

Ordinance No. 15-2018

Passed SEPTEMBER 4, 20 18

VILLAGE OF NAVARRE
STARK COUNTY, OHIO
ORDINANCE NO. 15-2018

AN ORDINANCE AMENDING SECTION 151.82(B) OF THE
VILLAGE OF NAVARRE CODIFIED MUNICIPAL REGULATIONS

Whereas, current Section 151.82(B) of the Village of Navarre Codified Municipal Regulations sets forth that the standard under which the board of zoning appeals determines applications for variance is whether a literal enforcement of the zoning code will result in an "unnecessary hardship," said section having been adopted in 1964, and

Whereas, the Ohio Supreme Court subsequently in two decisions, Kisil v. Sandusky (1984), 12 Ohio St. 3rd 30, and Duncan v. Middlefield (1986), 23 Ohio St. 3rd 83, has held that area and use variances should be considered under different standards, i.e., that an area variance should be granted if the applicant establishes that literal enforcement would result in "practical difficulties," and that a use variance should be granted if the applicant establishes that literal enforcement would result in "unnecessary hardship," and

Whereas, the Village desires that its zoning code comply with the prevailing precedents of the Ohio Supreme Court, and to prevent confusion as to the applicable standards,

Now Therefore, the Village Council of Navarre, Ohio resolves and ordains as follows:

The current Section 151.82 shall be amended to read as follows:

Section 151.82 - Jurisdiction of board of zoning appeals and applicable variance standards.

The board of zoning appeals shall adopt such rules and regulations in accordance with this chapter, as may be necessary to carry into effect the powers and jurisdiction conferred upon it, and shall have the following jurisdiction:

(A) To hear appeals on decisions made by the zoning inspector on matters relating to this chapter for relief from any order, requirement, decision, or determination, including the refusal to grant or the revocation of permits, and to decide appeals by reversing or affirming, wholly or in part, or by modifying such order, requirement, decision, or determination, in accordance with the purpose and intent of this chapter; and

(B) To hear and decide upon applications for variances, with the following standards to apply - (a) for a requested use variance, the applicant shall be liable to demonstrate to the board of zoning appeals that literal enforcement of the provisions of this chapter will result in an unnecessary hardship, and (b) for a requested area variance, the applicant shall be liable to demonstrate to the board of zoning appeals that literal enforcement of the provisions of this chapter will result in practical difficulties; provided however, that the granting of either kind of variance will not be materially detrimental to the purpose of this chapter.

Wherefore, this Ordinance shall take effect immediately upon its adoption by Village Council and approval by the Mayor.

First Reading dated 8-6-18 Ayes 5 Nays 0

Second Reading dated 8-20-18 Ayes Nays

Third Reading dated 9-4-18 Ayes 6 Nays 0

APPROVED: Robert L. Benson
ROBERT L. BENSON, MAYOR

DATE: September 4, 2018

ATTEST: Anne L. Johnson
ANNE L. JOHNSON, CLERK TREASURER