

Variance Application

Bunkerhill Township
Ingham County, Michigan

APPLICANT

NAME: _____

ADDRESS: _____

Phone: Home () _____ Cell () _____

OWNER

NAME: _____

ADDRESS: _____

Phone: Home () _____ Cell () _____

PARCEL Number _____

PROPERTY ADDRESS _____

REQUEST _____

SIGNATURE

APPLICANT _____ DATE _____

OWNER _____ DATE _____

A scaled drawing of lot lines, existing buildings, drives and proposed construction MUST accompany this application

**APPLICANT MUST ATTACH LEGAL DESCRIPTION OF PROPERTY
PLEASE COMPLETE THE REQUIREMENTS FOR VARIANCES AND SITE PLAN REVIEW**

OFFICIAL USE ONLY

FEE PAID\$ _____

DATE PAID _____

DATE SUBMITTED _____

FINAL ACTION : APPROVED _____

DENIED _____

SIGNATURE _____ DATE _____

Appeals shall perform its duties and exercise its powers as provided in Act 110 of 2006, so that the objectives of this ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done.

A. The Zoning Board of Appeals shall:

1. Hear and decide appeals from, and review any order, requirement, decision or determination made by the Planning Commission or Zoning Administrator in the administration of this Ordinance as hereinafter provided. In doing so, the Zoning Board of Appeals shall interpret the provisions of this Ordinance and grant variances from the strict application of any of the provisions of this Ordinance.
2. Decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with regard thereto.
3. Grant variances from any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties or in the way of such strict application. No variance shall be granted to permit the establishment within a district of any use which is excluded, or for which a special use permit is required.
4. Permit the erection and use of a building, or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or larger area than the requirements herein established; and permit the location in any district of a public utility building, structure or use, if the Commission shall find use, height, area, building or structure reasonably necessary for the public convenience and service; and provided such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.
5. Determine the classification of off-street parking and loading requirements in Article 13.
6. Grant or deny requests for substitutions of non-conforming uses. The use being considered as a substitute must be equal to or less intense than the non-conforming use being replaced.

B. The Zoning Board of Appeals shall not alter or change the zoning district classification of any property, or make any change in the terms of this ordinance, and shall not take any action which would have as a result the making of legislative changes in this ordinance.

Section 15.6 Variances

A Variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

- A. A written application for a variance is submitted, demonstrating:
 - 1. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same Zoning District so as to present such a unique situation that a precedent will not be established for other properties in the District to also ask the same or similar change through the Zoning Appeal procedure.
 - 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same Zoning District under the provisions of this Ordinance.
 - 3. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this Ordinance to other lands, structures, or buildings in the same Zoning District.
 - 4. That no non-conforming use of other lands, structures, or buildings in the same zoning district, and the uses of lands, structures or buildings not permitted in other zoning districts shall be considered grounds for the issuance of a variance.
- B. The Zoning Board of Appeals shall make findings that the requirements of this Ordinance have been met in the zoning district in which it is located by the applicant for the variance requested.
- C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.
- D. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious or otherwise detrimental to the public welfare of the zoning district in which it is to be located.
- E. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order for the variance to be in

conformance with this Ordinance as much as reasonably possible. Reasonable conditions are permitted if they are necessary to insure that public or private services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads, caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources; the health, safety, welfare, and social and economic well-being of those who will use the land-use or activity under consideration; residents and land owners immediately adjacent to the proposed land use or activity; and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes that are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of this Zoning Ordinance; be related to the standards established in this ordinance for the land use or activity under consideration; and be necessary to insure compliance with these standards.
- F. Violations of any required conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Section 3.9, Enforcement.
- G. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district in which the variance is to be located.

Section 15.7 Variance Procedures

- A. **Filing** An application for a variance shall be filed with the Township Clerk by the record owner of the lot in question or by a person(s) authorized to act on the record owner's behalf. The application shall consist of a completed application form, fee, and the information required in this Section. The Clerk shall transmit the application and information to each member of the Zoning Board of Appeals and to the Zoning Administrator within seven (7) days of the filing date.
- B. **Information Required** Each application for a variance shall contain the following information:

1. Legal description, address, and tax parcel number of the subject lot.
2. An accurate, scaled drawing of the lot, showing all property lines, dimensions, and bearings or angles, correlated with the legal description; all existing and proposed structures and uses on the lot; actual measurements of structure dimensions and locations on the drawing; lot area; and all calculations necessary to show compliance with regulations of the zoning ordinance.
3. Name and address and phone numbers of the applicant, and property owner(s), and the interest of the applicant in the property.

