

CHAPTER 1333
Impairment of Real Property Value

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CROSS REFERENCES

- Building and zoning permit - see DEV. 1171.03 et seq.,
1181.02
Building design criteria - see DEV. 1173.06
Permit protest - see BLDG. 1331.01

1333.01 FINDINGS OF FACT; DECLARATION OF OBJECT.

Council finds that the existing buildings and the vacant lots now available for construction have substantial values over and above similar properties in other municipalities in Cuyahoga County because of the uniformity, extent and high quality of the development of Rocky River, and that the owners of such buildings and lots have in most cases acquired them at prices based on such extra value. Therefore, it is necessary for the welfare of this City as a whole that Council protect such property by preventing the erection or alteration of buildings or structures which would substantially impair or destroy such value, so far as such prevention can be accomplished without substantially impeding the development of the property proposed to be built on.
(Ord. 824. Passed 8-4-42.)

1333.02 PERMIT REFUSAL IF VALUE IMPAIRED.

Whenever application is made for a permit to construct or alter a building or structure within this City, and the Building Commissioner finds that the proposed building or structure is of such value, design, material or location that it will result in a substantial impairment or destruction of value in neighboring real estate, and if he further finds that the use of the particular design, material or location proposed, or substantially similar ones, is not reasonably essential to the development of the property proposed to be built or altered, the Building Commissioner shall refuse to issue the permit. For any such proposed building or structure used for amateur radio communications, the Federal Communications Commission's Memorandum Opinion and Order title "Federal Preemption of State and Local Regulations Pertaining to Amateur Radio Facilities" (PRB-1) 50 Fed. Reg. 38813, shall be considered. Should the Building Commissioner refuse an application hereunder, he shall notify the applicant within five (5) days from such decision and give the reason thereof.
(Ord. 122-90. Passed 11-26-90).

1333.03 APPEAL AND HEARING.

(a) The applicant for the permit may appeal such refusal to the Board of Zoning and Building Appeals by giving notice of such appeal to the Board not more than ten (10) days after receipt of notice of such refusal.

(b) On such appeal the Board shall hold a public hearing, of which hearing at least five (5) days notice shall be given to the applicant and to such other persons as the Board may designate. On such appeal the Board shall consider de novo the questions:

- (1) Whether the proposed building or structure is of such value, design, material or location that it will result in a substantial impairment or destruction of value in neighboring real estate; and
- (2) Whether the use of the particular design, material or location proposed, or substantially similar ones, is reasonably essential to the development of the property proposed to be built or altered.

(c) The Board shall decide such question within thirty (30) days after the taking of such appeal, but this limitation is discretionary only and does not affect the Board's jurisdiction. If the Board decides the first question in the affirmative, and the second in the negative, the permit shall not be issued; otherwise it shall be issued immediately.

(d) No permit shall be issued while an appeal is pending before the Board, nor while litigation is pending in any Court challenging the Board's action, nor while any appeal is pending from any Court's action overriding or reversing the Board's action, nor during the time within which such appeal from a Court's action can lawfully be taken.

(Ord. 3077. Passed 11-14-55.)

1333.04 PROVISIONS SUPPLEMENTARY.

This Chapter shall not be construed as abolishing any existing regulation restricting the issuance of permits or the construction or alterations of buildings, but is additional thereto.

(Ord. 824. Passed 8-4-42.)