

**AMERICAN TOWNSHIP ZONING DEPARTMENT
BOARD OF ZONING APPEALS**

APPLICATION FOR ZONING VARIANCE TO THE BOARD OF ZONING APPEALS OF AMERICAN TOWNSHIP

A. APPLICANT INFORMATION: BZA CASE No. _____

NAME: _____

ADDRESS: _____

CITY/ST/ZIP: _____

EMAIL: _____

APPLICANT IS THE: PROPERTY OWNER AGENT

B. PROPERTY INFORMATION:

PROPERTY OWNER: _____

PROPERTY ADDRESS (IF ANY): _____

CITY/ST/ZIP: _____

PARCEL #: _____

ZONING DESIGNATION: _____

TOTAL LOT SIZE / ACREAGE: _____

VARIANCE TO AMERICAN TOWNSHIP ZONING RESOLUTION

1. I, _____ SERVING AS APPLICANT / PROPERTY OWNER AM SUBMITTING AN APPLICATION FOR A VARIANCE TO THE AMERICAN TOWNSHIP BOARD OF ZONING APPEALS. I AM APPEALING THE FOLLOWING SECTION(S) OF THE AMERICAN TOWNSHIP ZONING RESOLUTION AS FOLLOWS:

SECTION / ARTICLE: _____

SECTION / ARTICLE: _____

SECTION/ ARTICLE: _____

THIS SUBSECTION STATES THE FOLLOWING: _____

2. THE APPLICANT(S) HEREBY REQUEST PERMISSION TO MAKE THE FOLLOWING IMPROVEMENTS TO THE PROPERTY:

3. THE FOLLOWING SPECIAL CIRCUMSTANCES, CONDITIONS, OR HARDSHIPS EXIST AT THE PROPERT. EXAMPLES OF THE SPECIAL CONDITIONS OR CIRCUMSTANCES ARE: EXCEPTIONAL IRREGULARITY, NARROWNESS, SHALLOWNESS OR STEEPNESS OF THE LOT, OR ADJACENCY TO NONCONFORMING AND INHARMONIOUS USES, STRUCTURES OR CONDITIONS.

4. WILL THE PROPERTY IN QUESTION YIELD A REASONABLE RETURN OR WHEATHER THERE CAN BE ANY BENEFICIAL USE OF PROPERTY WITHOUT THE VARIANCE?

5. IS THE VARIANCE THE MINIMUM NECESSARY TO MAKE POSSIBLE AND REASONABLE USE OF THE LAND OR STRUCTURES?

6. WILL THE CHARACTER OF THE NEIGHBORHOOD BE SUBSTANTIAALLY ALTERED OR WILL ADJOINING PROPERTIES SUFFER SUBSTANTIAL DETRIMENT AS A RESULT OF THE VARIANCE?

7. WILL APPROVING THE VARIANCE ADVERSELY AFFECT DELIVERY OR GOVERNMENTAL SERVICES SUCH AS WATER, SEWER, TRASH PICK UP?

8. DO THESE SPECIAL CONDITIONS OR CIRCUMSTANCES EXIST AS A RESULT OF THE ACTIONS OF THE PROPERTY OWNER, EXAMPLE WAS THE NEED FOR THIS VARIANCE A RESULT OF THE ACTIONS OF THE PROPERTY OWNER (KNOWN AS A SELF CREATED CONDITION)?

9. CAN THE OWNER'S PREDICIMENT BE OBIATED THROUGH SOME OTHER METHOD OTHER THAN A VARIANCE / IS THERE ANOTHER MEANS TO CORRECT THE ISSUE, I.E. CHANGE THE LOCATION, ADD SOMETHING, MOVE SOMETHING CLOSER OR AWAY, ETC.?

10. WILL THE SPIRIT AND INTENT OF THE BEHIND THE ZONING REQUIREMENT WOULD BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY GRANTING THE VARIANCE?

11. WILL GRANTING THE VARIANCE CONFER ON THE APPLICANT A SPECIAL PRRIVILEDEGE THAT IS DENIED BY THIS REGULATION TO OTHER LANDS, STRUCTURES OF BUILDNGS IN THE SAME ZONING DISTRICT?