C. **Standards for Review** The Zoning Board of Appeals shall not grant a variance unless and until all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district.
2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
5. Any non-conforming use of neighboring lands, structures or buildings in the same district, any permitted or non-conforming uses of lands, structures or buildings in other districts; or any non-conforming structures shall not be considered grounds for the issuance of a variance.
6. A variance granted shall be the minimum variance that will make possible the reasonable use of the land, building or structure.
7. The variance granted shall be in harmony with the intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.

8. In granting any variance, the Zoning Board of Appeals may establish appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance, and punishable under Section 3.9, Enforcement, herein.
9. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permitted under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in the district.

Section 15.8 Voiding of and Re-application for Variances

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the use and construction authorized by such variance or permit has been commenced within one year (1) after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Board of Appeals to be valid.

Section 15.9 Procedure for Appealing to the Zoning Board of Appeals

All questions concerning interpretation and application of the provisions of this ordinance shall first be presented to the Zoning Administrator. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Zoning Board of Appeals shall be to the courts as provided by law.

- A. **Procedure** Appeals shall be filed within thirty (30) days of the decision in question. The appeal shall be filed with the Township Clerk. The appellant shall submit a clear description of the order, requirement, decision, or determination for which the appeal is made and the grounds of the appeal. The Zoning Administrator shall transmit to the Zoning Board of Appeals copies of all papers constituting the record upon which the action appealed from was taken, within seven (7) days of the filing date. The appellant may be required by the Zoning Board of Appeals to submit additional information to clarify the appeal.
- B. **Who May Appeal** Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency or

bureau of the Township, County, State, Federal or other legally constituted form of government or anyone seeking an interpretation of the Zoning Map or textual provisions upon application and payment of the required fees and performance guarantees, if required.

- C. **Effect of Appeal** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Zoning Board of Appeals, after the Notice or Appeal shall have been filed with him/her that by reason of facts stated in the certificate, a stay would in his/her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

During the appeal process, the appellant shall discontinue the alleged illegal action or condition unless expressly permitted by the Zoning Board of Appeals, or a court of record, due to imminent peril to life or property.

- D. **Change in Variance Requested** The Zoning Board of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal is taken.
- E. **Fee for Appeal** A fee prescribed by the Township Board shall be submitted to the Township Clerk at the time of filing the letter of appeals. The appeals fee shall immediately be placed in the Township General Fund.
- F. **Hearing by the Zoning Board of Appeals** When a written request for appeals has been filed in proper form with the Zoning Board of Appeals, a notice of the public hearing shall be published in at least one (1) newspaper of general circulation and sent by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall be given not less fifteen (15) days before the date that the public hearing will be held. The notice of public hearing shall:
1. Describe the nature of the request.

2. Describe the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 3. State when and where the public hearing will be held.
 4. Indicate when and where written comments will be received concerning the request.
- G. **Representation at Hearing** During a hearing, any party or parties may appear in person or by agent or by attorney.
- H. **Decision** The Zoning Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premise and to that end shall have all the powers of the Zoning Administrator, Township Board and Planning Commission from whom the appeal is taken. The Zoning Board of Appeals' decision of such appeals shall be final and be in the form of a resolution containing a full record of the findings and determination of the Zoning Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court on questions of law and fact.

Section 15.10 Site Plan Requirements

If an application or appeal to the Zoning Board of Appeals involves the construction, alteration or expansion of a building, structure or use which requires site plan approval by the Planning Commission, the applicant or appellant shall first apply for preliminary and final site plan approval as set forth in Article 9, Site Plan Review. The following sequence for submission shall be followed:

- A. The Planning Commission shall review said plan and shall determine the layout and other features required to obtain approval of the preliminary site plan, contingent on the variances granted by the Zoning Board of Appeals.
- B. The Planning Commission transmits the approved preliminary site plan and the Commission's findings therein to the Zoning Board of Appeals. The Zoning Board of Appeals shall, upon deciding on the application for

appeal, return the plan, its decision and its recommendations therein to the Planning Commission for action.

- C. The applicant after making changes to the preliminary site plan relating to the recommendations of the Zoning Board of Appeals shall submit the final site plan to the Planning Commission for final site plan approval.