

INSTRUCTIONS FOR APPLICATION TO ZONING BOARD OF APPEALS

Submittal of Zoning Board of Appeals Application

Any interested person, or the person's authorized agent, may appeal a decision made by the Zoning Administrator, seek a variance from the requirements of the Zoning Ordinance or request an interpretation of the Zoning Ordinance text or map by applying to the Zoning Board of Appeals

If applying for an appeal, the application and supporting materials shall be submitted by the date of the previous month's meeting in order to meet publication deadlines. Zoning Board of Appeals meetings are held regularly on the third Tuesday of each month.

Supporting Materials

The following materials are required:

- A plot plan of the proposed site which includes existing structures and any proposed changes.
- Proof of ownership or a letter from the property owner granting permission to apply on their behalf.
- (8) copies of the plot plan are required unless a digital copy has been submitted. If a digital copy has been submitted only (1) hard copy is required. This digital copy shall be in PDF Format.

Additional materials may be required by the Zoning Administrator due to specific conditions on the site.

Notice Requirements

Notice of a Zoning Board of Appeals meeting shall be delivered in person or by first class mail to the applicant, land owner and adjacent land owners within 350' of the properties in question.

The Zoning Board of Appeals meeting notice shall be published in the Elk Rapids News not less than (15) days prior to the hearing.

Variance Standards

Use Variance

Use variances are a variance that permits a use that is otherwise prohibited in a zoning district and is granted only upon finding that an unnecessary hardship exists. Finding of an unnecessary hardship shall require demonstration of the following:

1. The property cannot be reasonably used for any purpose permitted in the zoning district without the variance.
2. The need for the variance is due to unique circumstances particular to the property and not generally applicable in the area or to others properties in the same zoning district.
3. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
4. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristic of the site and the surrounding area will be considered.

Non-Use Variance

A non-use variance is a variance from any standard or requirement of the Ordinance, such as, but not limited to, a deviation from density, bulk, setback, parking landscaping and sign standard requirements and is granted only upon finding that a practical difficulty exists. Finding of a practical difficulty shall require demonstration of the following:

1. Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance.
2. Granting the variance shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.
3. Granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township.
4. There are practical difficulties on the site which unreasonably prevent the owner from using the property for a permitted purpose without presenting an excessive burden and the practical difficulty not resulting from any act of the applicant.
5. The variance will do substantial justice to the applicant, but the decision shall not bestow the property special development rights not enjoyed by other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety or welfare.
6. The requested variance is the minimum necessary to permit reasonable use of the land.
7. The practical difficulty is not self-created.

Decisions

Reasonable conditions may be attached to a variance approval. No more than the minimum variance from the terms of the Zoning Ordinance shall be granted. A quorum of the Zoning Board of Appeals is required to consider any issue. The following are the number of votes required for approval of a variance:

- Use variance requires 2/3 support of the entire Zoning Board of Appeals members or 4 votes
- Any other request requires a majority of the entire Zoning Board of Appeals members or 3 votes

Appeal to Circuit Court

The property owner or their agent may appeal the decision of the Zoning Board of Appeals to Circuit Court. This appeal by state law shall be made within (30) days of the decision of the Zoning Board of Appeals.

If there are any questions or concerns please contact the Whitewater Township Zoning Administrator:

Phone: 231-267-5141 ext. 21

E-Mail: zoning@whitewatertownship.org