



**Application for Variance Request Form
West Branch Township, Ogemaw County Michigan**

APPLICATION PROCESS:

1. The application shall be, in seven (7) copies with a detailed site plan to scale, on 8 1/2 X 11 inch paper, showing the dimensions of property, dimensions of all existing structures and distances to property lines from each structure. Locations of well, septic tank and drain field. Description of any unusual topography. Names and addresses of neighboring property owners. Indicate, on the site plan & at the property site, the location of the Surveyor's marked property corners & where the variance is located. The above requirements must be submitted to the Zoning Board of Appeals clerk, on or before 4 p.m., the Friday 21 days prior to the scheduled meeting, normally held on the first Monday of the month.
2. **NOTICE:** Variances are normally not granted unless there is a hardship, NOT caused by the property owner's actions.

VARIANCE REQUEST NUMBER VR- _____

Applicant's Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____

Description and reason of requested variance: _____

Property Address: _____ (If different from the applicants address)

Parcel Number: 65-014-____-____-____

Present Zoning: _____

I (we) hereby authorize any Township Official, or their representative, to perform a site visit to the property described above.

Applicant's Signature

Date

FOR OFFICIAL USE ONLY

DATE APPLICATION FILED: _____

PRELIMINARY REVIEW DATE: _____

PUBLIC HEARING DATE: _____

FEE AMOUNT: \$_____ DATE FEE PAID: _____

RECEIPT # _____

DATE APPROVED OR DENIED: _____

___ APPLICATION APPROVED AS PER DATA SUBMITTED;

___ APPLICATION APPROVED AS PER DATA SUBMITTED WITH THE ATTACHED
STIPULATIONS.

ZBA VARIANCES DECISION STANDARDS

The Zoning Board of Appeals is authorized to grant, upon application, variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. The Board may attach any conditions it deems necessary to a variance to ensure that the spirit and intent of this Ordinance is carried out.

- A. The Board of Appeals shall ensure that all variances comply with the following:
 - 1. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
 - 2. Will not permit the establishment of a use within a district where it is prohibited.
 - 3. Will not adversely affect property values in the immediate vicinity or in the Township as a whole.
 - 4. Will relate only to the property for which the application has been submitted.
 - 5. Is not a request that occurs regularly that could be addressed through an amendment to this Ordinance.

- B. The Board of Appeals **shall not** grant a variance unless at least one (1) of the following is demonstrated:
 - 1. There are exceptional or extraordinary circumstances to the intended use or physical conditions such as narrowness, shallowness, shape, or topography of the property involved that generally do not apply to other properties or uses in the same district. Such circumstances or conditions shall not be considered grounds for a variance if they have been caused by the applicant or previous owner after the effective date of this Ordinance.
 - 2. Where there are practical difficulties which prevent the carrying out of the strict letter of this Ordinance. Generally economic difficulty on its face is not a qualifying difficulty. Difficulties should be evaluated in terms of the use of the parcel or property.
 - 3. Where the lot or parcel was lawfully recorded prior to the effective date of this Ordinance or any amendment thereto, and the dimensional provisions of this Ordinance prohibit the use of the lot or parcel in accordance with the district regulations.
 - 4. Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same district.

- C. Any variance that is denied wholly or in part shall not be resubmitted for review for a period of one (1) year from the date that the Board took action on the request unless substantive new evidence is to be presented or new circumstances arise.

- D. No use variances may be granted by the Zoning Board of Appeals. (See A.2, above.)

ZBA STANDARDS FOR MAKING DIMENSIONAL VARIANCE DECISIONS.

The following decision standards are required by the Michigan Zoning Enabling Act and as such, have become part of the laws of West Branch Township.

As a board we would like you to understand what is required in order for your property to receive a dimensional variance, prior to making application.

Practical Difficulty: Review Standards for Non-Use Variances

To obtain a non-use variance, the applicant must prove that a unique aspect of the property itself creates a "practical difficulty" in complying with the ordinance. Note that there is no "hardship" test for non-use variances, and the fact that complying with the ordinance would be inconvenient does not establish a practical difficulty. A ZBA may grant a non-use variance only where the applicant has provided reasonable evidence in the application and the official record that all of the following conditions exist to establish a practical difficulty:

1. The property is subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:

- a. Exceptional narrowness, shallowness or shape of the specific property that existed when the applicable zoning ordinance provision took effect; or
- b. Exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
- c. Because of the use or development of the property immediately adjoining the property in question, the literal enforcement of the zoning ordinance requirements would involve practical difficulties; or
- d. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.

Questions to Ask: *How is this property different from other properties that have to follow the same zoning restrictions? What physical characteristics of the property prevent the applicant from meeting the ordinance requirements? If there are no differences between this property and others, why should this property be treated any differently?*

2. The condition or situation of the specific piece of property for which the variance is sought is not of a general or recurrent a nature; it does not apply to other properties. (This requirement is imposed because a condition or situation that occurs commonly within the district or township should be addressed by amending the zoning ordinance, not a variance.)

Questions to Ask: *Is it possible that this situation commonly occurs or will commonly occur on other properties in the township? If so, would it be preferable to change the ordinance rather than granting variances one at a time?*

3. A variance is necessary for the preservation and enjoyment of a substantial property right, similar to the property rights possessed by other properties in the same zoning district and vicinity. (The possibility of increased financial return is not of itself sufficient to grant a variance.)

Questions to Ask: *If this variance is not granted, will the applicant be prevented from doing something that the zoning ordinance would ordinarily allow any other property owner to do? (Even though it may be more expensive to comply with the ordinance, this is not a sufficient reason to grant a variance.)*

4. A variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

Questions to Ask: If this variance is granted, will there be any harmful effects on the next-door properties or the neighborhood?

5. A variance will not impair the intent and purpose of the zoning ordinance requirement that is the subject of the variance request.

Questions to Ask: Why was this zoning ordinance requirement established in the first place? What is it intended to accomplish? Will the reason for the regulation be compromised if the variance is allowed?

6. The practical difficulty was not self-created by any affirmative action by the applicant.

Questions to Ask: Did the applicant take an affirmative action that created the need for this variance, such ^{AS} splitting or selling part of the property, or locating a structure in a way that prevents future additions or improvements? (The fact that applicant requested the variance or bought the property for which the variance is requested is not considered an affirmative action creating the need for a variance.)

Conditions

In some cases, a condition placed on a variance may make the difference in meeting one of the standards. For example, if the variance would allow a building closer to an adjacent property line, would a condition requiring landscaping or fencing, or some other appropriate measure reduce any potential negative impact?