NOTE:

1. EACH CASE SHALL BE DETERMINED BY ITS OWN MERITS. VARIANCES AND APPEALS SHALL BE FILED WITH THE ZONING INSPECTOR WITHIN 20 DAYS OF THE DATE THE DECISION WAS RENDERED BY THE INSPECTOR. APPEALS MAYBE RECEIVED AFTER THIS DATE, HOWEVER WILL BE INDICATED AS BEINBG SUBMITTED UNTIMELY AND IN VIOLATION OF OHIO LAW AND AMERICAN TOWNSHIP ZONING RESOLUTION.
2. THE GRANTING OF THE VARIANCE SHALL BE IN ACCORDANCE WITH THE GENERAL PURPOSE AND INTENT OF THE REGULATIONS IMPOSED BY THIS RESOLUTION IN THE DISTRICT IN WHICH IT IS LOCATED AND SHALL NOT BE INJURIOUS TO THE AREA OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE.
3. THE GRANTING OF THE VARIANCE WILL NOT PERMIT THE ESTABLISHMENT OF ANY USE WHICH IS NOT OTHERWISE PERMITTED IN THE DISTRICT.
4. THERE MUST EXIST SPECIAL CIRCUMSTANCES OR CONDITIONS, FULLY DESCRIBED IN THE FINDINGS, APPLICABLE TO THE LAND OR BUILDINGS FOR WHICH THE VARIANCE IS SOUGHT, WHICH ARE PECULIAR TO SUCH LAND OR BUILDINGS AND DO NOT APPLY GENERALLY TO LAND OR BUILDINGS IN THE AREA, AND WHICH ARE SUCH THAT THE STRICT APPLICATION OF THE PROVISIONS OF THE RESOLUTION WOULD DEPRIVE THE APPLICANT OF THE REASONABLE USE OF SUCH LAND OR BUILDING. MERE LOSS IN VALUE SHALL NOT JUSTIFY A VARIANCE; THERE MUST BE DEPRIVATION OF BENEFICIAL USE OF LAND.
5. THERE MUST BE PROOF OF A SIGNIFICANT HARDSHIP WHICH IS CREATED BY THE STRICT APPLICATION OF THIS RESOLUTION. IT IS NOT SUFFICIENT PROOF OF HARDSHIP TO SHOW THAT GREATER PROFIT WOULD RESULT IN THE VARIANCE WERE GRANTED. FURTHERMORE, THE HARDSHIP COMPLAINED OF BY THE APPLICANT, CAN NOT BE SELF CREATED NOR CAN IT BE ESTABLISHED ON THIS BASIS BY ONE WHO PURCHASES, WITH OR WITHOUT KNOWLEDGE OF THE RESTRICTIONS; IT MUST RESULT FROM THE APPLICATION OF THIS RESOLUTION. IT MUST BE SUFFERED DIRECTLY BY PROPEERTY IN QUESTION AND EVIDENCE OF VARIANCES GRANTED UNDER SIMILAR CIRCUMSTANCES NEED NOT BE CONSIDERED.
6. THE GRANTING OF A VARIANCE IS NECESSARY FOR THE REASONABLE USE OF THE LAND OR BUILDING, AND THE VARIANCE AS GRANTED IS THE MINIMUM VARIANCE THAT WILL ACCOMPLISH THIS PURPOSE.
7. THE PROPOSED VARIANCE WILL NOT IMPARE AND ADEQUATE SUPPLY OF LIGHT AND AIR TO ADJACENT PROPERTY, SUBSTANTIALLY INCREASE THE CONGESTION IN THE PUBLIC STREETS, INCREASE THE DANGER OF FIRE, ENDANGER THE PUBLIC SAFETY, OR SUBSTANTIALLY DIMINISH OR IMPAIR PROPERTY VALUES OF THE ADJACENT AREA; AND
8. THE GRANTING THE VARIANCE REQUESTED WILL NOT CONFER ON THE APPLICANT ANY SPECIAL PRIVLEDGE THAT IS DENIED BY THIS REGULATION TO OTHER LANDS, STRUCTURES, OR BUILDINGS IN THE SAME DISTRICT.
9. APPLICANT IS REQUIRED TO PAY **APPLICATION FEE OF \$500.00** FOR THE PROCESSING OF THE APPLICATION, ADVERTISEMENT(S), BOARD MEMBER FEES, AND ADMINISTRATIVE FEES.

