

GUIDELINES FOR THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals exists to provide relief to property owners and applicants where unusual circumstances related to a property make it impossible to comply with all of the requirements of the zoning ordinance. The Board also provides an appeal mechanism for administrative decisions made by the Building Official concerning the requirements of the Zoning Ordinance or Zoning Map.

There are four types of applications and reviews to the Zoning Board of Appeals:

1. **Administrative Reviews**
2. **Variations**
3. **Interpretations**
4. **Temporary Use Reviews.**

ADMINISTRATIVE REVIEWS

The Zoning Board of Appeals hears and decides appeals where it is alleged that there is an error in fact, judgment, procedure, or interpretation in any order, requirement, permit or decision made by the building official in enforcing the provisions of the zoning ordinance or zoning map.

VARIANCES

The two types of variances that can be requested are use variances and non-use variances. In order for a variance to be granted, it is the obligation of the applicant to prove to the Zoning Board of Appeals that the review criteria in the ordinance have been met.

USE VARIANCE:

If the variance being sought is a use variance, the applicant must show that an unnecessary hardship exists. Use variances permit the use of land, which is not otherwise allowed in a particular zoning district, and requires a demonstration that the property cannot be used for any of the uses permitted in that district.

Unnecessary Hardship:

To prove that an unnecessary hardship exists, an applicant must show all of the following:

1. The property cannot be used for the purposes permitted in the particular zone.
2. The hardship is because of unique circumstances concerning the property and not general neighborhood conditions.
3. The requested use would not alter the essential character of the neighborhood.
4. The problem is not self-created.
5. Unavailability of administrative relief which may afford reasonable use of the applicant's property.

NON-USE (DIMENSIONAL) VARIANCE:

If the variance being sought is a non-use variance, the applicant must show that a practical difficulty is present. Non-use variances (also known as dimensional variances) modify the literal provisions of the Zoning Ordinance dealing with such requirements as height, size, width, setbacks and other dimensional rules. A non-use variance may be allowed by the ZBA only in cases where the applicant has shown there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

Practical Difficulty:

To prove that a practical difficulty exists, an applicant must show that exceptional or extraordinary circumstances exist, including all of the following:

1. Extraordinary Circumstances. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - 1.1. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district.
 - 1.2. Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived.
 - 1.3. By reason of exceptional topographic conditions or other extraordinary situations on the land, building or structure.
 - 1.4. By reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this chapter would involve practical difficulties.
2. Strict compliance with dimensional requirements would unreasonably prevent the applicant from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
3. Impact on Surrounding Neighborhood. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood, or interfere with or discourage the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood. A variance would provide substantial relief to the applicant, as well as provide substantial justice to other property owners in the neighborhood.
4. Public Safety and Welfare. The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the city.
5. Not Self-Created. The immediate practical difficulty causing the need for the variance request was not self-created by the applicant.

INTREPRETATIONS

The Zoning Board of Appeals has the power to make an interpretation of the provisions of the zoning ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. Exceptions are interpretations or modifications of the City's Zoning Ordinance by the Zoning Board of Appeals. They include Temporary Use Permits granted by the Zoning Board of Appeals. Please see Chapter 18.22, Zoning Board of Appeals for details.

TEMPORARY USES

The ZBA may grant temporary use permits to uses that do not require the erection of any capital improvement of a structural nature under the following conditions:

1. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.
2. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit. Temporary uses may be approved for a period of up to twelve months, with the granting of twelve-month extensions being permissible.
3. All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the city shall be made at the discretion of the ZBA.
4. In classifying uses as not requiring capital improvement, the ZBA shall determine that they are either demountable structures related to the permitted use of land; recreation developments such as, but not limited to, golf driving ranges and outdoor archery courts or structures which do not require foundation, heating systems or sanitary connections.
5. The use shall be in harmony with the general character of the district.



ZONING BOARD OF APPEALS HEARING PROCEDURE

Each appeal is taken individually and follows the same format. The procedure is as follows:

1. The Chairperson opens the Public Hearing
2. The Chairperson or a staff member presents the main points of the application.
3. Beginning with the applicant, individuals speaking in support of the appeal are heard. Speakers are limited to 10 minutes unless the Chairperson waives the limit.
4. Individuals speaking in opposition to the application are heard. Speakers are limited to 10 minutes unless the limit is waived by the Chairperson.
5. Correspondence received regarding the application will be presented.
6. Questions and rebuttal items are heard and shall be directed to the Chairperson.
7. The Public Hearing is closed.
8. Deliberation by the Board takes place.
9. Motion to approve with or without conditions, deny or table the agenda item.
10. Vote (Chairperson calls and announces the vote).

ZONING BOARD OF APPEALS APPLICATION FEES	
Single Family Residential or Stand-Alone Waiver Request	\$250.00 per variance + \$500.00 escrow
Commercial or Stand-Alone Waiver	\$500.00 per variance + \$1,500.00 escrow
Use Variances	\$500.00 per variance + \$750.00 escrow

Additional Consultant Review: For cases that the City of Wixom deems necessary for consultation by the City attorney, planning and/or engineer, the applicant shall be responsible for the costs of such, plus a 25% administrative fee. *Adopted March 14, 2013*

CITY OF WIXOM ZONING BOARD OF APPEALS PROCESS

1. Discuss proposal with Building and Planning staff.
2. Submit application, fees and required information to the Construction & Development Services office.
3. Notice sent to applicant, adjacent property owners and newspaper.
4. Public Hearing.
5. Motions
 - a. Approval- Site Plan Review (if required)
 - b. Denial- Appeal to Circuit Court
 - c. Table- Further Information
6. Apply for Building Permit

Note: It is strongly recommended that the applicant review Chapter 18.22 (Zoning Board of Appeals) of the Zoning Ordinance prior to making an application to the ZBA.

The Zoning Board of Appeals meets on the second Monday of each month and all required materials must be submitted 30 days prior* to the agenda on which you want to be heard.

***Office hours are Monday-Thursday, 7:15 am-5:30 pm, so if the 30 days deadline falls Friday-Sunday, materials must be submitted the Thursday prior.**

