

ORDINANCE: 14-04

AN ORDINANCE AMENDING ORDINANCE 08-12, IN PARTICULAR, SECTION 7.02 (POWERS OF THE PLANNING AND ZONING BOARD) OF THE 2008 VILLAGE OF THORNVILLE PLANNING AND ZONING CODE AND DECLARING AN EMERGENCY

WHEREAS, with Ordinance 08-12, adopted on October 27, 2008, Council for the Village of Thornville amended the Zoning Ordinance and established a new Village of Thornville Planning and Zoning Code; and

WHEREAS, Section 7.02 sets forth the criteria for granting variances and uses conflicting phrases and criteria such as “practical difficulties” and “unnecessary hardship”; and

WHEREAS, Council for the Village of Thornville now believes it is necessary to formally amend the regulations regarding variances in order to better articulate the criteria (and follow clear and well-established Ohio law) and thereby protect the general health, safety, and welfare of Village residents. In order to accomplish this goal, Council for the Village of Thornville now needs to amend Ordinance 08-12 and update Section 7.02 of the Zoning Code.

NOW, **THEREFORE, BE IT ORDAINED** by the Council of the Village of Thornville, County of Perry, State of Ohio:

SECTION 1: Ordinance 08-12, adopted October 27, 2008, in particular Section 7.02 is hereby amended to read as follows:

Section 7.02 Approval of a variance

In accordance with Section 3.01.05 of the Planning and Zoning Code and R.C. 713.11, the Planning and Zoning Board may, in appropriate cases and subject to appropriate conditions and safeguards, vary the strict application of the terms of this Ordinance in harmony with its general purpose and intent and in accordance with the specific rules contained herein.

The Planning and Zoning Board shall consider and weigh the following factors when determining whether a property owner has encountered practical difficulties in strictly complying with this Ordinance. These factors include, but are not limited to:

- (a) Whether the property in question will yield a reasonable return or whether there can be beneficial use of the property without the variance;
- (b) Whether the variance is substantial;
- (c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (d) Whether the variance would adversely affect the delivery of government services;
- (e) Whether the property owner purchased the property with knowledge of the zoning restrictions;
- (f) Whether the property owner’s predicament feasibly can be obviated through some method other than a variance;
- (g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;
- (h) Whether the property has unique physical conditions such as irregular, narrow, shallow or steep lots; or

(i) Whether the practical difficulty exists solely through the actions of the property owner

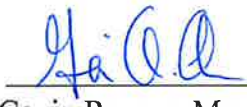
SECTION 2: All other original and amended sections and sub-sections of Ordinance 08-12 (the Village of Thornville 2008 Planning and Zoning Code) shall remain unchanged, in effect, and enforceable.

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council and that all deliberations of the Council and any of the decision making bodies of the Village of Thornville which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

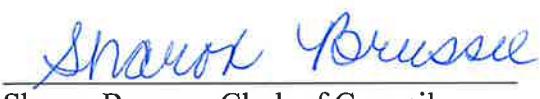
SECTION 4: All prior legislations, or any parts thereof, which is/are inconsistent with this Ordinance is/are hereby repealed as to the inconsistent parts thereof.

SECTION 5: Council declares this to be an emergency measure immediately necessary for the preservation of the public peace, health, and safety of this municipality and the further reason that the variance criteria should be amended as soon as possible to better-comply with Ohio law. Wherefore, provided this Ordinance receives the required affirmative votes of Council, this Ordinance shall take effect and be in force immediately upon passage by Council.

Passed in Council this 10th day of March, 2014



Gavin Renner, Mayor

ATTEST


Sharon Brussee, Clerk of Council

APPROVED:

Approved as to form this 10th day of March 2014



Brian M. Zets, Esq.
Village Solicitor