

Zoning Board of Appeals Review

Variance or Interpretation



GENERALIZED STEPS IN THE PROCESS

The Zoning Board of Appeals (ZBA) exists to grant variances from the strict terms of the Zoning Ordinance when a petitioner can present facts which legally justify a relaxation of Ordinance requirements. The ZBA is subject to the terms and conditions of the City's Zoning Ordinance and the City and Village Zoning Enabling Act.

In order to grant a variance, the Board must be satisfied that the legal requirements of these laws have been met. If the requirements have not been met, the Board has no choice but to deny the variance request.

It is the responsibility of the petitioner to present evidence to the ZBA which justifies a variance request. Unless the Board has sufficient information to make a determination on the issues outlined below, the Board cannot grant a variance. You should be prepared to discuss the exact size and dimension of the proposal, the physical characteristics of your property; the general uses of land in your neighborhood; the exact amount of the variance requested; and be prepared to discuss the necessity of the variance. The ZBA desires to give each petitioner a full, fair and impartial hearing. It can only do so if the petitioner meets his/her responsibility by producing substantial evidence of all the elements necessary for a variance.

It is strongly encouraged that you meet with City staff to informally review your request prior to submittal. Contact Jeffrey Spencer, Building Official at 248-364-6940 to schedule a meeting.

WHAT TYPE OF ACTION ARE YOU SEEKING?

1. AREA VARIANCE:

An "Area Variance" is the most common type of request. Here you are asking the ZBA to vary the terms of the Ordinance relating to minimum lot size and width requirements; front; rear and side yard setback requirements; maximum height and density restrictions, and so forth. In the case of an area variance, the ZBA must determine whether there exists something about the property itself which, as a practical matter, prohibits a structure which would otherwise be permitted and in fact is or could be enjoyed by other properties in the area.

The Board must determine whether the petitioner suffers "practical difficulties" in reasonably using his/her property and meeting the requirements of the ordinance. The Board will be interested in the following questions:

- Is the proposal suitable to the zoning district? (i.e., is the proposal of suitable size and dimension?)
- Is the proposal of a sort which other properties in the area could accomplish without a variance? (i.e., does this property present a unique situation?)
- Is there something about this property which is unusual and presents a problem of compliance? (i.e., is the lot pie-shaped, or the topography so unusual so as to prevent compliance?)
- Is the proposed structure compatible with the development in the area?
- Is the degree of variance requested the minimal amount feasible?
- Is the proposal such as will not interfere with Fire protection or utilities?

The ZBA may not consider facts which do not pertain to the property itself, such as personal problems of the petitioner, or problems which the petitioner has created for himself/ herself, or problems which the petitioner shares with everyone else.

2. ORDINANCE INTERPRETATION:

A petitioner may request the ZBA to interpret a provision of the ordinance when the petitioner disagrees with the interpretation of the Ordinance reached by the Community Development Department.

WHAT INFORMATION IS REQUIRED FOR CITY REVIEW?

At a minimum, a petitioner must submit a completed application with applicable plot plans, site plans, or other drawings. The plan should show all buildings on the property and the desired variance(s). The application along with 6 sets of plans and specifications must be submitted at least a month before a scheduled meeting due to public hearing notice requirements. Contact Jeffrey Spencer, Building Official at 248-364-6940 for submittal deadlines.

The Petitioner is required to be present at the scheduled meeting of the Zoning Board of Appeals. Failure to appear will result in the item being tabled to the next regular meeting or possibly the appeal being denied.