked to make a statement for the record explaining the nature of the request, and to answer questions posed by the board members. If you have any questions, you may call me at (937) 653-3501.

Mark Navarre  
Chairman, MRT BZA

## NOTICE OF PUBLIC HEARING

The Mad River Township Board of Zoning Appeals will hold a public hearing to consider a zoning variance application submitted by Pamela Moore concerning her 5.0-acre lot at 5454 Storms Creek Rd, Urbana, OH. Mrs. Moore wants to split the lot to form a new building lot, and purchase a vacant 0.8-acre adjoining lot for access to the new lot. Variance from the 200' frontage regulation (Section 930.3.1) is requested. The hearing will be held at 7:30 pm on Tuesday, April 13, 2010 at the Mad River Township Building located at 2773 Vance Road, Urbana, OH 43078.

Mad River Township Board of Zoning Appeals  
Mark A. Navarre, Chairman

## SAMPLE NOTICE TO NEIGHBORING PROPERTY OWNER

To: Property Owner Adjacent Moore property:

The Mad River Township Board of Zoning Appeals will hold a public meeting to consider a zoning variance application submitted by Pamela Moore concerning her 5.0-acre lot at 5454 Storms Creek Rd, Urbana, OH. Mrs. Moore wants to split the lot to form a new building lot, and purchase a vacant 0.8-acre adjoining lot for access to the new lot. Variance from the 200' frontage regulation (Section 930.3.1) is requested. The meeting will be held at 7:30 pm on Tuesday, April 13, 2010 at the Mad River Township Building located at 2773 Vance Road, Urbana, OH 43078.

You are being notified of this meeting because your property is adjacent the property in question; attendance at the meeting is at your discretion.

Mad River Township Board of Zoning Appeals  
Mark A. Navarre, Chairman  
(937) 653-3501

## SAMPLE PUBLICATION REQUEST

Mark Navarre <mnavarre@ctcn.net>  
To: "classifieds@urbanacitizen.com"  
<classifieds@urbanacitizen.com>  
Legal Notice Publication Request

February 28, 2017 10:59 AM

1 Attachment, 23 KB

Please publish the attached legal notice (see attached Word document) at your earliest opportunity. The invoice for the publishing cost should be directed to our township's fiscal officer:

Mr. Richard Ford  
2773 Vance Rd.  
St. Paris, OH 43072

Please acknowledge receipt of this email and attachment, and advise of scheduled publication date.

Thanks,

Mark A. Navarre  
Chairman, Mad River Twp Bd of Zoning Appeals



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