

ARTICLE XX**ADMINISTRATIVE ADJUSTMENT****§ x.05 - INTENT & PURPOSE**

The intent and purpose of this Article is to:

- (A) Acknowledge that there are certain circumstances where alternatives to the standards of this Ordinance better serve the intent and purpose of this Ordinance;
- (B) Provide an alternative to variances when a practical difficulty does not exist but an alternative to the standards of this Ordinance provides equal or better protection for health, safety, and welfare;
- (C) Ensure there is adequate input from interested persons when reviewing administrative adjustments;
- (D) Establish the process and standards for administrative standards.

§ x.10 - AUTHORITY

Authority to approve, approve with conditions, or deny an administrative adjustment shall be with the Director of Planning and Zoning or the Planning Commission, as outlined below.

- (A) **Director of Planning & Zoning:** Unless otherwise noted, the Director of Planning and Zoning shall be the approving authority for administrative adjustments.
- (B) **Planning Commission:** The Planning Commission shall be the approving authority for following administrative adjustments that are part of another application that is reviewed by the Planning Commission.
- (C) **Appeal of Decision:** The Zoning Board of Appeals shall have the authority to hear an appeal of an administrative decision.

§ x.15 - STANDARDS SUBJECT TO ADMINISTRATIVE ADJUSTMENT

The standards outlined below are subject to administrative adjustment, with the noted allowable adjustment.

- (A) **Clear-Vision Zones:** §x.20
- (B) **Commercial Driveway Width:** §x.35
- (C) Front-yard Buffer for Site Condominiums & Subdivisions: §x.20(C)(1)
- (D) Side-yard Buffer for Site Condominiums & Subdivisions: §x.20(C)(2)
- (E) Landscaping: Article xx
- (F) Lighting Replacement: §x.45(A)
- (G) WECS Sound Level: x.75(E)
- (H) Solar Energy System Lot Coverage: §x.80(C)
- (I) Specific Use Standards for Setbacks: Article xx

(J) Specific Use Standards for Access: Article xx.

§ X.20 - ADMINISTRATIVE ADJUSTMENT PROCESS

Administrative adjustments shall be reviewed and approved as outlined below.

(A) **Application:** The applicant shall submit a complete and accurate administrative adjustment application form, provided by the Township. The application shall include all of the relevant materials, as outlined below. Submission of an application constitutes a representation that all the information is complete and accurate. An application for an administrative adjustment shall include the following:

- (1) *Application Form:* A signed and completed application form;
- (2) *Fee:* An administrative adjustment application fee, as outlined in the adopted fee schedule;
- (3) *Site Plan, Plot Plan, or Surveys:* The applicant shall submit at least one (1) hard copy and a digital copy of the associated site plan or survey, in a format acceptable to the Township, with the application, and shall submit at least fifteen (15) additional hard copies following the review of completeness, for administrative adjustments that are reviewed by the Planning Commission. The applicant shall submit at least three (3) hard copies and a digital copy of the associated site plan, plot plan, or survey. If the application is being reviewed at the same time as a site plan, additional copies are not needed for the administrative adjustment;
- (4) *Additional Materials:* Any additional information determined necessary by the Director of Planning and Zoning in order to determine compliance with this Ordinance and other applicable laws.

(B) **Right to Enter Property:** Submission of an administrative adjustment application shall constitute permission for the Township to access the property to complete onsite investigations for the purpose of administering this Article.

(C) **Applicant's Responsibilities:** The applicant shall have the following responsibilities, based on the approving authority:

- (1) *Planning Commission:* The applicant shall post a public notice sign or signs, provided by the Township, on the site, clearly visible from each adjacent street and mark the property, at least fifteen (15) days before the public hearing. The public notice sign(s) and marking shall be maintained in good condition until a decision is made.
- (2) *Director of Planning & Zoning:* The applicant shall post a public notice sign or signs, provided by the Township, clearly visible from each adjacent street mark the property before submitting an application. The public notice sign(s) and marking shall be maintained in good condition until a decision is made.

(D) **Review of Completeness:** An application for an administrative adjustment shall be reviewed by the Director of Planning and Zoning for completeness.

- (1) *Review Letter:* The Director of Planning and Zoning shall issue a review letter within fourteen (14) business days of receiving the application stating whether the application is complete or, if not, what additional materials or information is necessary for it to be considered complete. This period may be extended at the applicant's request in writing. If the review letter is not issued within the above period, an administrative adjustment application reviewed by the Planning Commission shall be placed on the next available Planning Commission agenda.

(2) *Administratively Complete:* The date on which the Director of Planning and Zoning declares an application complete or the expiration of the fourteen (14) day period described above, unless the application has been declared incomplete, shall be considered the date the application is administratively complete.

