

**TOWNSHIP OF ARCADIA
ZONING VARIANCE
APPLICATION AND INFORMATION PACKET**

March 2022

TOWNSHIP OF ARCADIA

ZONING VARIANCE APPLICATION INSTRUCTIONS AND PROCEDURES

State law and the Township Zoning Ordinance give limited authority to the Township Zoning Board of Appeals (ZBA) to grant a variance from a dimensional or other “non-use” provision of the Zoning Ordinance. All variance requests are subject to the following application instructions and procedures:

1. If a proposed project will require a variance, a prospective applicant should review the “Background Information” segment of this packet and consider whether the project can be revised to comply with applicable ordinance requirements without variance relief.
2. If variance is to be requested, applicant must complete the Application For Variance form, including the “Lot Diagram” sheet and any other required attachments.

Note: the ZBA may determine a boundary survey is necessary to properly evaluate a variance application.

3. Applicant files completed application and all supporting information, including the required application fee, with Zoning Administrator at:

Manistee County Planning Department
395 Third Street
Manistee, MI 49660

4. ZBA meetings are held as needed, and will generally be scheduled for a date approximately one month after the Zoning Administrator has received a complete application submission, to provide sufficient time to have application reviewed by Zoning Administrator, comply with legal notice requirements, and distribute application materials to ZBA members prior to meeting.

5. Applicant must stake-out boundaries of proposed project not later than filing of application.

Note: ZBA members may individually view property and staked-out site before meeting. Filing of application is considered consent to such visits.

6. Township/Zoning Administrator will inform applicant of ZBA meeting date when application will be considered, and comply with all legal requirements relating to giving notice of hearing on application to property owners and general public.

7. Applicant is expected to attend ZBA meeting at which application will be considered and/or have informed representative attend on behalf (for example, their proposed building contractor or architect).

Applicant must be prepared to explain details of proposed project and facts on which applicant is relying to support requested variance. Applicant has burden of proof on every variance application, based on “variance standards” specified in Section 24.9 of Township Zoning Ordinance, and all other factors relating to legal authority of ZBA to grant variance relief.

8. Applicant may expect ZBA public hearing/meeting to generally follow this format:
 - ZBA introduces application and requests initial comments from Zoning Administrator and/or Township Attorney.
 - Applicant explains proposed project and facts applicant believes justifies granting variance.
 - General public comments on application.
 - ZBA discusses request and makes findings of fact relevant to variance approval standards.
 - ZBA makes decision on application.
9. ZBA decision options include:
 - denial of any variance relief.
 - approval of variance application as submitted (with or without conditions).
 - approval of variance, but different than requested by applicant (with or without conditions).
 - table application for additional information and/or for applicant to consider revising proposed project. Additional information shall be submitted at least 14 days before next meeting, unless ZBA specifies a different time.
10. If variance relief is approved, all required construction permits must be obtained before beginning any on-site work associated with project.

Note: If a variance is granted or other action is authorized by the ZBA, the authorized action shall be deemed abandoned and withdrawn if it is not initiated within 3 months and completed within 12 months after the ZBA decision.
11. If variance application is denied, it cannot be reheard by ZBA for one year from date of denial, unless ZBA finds grounds for rehearing based on either newly discovered evidence or proof of changed conditions (which were not known to applicant or ZBA at time of initial hearing) found by ZBA to be valid.
12. All ZBA decisions are shown in ZBA meeting minutes, and are usually certified in writing at ZBA meeting. All proposed and approved meeting minutes are public records available at Township Office in accordance with applicable state laws and township policies.
13. ZBA decision on variance application is subject to appeal to Circuit Court pursuant to applicable statutes and court rules.

Note: Incomplete applications will not be accepted, and applications will not be accepted without payment of application fee in full. ZBA also reserves right to request additional information from applicant to give proper consideration to the application.

APPLICATION FOR ZONING VARIANCE

---BACKGROUND INFORMATION---

Applicants for a variance from the Township of Arcadia Zoning Ordinance should be aware of the standards the Zoning Board of Appeals (ZBA) applies when considering such applications. The Michigan Zoning Enabling Act only allows the ZBA to approve a variance from a dimensional or other non-use requirement of the Zoning Ordinance if there are “practical difficulties” in the way of carrying out the strict letter of the Zoning Ordinance, so that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done. Section 24.9.1 of the Zoning Ordinance further establishes the standards for approval of this type of variance, as follows:

Standards: No variance in the provisions or requirements of this Ordinance shall be authorized by the ZBA unless the ZBA finds from reasonable evidence that:

- A. By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are practical difficulties preventing compliance with the strict letter of the Ordinance.
- B. The exceptional or extraordinary conditions applying to the specific property do not apply generally to other properties that are subject to the requirement at issue.
- C. The circumstances or conditions submitted by the applicant to justify the variance relief pertain to the property at issue, and not the personal circumstances of the applicant and/or other occupants or users of the property.
- D. The circumstances or conditions submitted by the applicant to justify the variance relief were not self-created by the applicant or some other person under the control of the applicant or for whose conduct the applicant is responsible.
- E. The variance will not be of substantial detriment to adjoining property.
- F. The variance will not materially impair the intent and purpose of this Ordinance, or the public health, safety and welfare.
- G. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties that are subject to the requirement at issue.

