

**APPLICATION FOR
ZONING BOARD OF APPEALS**

CITY OF DAVISON

200 E. FLINT ST STE 2
DAVISON, MI 48423
810.653.2191
www.cityofdavison.org

(For City Use Only)

Application Number: _____

Date Received: _____

Application Fee: _____

Meeting Date: _____

Name of Applicant: _____ Phone: _____ Cell: _____

Applicant's Address: _____

Address of Property Involved in this Appeal: _____

Name of Proposed Development: _____

Name and address of every other person, firm or corporation having legal equitable interest in this property: (Attach additional sheets if necessary)

Name: _____ Address: _____

Name: _____ Address: _____

General Location of Property: _____
(Nearest Crossroads or Intersections)

Legal Description: (Attach legal if necessary) _____

Current Zoning: _____ Parcel(s) PID #: _____

Parcel Size: (Road Frontage) _____ (Lot Depth) _____ (Acreage) _____

Proposed Use of Property: _____

Proposed or Type of Appeal: Interpretation Variance Adjustment

Applicant's must attach a statement giving the facts of the Appeal(s), along with a Site Plan showing dimensional elements for which a variance(s) is requested or dimensional relationships of the subject lot or property to the structures on all adjacent lots. To obtain a variance, the applicant must submit an affidavit indicating that a "practical difficulty" exists for the property as stated in Section 1264.05 (c) of the Zoning Ordinance. Applicant's may provide the necessary information on the back side of this application.

The undersigned, having been denied a permit, and/or a certificate of Occupancy by the Building Official, do hereby respectfully make application and petition for an appeal under the provisions of the Ordinances of the City of Davison and in support of the application and the information as required by the Chapter 1264 of the Zoning Ordinance has been provided.

Signature

Date

Use Variances Require a Showing of Unnecessary Hardship

A use variance allows a use in a location that the zoning ordinance otherwise prohibits. Decisions on use variances require a concurring vote of 2/3 of the full membership of the Zoning Board of Appeals (ZBA). This statutory requirement demonstrates the significance of the use variance authority and the rarity of its approval. The improper application of the use variance could be a significant contributor to blight, as the wrong use in the particular location may run counter to many municipal service and planning programs, as well as create significant adverse impacts on adjoining parcels. A use variance should only be granted by the ZBA under those exceptional circumstances where the current zoning district is clearly unreasonable as applied to a specific parcel, because it does not permit the property owner any reasonable use of the land.

In order to obtain approval for a use variance, the applicant must demonstrate an *unnecessary hardship* exists that can only be resolved by the granting of a use variance. The following factors are usually examined. The property owner must show that:

1. The property in question cannot be put to a reasonable use (i.e. there would be no reasonable economic return from the privilege of ownership) if permitted to be used only for uses allowed in the district in which it is located.
2. The plight of the owner is due to unique circumstances peculiar to the property and not to general neighborhood conditions.
3. The use variance, if granted, would not alter the essential character of the area or neighborhood.
4. The problem is not self-created.

If the ZBA finds that there is no *unnecessary hardship*, that is a reasonable use of the property as zoned exists, then a use variance should not be granted.

Dimensional (NonUse) Variances Require a Showing of Practical Difficulty

Variances are requests to deviate from the strict enforcement of the zoning ordinance. When the Zoning Board of Appeals (ZBA) grants a variance, it is granting permission to break the zoning law. This should only occur when strict and complete application of the zoning ordinance would cause *practical difficulties* for the property-owner due to circumstances unique to the property. A unique circumstance usually refers to the shape or size of the parcel in questions, although it could also be because the parcel has other atypical features – such as poor soils, wetlands, etc.

So what exactly is a *practical difficulty*? (Keep in mind that the practical difficulty is related to the land itself not to the property-owner.) There are four standards:

- 1. If the parcel was developed in strict compliance with the restrictions in the zoning ordinance would the applicant be prevented from using the property for a permitted purpose or would compliance with the requirements be unnecessarily burdensome?**

The applicant must be able to prove that following the zoning ordinance requirements would place unreasonable restrictions on the property or that the regulations themselves are unreasonably restrictive. It is reasonable for the ZBA to ask that the owner demonstrate the alternatives considered prior to seeking a variance – such as alternative designs, layouts, or construction methods and why such alternatives were not used.

- 2. By granting the applicant a variance, would the ZBA provide the applicant with a preferential treatment otherwise not offered to surrounding properties?**

Assuming conditions within the neighborhood are generally equal, would the applicant receive preferential treatment or rights through a variance that his or her neighbors would not? What sort of impact would the granting of this variance have on the surrounding properties and the area? If the variance is warranted, would granting less than the full requested variance be more equitable to surrounding properties while still providing relief?

- 3. Is the request for the variance based on unique circumstances of the property and not to general conditions in the area?**

What is there that is special or unique about this particular piece of property in comparison to other properties in the area? What is the particular circumstance that warrants an exception to the zoning ordinance? The applicant should be able to clearly demonstrate that his or her property has a unique feature not generally found in the surrounding area that makes conformance with the ordinance impossible or unnecessarily burdensome.

- 4. Is the problem self created?**

For example, is the request for a variance the result of poorly planned land division by the owner or based on simply the desire of the owner to construct a larger accessory structure or to have a taller fence?