(E) *Planning Commission Review:* When the Planning Commission is the approving authority, administrative adjustment shall be conducted at a public hearing.

(F) *Director of Planning & Zoning Review:* When the Director of Planning and Zoning is the approving authority, administrative adjustment review shall not be conducted at a public hearing but shall require notice as **outlined in this Article**.

(G) *Timely Decisions:* Decisions shall be made in a timely manner, based on the approving authority, as follows:

(1) *Planning Commission:* The Planning Commission shall render its decision within sixty (60) days of the date the application is administratively complete, unless a delay is agreed to by the applicant and the Planning Commission. The decision shall be final upon adoption of meeting minutes or signing of a resolution by the Township, whichever occurs first.

(2) *Director of Planning and Zoning:* The Director of Planning and Zoning shall render a decision within thirty (30) days of the date the application is administratively complete, unless a delay is agreed to by the applicant and the Director of Planning and Zoning. The decision shall be final upon issuance of a letter outlining the decision by the Director of Planning and Zoning.

(H) Public Hearing: HERE

(I) *Conditions of Approval:* The approving authority may impose reasonable conditions in granting an administrative adjustment related to the following:

(1) *Health, Safety, & Welfare:* Conditions shall be designed to protect the health, safety, and welfare of those who will use the site under consideration, residents and landowners immediately adjacent to the site, and the community as a whole;

(2) *Public Services & Facilities:* Conditions shall be designed to ensure that public services and facilities affected by a proposed activity will be capable of accommodating the resulting increased service and facility loads;

(3) *Police Power:* Conditions shall be related to the valid exercise of the police power and purposes that are affected by the activity; and

(4) *Compliance:* Conditions shall be necessary to ensure compliance with the standards and provisions of this Ordinance, other Township Ordinances, or state and federal law.

(J) *Acceptance of Conditions:* The approval of any administrative adjustment shall only be effective upon acceptance of the approval and any conditions of the approval by the applicant.

(K) *Recording:* here

(L) *Expiration:* here

(M) *Extension:* here

(N) *Amendment:* here

(O) **Reapplication:** An application for an administrative adjustment that has been denied shall not be resubmitted for reconsideration for a period of one (1) year from the date the decision became final, unless:

- (1) *Conditions:* The Director of Planning and Zoning, upon inspection, finds proof of changed conditions that contributed to the denial; or
- (2) *Changes:* Substantial changes have been made that address the reasons for denial.

(P) **Revocation:** An administrative adjustment may be revoked, following a duly-noticed public hearing, as outlined below:

(1) An administrative adjustment may be terminated if the approving authority determines any of the following to be true:

- a. The execution or use of a zoning permit related to the administrative adjustment is not consistent with a standard of this Ordinance as it existed at the time of approval;
- b. The execution or use of a zoning permit related to the administrative adjustment is not consistent with any condition of approval;
- c. The execution or use of a zoning permit related to the administrative adjustment is not consistent with any written commitment; or
- d. The approval was the result of fraud or misrepresentation of facts.

(2) **Review Limits:** An administrative adjustment shall not be reviewed for revocation for the same cause more than once in any one (1) year period.

(Q) **Suspension:** here

§ x.25 - DECISION CRITERIA

Administrative adjustments shall be approved or approved with conditions if the approving authority finds the all of applicable decision criteria below to be true.

(A) **General Criteria:** In order to grant an administrative adjustment, the approving authority shall make a written finding that all of the following criteria are true:

- (1) *Character:* The requested administrative adjustment shall be consistent with the character of the surrounding area or the permitted uses;
- (2) *Mitigation:* Any adverse impacts from the administrative adjustment shall be adequately mitigated;
- (3) *Use & Enjoyment:* The administrative adjustment shall not have a negative impact on the use and enjoyment of the surrounding properties; and
- (4) *Intent & Purpose:* The administrative adjustment shall promote the intent and purpose of the standard that is being adjusted at least equal to the standard outlined in this Ordinance.

(B) **Specific Criteria:** In order to grand an administrative adjustment for the specific standards outlined below, the approving authority shall make a written finding that all of the applicable criteria below are true.