When applying for a variance applicants should ensure their written materials are clear, factually correct, and directly address the following issues:

- What are the special conditions or circumstances involved?
- How are those special conditions/circumstances peculiarly related to the specific property under consideration.
- How would denial of a variance preclude the use of the property in a manner otherwise allowed in the zone?
- What alternatives to the proposed variance have been considered, and why are they not viable?

Applicants may find the following comments helpful in preparing their justification or in deciding whether or not to apply for a variance:

- Economic factors---in adding a structure or making a change to a structure, the fact that it will cost more to comply with the Ordinance than it would if a variance is granted is not justification for a variance. Increased cost is not considered a “practical difficulty” for the purpose of justifying a variance.
- Property characteristics---applicants should be able to demonstrate some aspect of the property that makes it virtually impossible to comply with the strict letter of the Ordinance requirement. For example, terrain features such as hills or wetlands; lot features such as shape or shoreline configuration; or other relevant features.
- Personal circumstances---personal circumstances of the applicants, rather than the circumstances or conditions of the land itself, do not justify variance relief.
- Self-created difficulties---difficulties that were self-created (by the applicant, the owner of the property, or by a family member of the applicant or owner) are not grounds for approval of a variance. The applicants preferred design or layout for a structure is therefore also not sufficient to establish the requisite “practical difficulty” to justify a variance.
- Crowded land or buildings---the fact that the property has been developed in such a manner as to be crowded and afford little space for addition to or change of structures does not justify a variance. Such conditions are often found in lake front properties, and older plats, and the Ordinance and township policy are consistent in their direction not to make such nonconforming conditions worse.

The current Township Zoning Ordinance was adopted in 2022 and may include subsequent amendments. The ZBA generally does not approve variance applications where the justification is based only on comparison to conditions that were existing before 2022.

The ZBA has very limited authority to grant variances from zoning requirements. Variance applications involving a worthy project will nevertheless be denied if the applicant is not able to show compliance with the legal standards governing the approval of variance relief. When a variance is denied the ZBA or Zoning Administrator may try to explain what the Ordinance does allow, or help applicants modify their proposed project so that it complies with the Ordinance requirements and still achieves their objectives.

**TOWNSHIP OF ARCADIA ZONING BOARD OF APPEALS
APPLICATION FOR VARIANCE**

Name of Applicant: _____ Date: _____

Mailing Address of Applicant: _____

Property Address: _____

Parcel ID Number: _____ Present Zoning: _____

Interest of Applicant in the Property: _____
(Deedholder, Land Contract Purchaser, Lessee, Other)

If Applicant's interest is other than deedholder, does Applicant have consent of deedholder to proposed project and this application? Yes ___ No ___

Generally describe proposed project (i.e. addition to house, attached garage, detached accessory building, etc.): _____

*Attach completed "Lot Diagram" (and survey when required); and drawing of proposed construction with dimensions and elevations.

Indicate requirement/ordinance section number from which variance is requested, and specify requested variance: _____

Identify the conditions of the property you believe create "practical difficulties" that prevent compliance with the ordinance requirement*: _____

*Attach additional sheets as necessary.

Applicant(s) Telephone Number(s): _____

Signature of Applicant(s): _____

Applicant(s) email address: _____

*******FOR TOWNSHIP OFFICE USE ONLY*******

Application #: _____ Date application received including payment of fee: _____

Zoning Board of Appeals decision on application at _____ meeting:

- Approved
- Approved with conditions
- Denied

LOT DIAGRAM*
(on this sheet, or attached site plan)

Applicant/Owner: _____

Property Address: _____

Parcel ID Number: _____

- 1.) Draw lot lines, including any contiguous property under same ownership (show dimensions in feet)
- 2.) Label all abutting streets
- 3.) Show location/type of existing structures, and their uses, on the subject property, and on all adjoining properties
- 4.) Show location/type of proposed construction, and proposed uses
- 5.) Show dimensions of all existing and proposed structures
- 6.) Show distance from all sides of existing and proposed structures to property lines (in feet, with all measurements from roof overhang or other closest point of structure)
- 7.) Show location of existing well and septic system/sewer connection
- 8.) Draw lakes, streams, and wetlands on the property

*ZBA may determine a boundary survey is necessary to properly evaluate the application.

Signature of Applicant: _____ Date: _____