



Manistee County Planning Department
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Onekama Township Request for Appeal (Variance) Zoning Board of Appeals A Step-By-Step Guide

- 1** **Introductory Meeting with Planning Staff** - Staff will assist the applicant by explaining the Zoning Ordinance Regulations/Standards. Staff review of a request usually indicates that a site plan proposed by the applicant does not meet the standards of the ordinance. If the applicant feels that they are unable to modify their plan to meet the requirements of the ordinance or if the applicant feels the Zoning Administrator is mistaken in their interpretation of the ordinance, they have the right to request an appeal from the Zoning Board of Appeals. The applicant is encouraged to contact adjoining and nearby property owners and occupants to discuss their project prior to the Public Hearing. A copy of the mailing information for the 300 feet notification can be obtained from Staff upon request.
- 2** **Submission of Application** – Applicant will submit their request to the Zoning Administrator who will review it to make sure they have supplied all the necessary information including a site plan. **If no Additional information is needed the Zoning Administrator will then schedule a meeting within 30 days. Fee must be received before any requests are processed.**
- 3** **Public Hearing Notification** – Staff will prepare Notice of Public Hearing (Ad in Newspaper, posted on Township Web Page, Township Facebook Page, Township Hall, mailing to all owners/occupants within 300 feet of property). Noticing must be at least 15 days prior to meeting date.
- 4** **Public Hearing** - Applicant shall present their case to the Zoning Board of Appeals along with any correspondence in support of their request. Staff will give their report, the public is invited to speak on the request, and correspondence will be read into the record. Public Hearing will be closed.
- 5** **Meeting** – The Zoning Board of Appeals will begin their deliberation on the request. If the Board determines that no additional information is needed they will deliberate/take action on the request. They will act to either approve or deny the request. If the Board determines that additional information is needed they will postpone their determination until a specified date and schedule another meeting.
- 6** **Permit** – If approved, Staff will schedule a meeting to certify the minutes. This is typically scheduled for the following week. Once minutes are certified staff will issue a Land Use Permit that states a variance was obtained and specify the variance granted.

**Average time depending on Staff availability, complete application and Meeting Schedules approx. 30-45 days*

Request for Appeal

Onkama Township Zoning Board of Appeals
 Please Print

| Submission of Application | | |
|--|--------|----------|
| <p>After receipt of a complete application a public will be scheduled. You will receive written notice from the Township indicating the date and time. Applicant or Applicant's representative should be present at the hearing to explain the request to the Board and to answer any questions that they may have. After the hearing, the Board of Appeals will make a decision to approve, approve with conditions, or deny your request. Applicant will receive written notice of their decision. Each application shall be accompanied by the payment of a fee \$750.00 in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application.</p> | | |
| Applicant Information | | |
| Name of Owner: | | |
| Address: | | |
| Phone #: | Cell#: | e-mail: |
| Name of Agent (if applicable): | | |
| Address: | | |
| Phone #: | Cell#: | e-mail: |
| Property Information | | |
| Address: | | Parcel # |
| Present/proposed Land Use: | | |
| Names and addresses of all persons, firms or corporations having a legal or equitable interest in the land: | | |
| List of Deed Restrictions (cite Liber & Page) and attach additional sheets if necessary: | | |
| Has a previous appeal been made with respect to this property? <input type="checkbox"/> Yes <input type="checkbox"/> No If a previous appeal, re-zoning or special use permit application was made state the date, nature of action requested and the decision: | | |
| Detailed Narrative of Request | | |
| State exactly what is intended to be done, on or with the property that necessitates a variance from the Zoning Board of Appeals. Please use another page and address "Specific Variance" section. | | |