PROCEDURAL STEPS FOR VARIANCES AND APPEALS

A. Review Procedure:

The review procedure for appeals, variances, conditional uses, and administrative appeals shall be as follows:

1. Step 1 – Application:

An application for variances, conditional uses, appeals, or other review over which the BZA has original jurisdiction may be made by any property owner, including an authorized agent, or by a governmental officer, department, or board.

a. Special Application Requirements for Appeals

i. An appeal to the BZA may be made by any person aggrieved by a decision of the Zoning Inspector or by any administrative officer of the Township in interpreting or applying the provisions of this Resolution. Such an appeal shall be taken within ten-10 calendar days of receipt of notification of the decision in question, by filing with the Zoning Inspector and with the BZA, a notice of appeal specifying the grounds thereof including applicable sections of the Resolution.

ii. The Zoning Inspector shall transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

iii. The filing of an appeal shall stay all proceedings unless the Zoning Inspector or any affected person certifies to the BZA that, by reason of facts pertaining to the matter in question, a stay, in their opinion, would cause imminent peril to life or property. When such certification is made, proceedings shall not be stayed except by order granted by the BZA.

b. The Zoning Inspector shall transmit a copy of the application to the BZA.

c. All applications shall be submitted with the required fees as established in the fee schedule. Fees are due at time of filing application. The 30 day time period to hear the case does not begin until the application, documentation, and fees are all paid.

2. Public Hearing with the Board of Zoning Appeals

a. Upon application (Step 1), the BZA shall fix a reasonable time for the public hearing on any application or appeal, give at least ten-10 days of notice in writing to the parties in interest, and give notice of such public hearing by one publication in one or more newspapers of general circulation in the township at least 10 days before the date of such hearing OR the posting of notice on the Township Web Site and Social Media Page at least 10 days before the date of the hearing.

b. Written notice shall be given to all property owners contiguous to and directly across the street from the subject property.

- c. Any party may appear in person or by an appointed representative at a hearing for an appeal or application.
- d. Applicants or owner is not required to attend, however they may attend at their own discretion. Hearing is informal and follows Roberts Rules of Order. Once meeting is called to order, a roll call of members is taken. A minimum of 3 members is needed to have a quorum to conduct hearing. After introduction, the Zoning Inspector presents the case to the Board and makes a recommendation based on the preliminary evidence and compliance to the Zoning Resolution. It is only a recommendation; the Board will make its determination based on all the evidence as a whole. After opening statement, the applicant may present their rebuttal. The Board may ask questions for more facts or clarifying issues. Any other members of the public may speak for or against the variance. After hearing all the evidence, the Board will make a motion. This needs a second motion for passage or denial. A roll call from the Board Members is conducted. Decision communicated to the Applicant.
- e. Upon the day for hearing any application or appeal, the BZA may adjourn the hearing to obtain additional information or to cause further notice, as it deems proper, to facilitate the discussion and decision on said application or appeal. In the case of an adjourned hearing, persons previously notified, and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.

3. Decision

- a. Within 30 days after the hearing concludes (Step 2), the BZA shall decide on the application or appeal.
- b. A copy of the BZA's decision shall be transmitted to the applicant or appellant at the applicant's address as shown on the records of the BZA and to the Zoning Inspector. Such a decision shall be binding upon the Zoning Inspector and observed by him/her, and he/she shall incorporate the terms and conditions of the decision in the certificate to the applicant or appellant, whenever the BZA authorizes a zoning certificate.
- c. For appeals, the BZA may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.
- d. In authorizing a variance or conditional use, the BZA may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as the BZA may deem necessary in the interest of the furtherance of the purposes of this Resolution. In authorizing a variance or conditional use with attached conditions, the BZA may require such evidence and guarantee or bond as it may deem to be necessary that the applicant is and will comply with the attached conditions.
- e. Failure to comply with the conditions of a decision shall be deemed a violation of this Resolution.
- f. Any party adversely affected by a decision of the BZA may appeal the decision to the Court of Common Pleas in Allen County pursuant to the O.R.C. and American Township Zoning Resolution.

