

Case # _____

Hearing Date _____

CHARTER TOWNSHIP OF HIGHLAND ZONING BOARD OF APPEALS
APPLICATION FOR APPEAL

APPLICANT	
NAME:	_____
ADDRESS:	_____

PHONE:	_____
EMAIL:	_____

OWNER	
NAME:	_____
ADDRESS:	_____

PHONE:	_____
EMAIL:	_____

PROPERTY ADDRESS: _____ ZONING: _____

PROPERTY TAX ID NO: _____

ORDINANCE SECTIONS BEING APPEALED: _____

VARIANCES REQUESTED: _____

DESCRIBE THE NATURE OF YOUR PRACTICAL DIFFICULTY: _____

I certify that all required information is shown on the attached plan and included on this form. I acknowledge that by signing this application, I am granting the right of the Zoning Board of appeals members, inspectors and administrators to conduct a site inspection of the subject property. All statements are true to the best of my knowledge.

SIGNATURE OF OWNER: _____ DATE: _____

SIGNATURE OF APPLICANT: _____ DATE: _____

Signature of applicant must be notarized.

Subscribed and sworn to before me this

_____ day of _____, 20____

_____ Notary Public

My Commission expires _____

APPLICATION FEE:	_____
Receipt#	_____ Date Paid _____
Received by	_____

**CHARTER TOWNSHIP OF HIGHLAND ZONING
BOARD OF APPEALS INSTRUCTION AND
INFORMATION SHEET**

The instruction and information sheets are designed to help you understand the appeal process and to help you submit a complete application for review by the Zoning Board of Appeals. If you have any questions after reading these instructions you may contact the Planning and Zoning department for assistance.

JURISDICTION AND STANDARDS

The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of the Ordinance nor to permit any use in a district in which it is not permitted, but does have the power to act as follows:

Administrative Review

To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit decision or refusal made by the Zoning Administrator or any other administrative official or body in carrying out or enforcing any provision of the Ordinance. The Board of Appeals shall not have the power to hear and decide appeals pertaining to special land uses.

Variance

A variance shall be classified as either use variances or dimensional variances.

Use variances shall not be approved in the Township.

Dimensional variances shall be approved only upon a Board of Appeals finding that strict application of the regulations would result in peculiar or exceptional practical difficulties to the owner of such property. **SUCH A FINDING SHALL BE MADE, ONLY WHEN ALL OF THE FOLLOWING CRITERIA ARE MET:**

- 1) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property that shall be considered shall include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation and other similar characteristics.
- 2) The characteristics that make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
- 3) The characteristics that make compliance with the dimensional requirements shall not be of a personal nature.
- 4) The characteristics that make compliance with the dimensional requirements difficult must not have been created by the current or a previous owner.
- 5) The proposed variance will not be harmful to or alter the essential character of the area in which the property is located, 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, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township.
- 6) **THE BOARD OF APPEALS SHALL NOT FIND THAT ANY OF THE ABOVE CRITERIA HAVE BEEN MET WITHOUT SUBSTANTIAL EVIDENCE TO THAT EFFECT.**
- 7) The proposed variance will be the minimum necessary, and no variance shall be granted where a different solution not requiring a variance would be possible.

Any variance that authorizes construction contrary to the requirements of the Ordinance shall be void after a period of twelve (12) months unless the construction so authorized is commenced within twelve (12) months of the granting of the variance and diligently pursued until completion.

ORDINANCE INTERPRETATION

To interpret the language and map of the Zoning Ordinance.

STANDING TO APPEAL (SEEK DIMENSIONAL VARIANCE)

The applicant may be the owner or any other person granted authorization by the owner to seek a dimensional variance. A hearing for a dimensional variance will not be scheduled until the chain of title is traced back to a warranty deed, so processing may be expedited if the applicant provides a copy of the warranty deed at the time of application.

Any person who alleges that there has been an error in fact, judgment, process or interpretation of the ordinance in an order, requirement, permit or other decision of a Township staff member or official may act as applicant.

Any person may act as an applicant when seeking an interpretation of the ordinance.

GUIDELINES FOR DRAWING A SCALED PLOT PLAN

Scaled plot plans of the subject parcel must accompany the application. **INCOMPLETE APPLICATIONS OR DRAWINGS WILL NOT BE ACCEPTED.** Your plot plans must include the following:

1. The actual shape, location and dimensions of the lot.
2. The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
3. The location of drives, access ways, easements, septic tanks, wells, overhead and underground utilities, and drain fields.
4. The location of water bodies and water courses including the ordinary high water mark and floodplain elevations, where applicable.
5. The distance to all structures and wells on adjacent parcels and their use, e.g., home, barn, shed, wells, etc.
6. The existing and intended use of the lot and of all such structures upon it, including in residential areas, the number of dwelling units the building is intended to accommodate. ***Floor plans and elevations are required.***

The Zoning Board of Appeals receives application materials in a .pdf format, viewable on electronic tablets. Applicants must supply (1) one hard copy of the plot plan and application materials. It is further requested that a .pdf format electronic file is provided (*via email at corwinb@twp.highland.mi.us*) when possible. Additional information may be required to review the application for conformance with the Zoning Ordinance.