| Detailed Request and Justification | | | |
|--|----------------------------------|--------------------|--|
| | Identify each requested variance | Required by Zoning | Requested by Appellant |
| | Front Yard Set Back | From | To |
| | Side Yard Set Back | From | To |
| | Side Yard Set Back | From | To |
| | Rear Yard Set Back | From | To |
| | Waterfront Set Back | From | To |
| | Height | From | To |
| | Lot Coverage | From | To |
| | Off Street Parking | From | To |
| | Other: | From | To |
| Please Mark all characteristics of your property which require the granting of a variance | | | |
| | Too Narrow | Explain: | |
| | Too Small | Explain: | |
| | Too Shallow | Explain: | |
| | Elevation (height) | Explain: | |
| | Slope | Explain: | |
| | Shape | Explain: | |
| | Soil | Explain: | |
| | Other: | Explain: | |
| Specific Variance | | | |
| <p>The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as parcel area and width regulations, building height regulations, yard and depth regulations. The Board of Appeals shall hear and decide such matters as the Board of Appeals is specifically authorized to pass on as provided in this Ordinance and such matters as may be provided by statute.</p> | | | |
| <p>The following is for ZBA Members Only. It is shown so the applicant knows what is being looked at when determining if their variance will be granted. The written narrative should address Section A. questions 1-5.</p> | | | |
| <p>A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until:</p> | | | |
| <p>A. A written application for a variance is submitted with a detailed narrative demonstrating the following conditions:</p> | | | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>1. That 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.</p> | | | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | | | |
| <p>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.</p> | | | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | | | |
| <p>3. That the special conditions and circumstances do not result from the actions of the applicant.</p> | | | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | | | |
| <p>4. That granting the variance will not alter the essential character of the area.</p> | | | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | | | |
| <p>5. That no nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.</p> | | | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | | | |

| | |
|---|---|
| <p><i>B. The Board of Appeals shall make findings that the requirements of this Ordinance have been met by the applicant for a variance.</i></p> | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | |
| <p><i>C. The 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.</i></p> | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | |
| <p><i>D. The 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 to the neighborhood, or otherwise detrimental to the public welfare.</i></p> | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | |
| <p><i>E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance and including requirements for buffering between uses by landscaping, fencing, vegetation or other similar methods. 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 9803 of this Ordinance.</i></p> | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | |
| <p><i>F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible 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 said district.</i></p> | <input type="checkbox"/> yes <input type="checkbox"/> no |
| <p>Justification:</p> | |
| <p>Site Plan Requirements (For Applicant)</p> | |
| <p>The applicant is responsible to provide a survey and legal description unless waived by Zoning Administrator. The following are the minimums required for variance request, but addition requirements can be requested, depending on type of development. If the development is a Special Use, Planned Unit Development or Phased Project contact the Zoning Administrator for additional requirements.</p> | |
| | <p>The property, identified by parcel lines and location and size.</p> |
| | <p>Name and address of the property owner(s), developers), and designers), and their interest in said properties.</p> |
| | <p>The scale, north point.</p> |
| | <p>Natural features such as woodlots, waterbodies, wetlands, high risk erosion areas, slopes over 25%, beach, sand dunes, drainage and similar features.</p> |
| | <p>The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings, square footage of floor space and set-backs.</p> |
| | <p>The proposed driveway, if any.</p> |
| | <p>Location dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention lines.</p> |
| | <p>Surface and subsurface storm water drainage and retention systems for paved, roof, and other impermeable surfaces on the site.</p> |
| | <p>Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes, service parking and snow storage areas.</p> |
| | <p>Any proposed alterations to the topography and other natural features shall be indicated.</p> |
| | <p>Any proposed location of connections to existing utilities and proposed extensions thereof.</p> |
| | <p>A description of the proposed development.</p> |
| | <p>A vicinity map showing the location of the site in relation to the surrounding street system.</p> |

Rules – The following rules shall be applied in the granting of variances

The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.

