

## ARTICLE XIV

### POWERS OF THE BOARD

#### Section ST 1401

##### **Variations and Appeals**

Such Board may:

(a) Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination of any administrative officer of Hamilton County, Ohio, empowered to enforce these Regulations, or any resolution, or part thereof, adopted pursuant thereto;

(b) Authorize, upon request, in specific cases, such variations from the terms of these Regulations, or any resolution, or part thereof, adopted pursuant thereto, as will not be contrary to the public interest or sound flood plain management, where owing to special conditions, a literal enforcement of the same will result in unnecessary hardship, and so that the spirit of these Regulations shall be observed and substantial justice done. In granting such variations, in specific cases, such board shall also consider the following, where applicable:

(1) the danger that materials proposed to be stored at the proposed development may be swept onto other lands to the injury of other property or persons in times of flood, and that such materials would fill in the flood plain.

(2) the danger to life and property due to flooding or erosion damage from the proposed development;

(3) the susceptibility of the proposed development and its contents to flood damage, and the effect of such damage on the individual property owner(s);

(4) the importance to the community of the proposed services provided by the proposed development;

(5) the availability of alternative locations for the proposed development which are not subject to flooding or erosion damage;

(6) the necessity to the proposed development of a waterfront location, where applicable;

(7) The proposed provisions for safety of access to the proposed development, in times of flood, for ordinary and emergency vehicles and services; and

(8) The costs of providing governmental services during and after

flood conditions, including maintenance and repair of public utilities and facilities such as water, sewer, gas, and electrical systems and streets and bridges.

(c) not authorize any variance within any Regulatory Floodway in the unincorporated territory of Hamilton County, Ohio as defined in Section 3.3 of the Flood Damage Prevention Regulations for Unincorporated Hamilton County, Ohio (Volume 232 Image 484 and 485, dated October 26, 1988, if any increase in the base flood level during the base flood discharge would result in the County; and

(d) only authorize such variances with Zones A1-30 and the unnumbered A Zones on the Flood Insurance Rate Map for Unincorporated Hamilton County, Ohio, which also conform to the provisions of 44 CFR Section 60.6(a)(1)-(4) which stated, in part, as follows:

#### Section 60.6 Variance and Exceptions

(a) The Administrator (i.e. Flood Plain Administrator - Hamilton County Director of Public Works) does not set forth absolute criteria for granting variances from the criteria in Section 60.3, 60.4 and 60.5 within FEMA's National Flood Insurance Program Regulations 44 CFR 60.6. The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The community, after examining the applicant's hardship, shall approve or disapprove a request. While the granting of variances is limited to a lot size less than one half acre (as set forth in paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one half acre, the technical justification required for granting a variance increases. The Administrator may review a community's files justifying the granting of a variance, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Administrator may take appropriate action under Section 59.24(b) of this sub-chapter. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in this section. Procedures for the granting of variance by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(2) Variances may be issued by a community for new construction

and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (a)(3), (4),.... of this section;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

## **Section ST 1402**

### **Determination of the Board**

The determinations of such Board shall be binding upon the enforcement of all applicable rules, regulations, codes, or resolutions, or specific parts thereof, within the unincorporated territory of Hamilton County, Ohio. In exercising this power, such Board may, in conformity with the provisions of this Article, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from which a variance was requested and may make such order, requirement, decision, or determination as ought to be made. This Section does not give such Board any other authority, explicitly or implied, in the enforcement of any other rules, regulations, codes, or resolutions, or specific parts thereof, adopted pursuant thereto, of the County.