STAKING OF PROPERTY

The Board of Appeals members make on site inspections of all requests. Your property lines and proposed construction must be clearly marked ten (10) days prior to the hearing date. Wood stakes or florescent paint lines are acceptable. If the Board Members are unable to clearly define the property in question because of failure of applicant to comply with this requirement, **NO ACTION WILL BE TAKEN AT THE SCHEDULED PUBLIC HEARING.**

If you cannot locate your property irons, you should plan to retain the services of a professional land surveyor to establish your boundaries. At minimum, a line survey will be required for property lines where new construction is proposed within 5 feet of the boundary.

In addition to staking, vacant property must be posted with the Applicant's name and case number. The sign must be 8 1/2" X 11" or larger.

MEETING DATES AND APPLICATION DEADLINES

The Zoning Board Appeals meets the first and third Wednesdays of each month at 7:30 p.m. Only five (5) cases are heard at each meeting. Check with the Planning and Zoning Department for the next available hearing date. You should plan on a ***minimum*** of six weeks from date of application to receipt of building permits.

BUILDING PERMITS

Building permits are not automatically issued. If a variance is granted, you must apply for a building permit. The building dept. will not accept your application until the approved minutes are published. (Typically two (2) to three (3) weeks after the decision.)

HIGHLAND TOWNSHIP ZONING BOARD OF APPEALS FREQUENTLY ASKED QUESTIONS (FAQ's)

This information has been prepared to assist you in coming before The Zoning Board of Appeals (ZBA) of the Charter Township of Highland. The intent is to help you understand what the ZBA is, what it can and cannot do, what to expect, and what you can do to help your own case. We hope you find this information useful. If you would like further assistance, you are welcome to contact Planning staff at the Township office during business hours.

The ZBA is made up of seven members who are appointed by the Township Board of Trustees on the recommendation of the Supervisor. Members must be residents of the Township and are appointed for 3-year terms. One member must be on the Planning Commission. Officers of the ZBA (chair, vice-chair, secretary) are elected by the ZBA.

The ZBA operates under the authority of the Michigan Enabling Zoning Act and the Zoning Ordinance of the Charter Township of Highland. Decisions of the ZBA are final. Their decisions are appealable only through the circuit court.

The ZBA normally meets on the first and third Wednesday of each month. Meetings are held in the Township Auditorium adjacent to the Township offices, at 7:30 P.M. There are occasional changes in this schedule and these are posted at the Township offices.

ZBA hearings are public hearings and are conducted in accordance with the Michigan Open Meetings Act. Copies of each meeting's agenda are available at the meeting. Minutes are taken and may be obtained from the Township office; there is a nominal charge.

Anyone who wishes to attend a ZBA meeting may do so. Anyone with comments relevant to an item being considered may speak at the appropriate time during a meeting.

What is a "variance"?

A variance is a permission to deviate from the Township Zoning ordinance. The ZBA may grant variances from the applicable ordinance requirement for setbacks, lot size and various other specific items. The ZBA may not grant use variances; that is the granting of permission to use a property for a purpose other than that which is permitted by its zoning classification.

The ZBA may interpret the Zoning Ordinance in certain cases, and make judgments regarding the applicability of certain ordinances in specific situations. The Zoning Administrator should be consulted for more detail on these specific situations.

The granting of a variance depends on the existence of a "*practical difficulty*". *A practical difficulty is a situation not of the property owners making which prevents the property from being used for the purpose for which it was intended.* Economic issues do not constitute a practical difficulty.

How to best present your case:

- Attend a ZBA meeting prior to your case being heard, to familiarize yourself with procedures.
- Information or detail that is not relevant to your case should not be included in your application. For instance, if you are asking for a side lot line variance, the Board does not

need or want information about what types of windows will be placed in the structure you want to build.

- If you are presenting a site plan, sketch or drawing,
 - draw it to scale
 - show directional orientation (North, South, etc.)
 - show buildings and features in the correct position relative to each other.
 - make it clear, uncluttered, and easy to read.
 - if there is information you do not know for certain, for instance, the precise location of a septic field or road right of way, estimate it and indicate that it is an estimate.
- Requests should be clear and specific. Be sure that you know exactly what you want the Board to do; if you don't know, the Board won't know either.