9604. Voiding of and Reapplication for Variance The following provisions shall apply:

A. Each variance granted under the provisions of this Ordinance may become null and void unless:

1. The construction authorized by such variance or permit has begun within three hundred sixty-five (365) days after the granting of such variance and pursued diligently to completion; or

2. The occupancy of land or buildings authorized by such variance has taken place within three hundred sixty-five (365) days after the granting of such variance.

B. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred and sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

9605. Interpretation of Ordinance Text:

A. **Interpretation** - Pursuant to the requirements of Michigan Zoning Enabling Act, P.A. 110 of 2006, (MCL 125.3101 et seq.). nothing contained herein shall be construed as prohibiting the Zoning Board of Appeals from interpreting the text of this ordinance in such a fashion that will allow in a land use district buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use district, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the ordinance text.

B. **Standards** - In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Zoning Board of Appeals shall consider the relevant policies for the Land Use District in question, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District in the Township.

C. **Precedent** - An earlier determination under this section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a special use permit in that Land Use District, but shall otherwise be subject to all requirements of this Ordinance.

9606. Appeals to the Board of Appeals The following provisions shall apply:

A. **Appeals, How Taken** - Appeal from the ruling of the Zoning Administrator concerning the enforcement, administration, and interpretation of this Ordinance, text and map, may be made to the Board of Appeals. The demand for appeal is filed with the Zoning Administrator specifying the grounds thereof within thirty (30) days of the date of a decision received by the appellant. Date of receipt shall be presumed to be five (5) days after the date shown on the decision. The demand for appeal shall be on a form prepared by the Township for that purpose and shall also include a site plan. The Zoning Administrator shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.

B. **Who May Appeal** - Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, agency, or bureau of the Township, County, or State.

C. **Fee for Appeal** - A fee prescribed by the Township Board shall be paid to the Zoning Administrator at the time of filing the demand for appeal. If the Township Board finds an applicant to be indigent, the fee may be waived by the Township Board.

D. **Effect of Appeal: Restraining Order** - An appeal stops all proceedings and construction on the action appealed. The Board of Appeals may allow continuance of certain activities if it is shown such actions are necessary to prevent imminent peril to life or property.

E. **Hearing By the Board of Appeals: Request, Notice, Hearing** - When a request for appeal has been filed in proper

form with the Board of Appeals, the Zoning Administrator shall immediately place the said request for appeal upon the calendar for hearing, and cause notice to interested parties, stating the time, date, place, and object of the hearing to be served personally or by certified return receipt mail if necessary.

F. Representation at Hearing - Upon the hearing, any party or parties may appear in person or by their agent or an attorney.

G. Decisions of the Board of Appeals and Appeals to the Circuit Court - The Board of Appeals shall decide upon all matters appealed within sixty (60) days of the receipt of a demand for appeal, unless mutually agreed by both parties to extend the time. The Board of Appeals:

1. May reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed;
2. Shall make such order, requirement, decision or determination;
3. Shall have all the powers of the Zoning Administrator for administration and enforcement of this Ordinance;
4. Shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case.

H. The decision of the board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided in the Michigan Zoning Enabling Act of 2006, MCL 125.3606.

Authorization

AFFIDAVIT:

The undersigned acknowledges that if a variance is granted or other decisions favorable to the undersigned is rendered upon this appeal, the said decision does not relieve the applicant from compliance with all other provisions of the Township of Onekama Zoning Ordinance; the undersigned further affirms that he/she or they is (are) the (owner/lessee/authorized agent for the owner) involved in the appeal and the answers and statements herein contained and the information herewith submitted are in all respects true and correct to the best of his, her or their knowledge and belief. By signing this affidavit permission is given for Zoning Board of Appeals Members to make a site inspection if necessary.

Signature: _____ Date: _____

Signature: _____ Date: _____

Fee of \$750.00 enclosed and Site Plan for project attached (request cannot be issued without site plan).

Office Use Only

| | |
|---|---------------------------|
| Fee: <input type="checkbox"/> \$750.00 | Receipt # |
| Date Received: | Hearing Date: ZBA- |