- (1) *Clear Vision Zones:* The approving authority may grant an administrative adjustment reducing the size of a clear-vision zone, as outlined in §x.20, if all of the following are true:
 - a. *Property Characteristics:* There is some specific condition with the property that makes strict compliance with these standards impractical; and
 - b. *Line-of-Site:* The reduction will not have a negative impact on the line-of-site for users of the affected driveway or the street.
- (2) *Commercial Driveway Width:* The approving authority may grant an administrative adjustment from commercial driveway width, as outlined in §x.35(A), as part of site plan review, as outlined below.
 - a. *Wider Width:* The approving authority may allow or require a wider width if the extra width is deemed necessary for the safe movement of vehicles due to the anticipated traffic volume or turning radius of vehicles using the site or driveway.
 - b. *Narrower Width:* The approving authority may allow a narrower driveway by up to two (2) feet for two-way driveways if the narrower width will not impede the safe movement of vehicles due to the anticipated traffic volume or turning radius of vehicles using the site or driveway.
- (3) *Site Condominium & Subdivision Front-yard Buffer:* The approving authority may approve different standards for the front-yard buffer for site condominiums and subdivisions, as outlined in §x.20(C)(1), if the alternate buffer preserves important, existing views and continues to screen the view of the development.
- (4) *Site Condominiums & Subdivisions Side & Rear-yard Buffer:* The approving authority may approve different standards for the side and rear-yard buffer, as outlined in §x.20(C)(2), if the alternate buffer provides better screening, is adjacent to an undeveloped area, or is adjacent to a similar land use.
- (5) *Landscaping:* The approving authority may grant an administrative adjustment from the standards of the Landscaping Article, Article xx, if at least one (1) of the criteria below is true:
 - a. *Natural Screening:* Existing vegetation provides adequate screening and buffering for the site;
 - b. *Topography:* The site or surrounding area has steep topography that would make the required landscaping ineffective;
 - c. *Wetlands:* The presence of wetlands on the site would prevent the installation of required landscaping or result in the destruction or alteration of wetlands;
 - d. *Stormwater Management:* Alternate landscaping provides enhanced stormwater management and still provides adequate screening of the site;
 - e. *Building Heights:* The height of the buildings does not require landscaping to provide adequate screening due to topography or other natural features;
 - f. *Existing Structures:* There are existing structures to remain that would prohibit the installation of required landscaping;
 - g. *Significant Views:* The required landscaping would result in the destruction or significant degradation of significant views and other methods have been proposed that would adequately screen the site;

- h. *Traffic*: The required landscaping would negatively impact traffic sight distances and operation; or
 - i. *Utilities*: The presence of utility easements and utility-related planting limitations prohibit required plantings and other methods have been proposed that would adequately screen the site.
- (6) *Lighting Replacement*: The approving authority may grant an administrative adjustment from having to upgrade all of the lighting on a site if one (1) of the following is true:
- a. *Minor Improvements*: The amount and scale of improvements to the site are of an extremely-limited nature; or
 - b. *Nature of Lighting*: The nonconforming lighting is of a specific nature that its continued use does not cause negative impacts on surrounding properties, public spaces, or the site.
- (7) *WECS Sound Level*: The approving authority may grant an administrative adjustment to the maximum sound levels for WECS, §x.75(E), if the amendment will better serve the intent and purpose of this Ordinance and a written, notarized permission is granted by the affected property owners.
- (8) *Solar Energy System Lot Coverage*: An administrative adjustment shall be granted if the increased lot coverage will not create a nuisance to adjacent properties, streets, or public spaces or increase stormwater runoff and the lot coverage will not be increased by more than ten (10) percent higher than the allowed lot coverage.
- (9) *Specific Use Standards for Setbacks*: An administrative adjustment shall be granted for a reduced setback from specific use standards, Article x, if all of the following are true:
- a. *Health & Safety*: The proposed design will maintain or reduce the potential health and safety impacts of the use on adjacent lots, streets, and public spaces;
 - b. *Use*: The proposed design will maintain or reduce any potential negative impacts of the use on the use of adjacent lots, streets, and public spaces;
 - c. *Nuisance*: The proposed design will maintain or reduce the potential for a nuisance of the use on adjacent lots, streets, and public spaces;
 - d. *Sound*: The proposed design will maintain or reduce the potential sound impacts of the use on adjacent lots, streets, and public spaces;
 - e. *Light*: The proposed design will maintain or reduce the potential light impacts of the use on adjacent lots, streets, and public spaces;
 - f. *Odor*: The proposed design will maintain or reduce the potential odor impacts of the use on adjacent lots and public spaces;
 - g. *Master Plan*: The proposed design is consistent with the goals and objectives of the Master Plan;
 - h. *Health & Safety*: The proposed design is consistent with the intent of this Ordinance; and
 - i. *Maintenance*: The proposed design will be maintained through the life of the use.
- (10) *Specific Use Standards for Access*: here
- a. *Title Here*: here

(11) *Second-story Addition to Legally Nonconforming Structure:* An administrative adjustment shall be granted for the second story addition of a single-family house that does not meet the required setbacks, as outlined below.

a. *Decision Criteria:* Below.

1. The addition will not extend any closer to the lot line;
2. The addition will be at least 6 feet from adjacent structures;
3. The building foundation will not be replaced;
4. If any portion of the building is within 4 feet of side or rear lot lines, the wall shall be fire resistant;

b. *Limits:* here

End of Article XX.

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