Things you must do to have your case heard:

1. Consult the Zoning Administrator for specifics of the ordinance you are requesting a variance from. Obtain necessary forms and instructions.
2. Complete paperwork and submit to the Zoning Administrator. Pay your fees. You will be notified by mail of your hearing date.
3. Stake the property and proposed construction at least one week prior to the hearing date. What you want to build do must be clearly marked and be able to be understood by the members of the board. Board members will visit the site prior to the hearing at a time that is convenient for each individual member; you do not need to be present. **If the site is not clearly marked your case will not be heard.**
4. Be present on the night your case is to be heard. If someone else is to represent you, a contractor or builder for instance, you must submit a letter to Board through the Zoning Administrator at the Township offices during business hours.
5. Questions regarding completing the application, procedures for filing, or other concerns you may have regarding your application for a variance may be directed to the office of the Zoning Administrator at the Township Hall during business hours.

The Charter Township of Highland
205 N. John St.
Highland, MI 48357
(248) 887-3791, ext. 2
Planning Dept.
Hours: M - Th 8:30 a. m – 5:00 p.m.
F - 8:00 a.m. – 4:00 p.m.

TEN TIMELY TIPS FOR A SUCCESSFUL VARIANCE

TIP #1- BEFORE FILING VARIANCE: DO YOU REALLY NEED ONE?

- a. Understand why your permit was rejected.
- b. Can you live within the ordinance?
- c. Do you really “need” a variance – or just “want” one?

TIP #2- BEFORE FILING A VARIANCE: DO YOUR HOMEWORK

- a. Talk to the building department.
- b. Talk to your neighbors.
- c. Look, see and observe if similar variances have been granted.
- d. Understand what the legal test is for board relief.

TIP #3- WHEN YOU FILE YOUR VARIANCE PETITION

- a. Write neatly & legibly or type your application.
- b. State specifically why you need the variance, what is your hardship, and why the ordinance which caused your denial unfairly affects you.
- c. Attach all relevant documents to your application.
- d. Avoid if possible submitting new documentation to the board during the hearing.
- e. If you cannot submit complex documentation until the hearing itself, consider an adjournment until the next scheduled meeting.

TIP#4- AFTER FILING, BUT BEFORE THE HEARING

- a. Several board members will inspect the site before the hearing.
- b. “Clean-up” the property site before inspection.
- c. Talk to your neighbors about your variance, get their support.
- d. If you get neighbor support, have them make a brief, concise statement at the hearing or send a letter.

TIP #5- AFTER FILING, BUT BEFORE THE HEARING

- a. If you expect opposition, examine the township ZBA file a day or two before the hearing, any written opposition will be on file.
- b. Be prepared to deal with written objections at the hearing.
- c. Consider modifying your variance request to meet objections.

TIP #6- AT THE VARIANCE HEARING: STOP, LOOK AND LISTEN

- a. Stop and examine the agenda; if there are similar cases to your, listen to how the board responds to those cases.
- b. Look around you – if you see your neighbors, try to find out if they are opposed, and if so, why? Can you enlist their support because they didn’t understand what you are trying to do?
- c. Listen to the board; both their questions and discussion may be an attempt to steer you to a compromise. Never take an “all or nothing” position.

TIP #7- DURING YOUR VARIANCE PRESENTATION

- a. Be concise and to the point; the board has read your petition, examined your documents, and probably inspected the property or variance site.
- b. Never be rude, threatening or confrontational with the board; this will insure Denial.
- c. Never read your application word for word to the board – summarize it.

TIP #8- IF YOU ARE REQUESTING A SIGN VARIANCE

- a. Be sure you have a genuine “need and is not just a marketing ploy.
- b. If the variance relates to size, be prepared to be flexible.
- c. If the variance is related to the number of signs, be prepared to explain why they are needed and what the hardship is.

TIP #9- IF YOU ARE REQUESTING A DIMENSIONAL OR PROPERTY VARIANCE

- a. Demonstrate why the practical difficulty is unique to your situation because of land shape, size or topography.
- b. Convincingly communicate that the practical difficulty was not self-created
- c. Point out that the variance is the bare minimum needed to correct the problem.
- d. Suggest that the variance will not negatively impact any neighbor, nor will it alter the essential character of the land.

TIP #10- VARIANCE GRANTED: WHAT ELSE TO DO?

- a. Pull necessary permits.
- b. Make sure you comply with the variance.

CHARTER TOWNSHIP OF HIGHLAND
ZONING BOARD OF APPEALS
WORKSHEET

The worksheet is designed to help you understand the appeal process and to help you submit a complete application for review by the Zoning Board of Appeals. If you have any questions after reading this worksheet you may contact the Planning and Zoning Department for assistance.

HAVE YOU MET ALL OF THE FOLLOWING CRITERIA?

- 1) Do the characteristics of the property include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation or other similar characteristics? If so, please describe here.

- 2) Can the project be redesigned to meet the zoning requirements without the need for a variance?

- 3) Is the reason for a variance request of a personal nature? (for example: financial impact, physical and/or mental characteristics of the household members, inconvenience, etc.)

4) Has the difficulty been created by the current or previous owner?

5) Will the proposed variance be harmful to or alter the essential character of the area in which the property is located?

6) Will the proposed variance be the minimum necessary?

Signature _____