B. Appeal Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified by the BZA unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this Resolution, state law, or federal law.

- 1. The BZA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this Resolution will result in practical difficulty for an area/dimensional variance.
- 2. The following factors shall be considered and weighed by the BZA to determine practical difficulty:
 - a. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;
 - b. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - c. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
 - d. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
 - e. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
 - f. Whether special conditions or circumstances exist as a result of actions of the owner;
 - g. Whether the property owner's predicament can feasibly be obviated through some method other than a variance;
 - h. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and
 - i. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- 3. No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined by its own merits and facts.

C. Conditional Use Permit Review Criteria

- 1. The use is a conditional use, permitted with approval by the BZA, in the district where the subject lot is located;
- 2. The use is in accordance with the objectives of the adopted land use plan or development policies and Resolution; and
- 3. The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare.

4. The BZA shall also consider the following as applicable to the application:
 - a. The comparative size, floor area and mass of the proposed structure(s) in relationship to adjacent structures and buildings in the surrounding properties and neighborhood;
 - b. The frequency and duration of various indoor and outdoor activities and special events and the impact of these activities on the surrounding area;
 - c. The number of transit movements generated by the proposed use and relationship to the amount of traffic on abutting streets and on minor streets in the surrounding neighborhood;
 - d. The capacity of adjacent streets and intersections to handle increased traffic in terms of traffic volume and patterns;
 - e. The added noise level created by activities associated with the proposed use and the impact of the ambient noise level of the surrounding area and neighborhood;
 - f. The requirements for public services where the demands of the proposed use are in excess of the individual demand of adjacent land uses in terms of police and fire protection, and the presence of any potential or real fire or other hazards created by the proposed use;
 - g. The general appearance of the neighborhood will not be adversely affected by the location of the proposed use on the parcel;
 - h. The impact of night lighting in terms of intensity and duration and frequency of use as it impacts adjacent properties and in terms of presence in the neighborhood;
 - i. The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas in terms of noise transfer, water runoff and heat generation; and
 - j. Any other physical or operational feature or characteristic that may affect public health, safety, and welfare.

D. Expiration

1. For conditional uses, the applicant shall have 12 months from the date of approval to receive an approved building permit and start construction, or the conditional use shall be deemed null and void.
2. For variances, the applicant shall have 12 months from the date of approval to receive an approved building permit and start construction, or the variance approval shall be deemed null and void.

I ATTEST THE INFORMATION PROVIDED IN THIS DOCUMENT AND ATTACHMENTS ARE CORRECT TO THE BEST OF MY ABILITY. THIS APPEAL IS SUBMITTED TO THE AMERICAN TOWNSHIP ZONING INSPECTOR, THIS _____ DAY OF: _____ IN THE YEAR OF _____.

PROPERTY OWNER / AGENT FOR OWNER SIGNATURE:

PRINTED:

DATE SUBMITTED:

OFFICE USE ONLY

APPLICATION DATE FILED: _____

DATE APPLICATION DENIED: _____

DATE APPLICANT ADVISED OF DENIAL: _____ VIA: _____

APPEAL DATE RECEIVED: _____

DATE APPLICABLE FEES PAID IN FULL: _____

IS APPEAL TIMELY FILED: _____

DATE NOTICE PUBLISHED IN NEWSPAPER OR WEB PAGE: _____

DATE NOTICES MAILED TO ADJOINING PROPERTY OWNERS: _____

DATE OF HEARING: _____

DATE NOTICE OF DECISION LETTER MAILED TO APPLICANT _____

DATE CASE CLOSED AND FILED: _____