

THE CITY COUNCIL OF NORTH ROYALTON, OHIO

ORDINANCE NO. 13-118

INTRODUCED BY: Marnecheck, Nickell, Petrusky, Kasaris

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON, PART TWELVE PLANNING AND ZONING CODE, CHAPTER 1264 BOARD OF ZONING APPEALS, SECTION 1264.01 ESTABLISHMENT; FUNCTIONS; PURPOSES, AND SECTION 1264.04 PROCEDURES ON APPEAL, AND DECLARING AN EMERGENCY

WHEREAS: It has been determined necessary to amend Chapter 1264 Board of Zoning Appeals, Section 1264.01 Establishment; Functions; Purposes, and Section 1264.04 Procedures on Appeal of the Codified Ordinances of the City of North Royalton in order to clarify and update language contained in these sections; and

WHEREAS: Council desires to provide for this amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH ROYALTON, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1. Part Twelve Planning and Zoning Code, Chapter 1264 Board of Zoning Appeals, Section 1264.01 Establishment; Functions; Purposes, and Section 1264.04 Procedures on Appeal of the Codified Ordinances of the City of North Royalton is hereby amended to hereinafter read as follows:

1264.01 ESTABLISHMENT; FUNCTIONS; PURPOSES.

A Board of Zoning Appeals is hereby established to assist in the administration of this Zoning Code, particularly to *hear and* decide and interpret provisions which require impartial adjustments of conflicting interests and to grant *applications for exceptions to and* variances from the strict letter of this Zoning Code in instances of unnecessary hardship. The Board is established to achieve, among others, the following purposes:

- (a) To provide a method for alleviating *practical difficulty or* unnecessary hardship by allowing a reasonable use for individual parcels of property which, because of unusual or unique circumstances, may be denied a reasonable use by literal application of the terms of this Zoning Code.
- (b) To review and/or appeal any order, requirement, decision or determination made by the Building Commissioner, *administrative official or agency in regard to the zoning ordinances, giving due deference to a public official's exercise of discretionary powers and duties.*
- (c) To provide an administrative board, independent from all other City boards and commissions, to act only pursuant to and in accordance with the standards established by the Council to hear and decide appeals which are to be tried over again from the beginning (de novo); and
- (d) To ensure that decisions and the granting of variances will sustain the constitutionality of this Zoning Code and to be in compliance with the objectives of the Master Plan.

1264.04 PROCEDURES ON APPEAL.

(a) An appeal from any *notice, order, or* decision of the Building Commissioner or, other officer *or agency*, with regard to an application for a building permit, issuance of a stop order, specific referral, or some similar action, may be made to the Board of Zoning Appeals by any person believing himself or herself aggrieved or by any officer of the City affected by any such *official action decision*.

(b) To be considered, the appellant shall, within fifteen days after the date of such decision, file, in the office of the Building Commissioner, a notice of appeal specifying the decision or section of this Zoning Code from which the appeal is sought, the error alleged and all necessary data, in accordance with the form provided by the City.

(c) *Public Hearing by the Board of Zoning Appeals. The Board of Zoning Appeals shall hold a public hearing within sixty (60) days from the date the appeal is filed with the Board of Zoning Appeals.*

(d) *Notice of Public Hearing. Notices of the time and place of a public hearing shall be mailed to the appellant and to the affected property owners (owners of property contiguous to the property in question, and across the street therefrom, or within 500 feet, whichever is the most inclusive) as they appear in the current records of the County Auditor, or be published, once a week for two successive weeks prior thereto, in two newspapers of general circulation in the City of North Royalton. In addition, such notices shall be posted on the posting boards established by City Council.*

(e) *Review by Board. The Board of Zoning Appeals shall review the notice, order or decision of the Building Commissioner, other officer, or agency and all relevant evidence submitted by the parties. The Board of Zoning Appeals shall uphold the notice, order, or decision of the Building Commissioner, other officer, or agency unless it finds, by clear and convincing evidence, that there is a gross abuse of authority, or fraud or collusion.*

Section 2. Section 1264.01 and Section 1264.04 of the Codified Ordinances of the City of North Royalton are hereby amended as provided for herein and all other provisions of Chapter 1264 shall remain in full force and effect.

Section 3. This Ordinance shall supersede all previously adopted Ordinances in direct conflict herewith.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the city, and for the further reason that it is immediately necessary to amend the Codified Ordinances of the City of North Royalton, Chapter 1264 Board of Zoning Appeals, Section 1264.01 Establishment; Functions; Purposes, and Section 1264.04 Procedures on Appeal of the Codified Ordinances of the City of North Royalton in order to clarify and update language contained in these sections.

THEREFORE, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

/s/ Larry Antoskiewicz
PRESIDENT OF COUNCIL

APPROVED: /s/ Robert A. Stefanik
MAYOR

DATE PASSED: September 17, 2013

DATE APPROVED: September 17, 2013

ATTEST: /s/ Laura J. Haller
DIRECTOR OF LEGISLATIVE SERVICES

First reading suspended
Second reading suspended
Third reading September 17, 2013

YEAS: Antoskiewicz, Nickell, Petrusky,
Langshaw, Marnecheck, Muller, Kasaris

NAYS: none