



Zoning Board of Appeals

Application Procedures

Application -- Applications for variances, appeals and interpretations of zoning regulations are filed with the city's planning department. A \$200.00 filing fee is required (\$500.00 for a special meeting). Applications must be received by the filing deadline listed in the planning department's 2010 hearing schedule. This deadline has been established to provide sufficient time for statutorily required public notices and the preparation of staff reports on applications.

The ZBA has jurisdiction over the following matters:

Appeals: The ZBA hears appeals where it is alleged that there was an error in any order, requirement, decision, or determination made by the Zoning Administrator, the Planning Commission, or City Commission in the administration of the city's zoning regulations.

Interpretation: The ZBA hears requests for interpretations of zoning regulations. This includes determining the precise location of zoning district boundaries where there is doubt, interpreting the intent of zoning regulations, or modification of a use which is specifically permitted in any zone.

Variances: A request to vary the strict application of the zoning district dimensional and use regulations. The ZBA has the authority to grant two types of variances.

A dimensional or non-use variance varies dimensional requirements, such as lot size and width, building setbacks and height, size and number of signs, etc.

A use variance grants the right to establish a use of land in a zoning district in which the use is not permitted as a matter-of-right or by special approval by that zoning district's land use regulations.

Meetings -- The ZBA meets at 7:00 p.m. on the second Tuesday of each month in the City Commission chambers in City Hall. Meetings are not conducted if there is no business to bring before the ZBA.

Public Hearing -- Applications for appeals, interpretations and variances (hereinafter referred to as requests) are subject to a public hearing conducted to allow for public comment on the request. All property owners within 300 feet of properties involved in requests are notified by mail of the public hearings and the nature of the requests.

The applicant, or a representative of the applicant, must attend the public hearing and be prepared to present the request and answer questions from the ZBA and others attending the hearing. Requests are tabled if an applicant or applicant's representative does not attend the public hearing to present the request.

ZBA Decisions – Decisions of the ZBA are final and are generally made at the time of the hearing. Michigan law provides that decisions of the ZBA can only be appealed to Circuit Court.

Conditions of Approval - In granting a request, the ZBA may impose conditions deemed necessary to protect the public health, safety and welfare. Failure to comply with any such conditions will invalidate the ZBA's grant of a variance or appeal. Also, the activity or project subject to the request must be in progress, with relevant building permits obtained, within six months of the date of approval. A five-day waiting period after the date of the ZBA's decision on requests is required before permits may be issued.

If a variance is denied by the ZBA, no application shall be resubmitted for six months from the date of the last denial. The six month waiting period may be waived by the ZBA.

Variations -- The ZBA is authorized to grant two types of variations:

- A dimensional or nonuse variance authorizes a relaxation of dimensional zoning regulations, such as building setbacks, building height, size and number of signs, etc.
- A use variance authorizes the establishment of a use that is not permitted in a zoning district by that zoning district's use regulations.

Nonuse/Dimensional Variance: The underlying legal concept for granting a non-use or dimensional variance is practical difficulty. Practical difficulty relates to physical characteristics of a piece of property that restrict a property owner from complying with the dimensional zoning regulations. Such variations may be granted when the ZBA finds, based on evidence presented by an applicant, that each of the following standards are satisfied.

- Strict compliance with the ordinance will unreasonably prevent the owner from using the property for a permitted use.
- Granting the variance as request, or one lesser than requested, will do substantial justice to the applicant and to other property owners.
- The need for the variance is due to unique circumstances peculiar to the property (such as odd shape, extreme narrowness, etc.) and not due to general neighborhood conditions.
- The need for the variance has not been self-created by the applicant.

Use Variance: The underlying legal concept for granting a use variance is unnecessary hardship. Unnecessary hardship relates to whether a property owner can make a reasonable use of, or secure a reasonable economic return from, his or her property if it used only for those uses permitted in a zoning district by the zoning district's land use regulations. Such variations may be granted when the ZBA finds, based on evidence presented by an applicant, that each of the following standards are satisfied.

- The property cannot be used for the purposes permitted in the zone in which it is located.
- The need for the variance is due to unique circumstances peculiar to the property (such as odd shape, extreme narrowness, etc.) and not due to general neighborhood conditions.
- The use will not alter the essential character of the area.
- The need for the variance is not self-created by the applicant.

Applications -- The following information must accompany all applications:

1. A completed application form and application fee.
2. A written statement describing the nature of your request.
3. For variances, select the applicable Decision Making Standards for the requested variance and complete in full by explaining how the variance is necessary and how it meets each of the standards listed. Use additional paper if needed. The statement must describe the options considered to eliminate or reduce the need for a variance, or indicate why options for doing so are not available. *If you do not know which Decision Making Standards to complete, call the city's zoning officer at (989)894-8176 for guidance.*
4. In the case of a variance request, a scaled drawing of the property subject to the request. Please note that incomplete plans will not be accepted. Plans must include the following information as determined by city planning department staff.
 - a. Lot lines with dimensions indicated.
 - b. Location and use of all existing and proposed buildings.
 - c. Location of buildings on adjacent lots affected by the variance request.
 - d. Existing and proposed building setbacks.
 - e. Physical characteristics of the property that make compliance with applicable zoning regulations difficult or impossible (i.e., utility easements, narrowness, trees, signs, etc.).
 - f. Proposed addition(s) to existing buildings or structures with setbacks clearly identified.
 - g. If your request involves a sign or signs, provide illustration(s) of proposed signs with copy and dimensions clearly indicated.

Dimensional Variance Decision Making Standards

Non-Use or Dimensional Variance Standards -- In the space provided below, or a separate sheet, please describe how each of the following decision making standards will be satisfied by your request by explaining how the variance is necessary and how it meets each of the standards.

1. Strict compliance with applicable zoning regulations makes compliance with them unnecessarily burdensome for the applicant.

2. Granting the variance as requested, or granting one lesser than requested, is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the neighboring area.

3. The need for the variance is due to physical circumstances unique to the property such as odd shape, narrow lot width or shallow lot depth, the presence of large trees, etc. and not to general conditions in the surrounding area.

4. The conditions or circumstances generating the need for the variance have not been self-created by the applicant.

Use Variance Decision Making Standards

Use Variance Standards -- In the space provided below, or a separate sheet, please describe how each of the following decision making standards will be satisfied by your request by explaining how the variance is necessary and how it meets each of the standards.

1. The property cannot be used for any of the uses permitted in the zoning district in which it is located and the applicant cannot expect a reasonable economic return from using it only for those uses permitted in that district.

2. The need for the variance is due to circumstances unique to the property, such as its odd shape, extreme narrowness, topography, the presence of large trees, or other physical features and not to general conditions in the surrounding area.

3. The proposed use of the property will not alter the character of the surrounding area.

4. The hardship asserted by an applicant as justification for the variance request is not self-created.
