

Application Received: _____

Zoning Compliance: _____

Building Official Review: _____

DPW Review _____

Fee Paid: _____

VARIANCE APPLICATION

(Please complete the application in full)

The City of North Muskegon Zoning Board of Appeals (ZBA) is empowered to hear and decide appeals from any person or board aggrieved by an administrative decision. An administrative decision is one made by a zoning administrator, Planning Commission or by a legislative body acting in an administrative capacity. There are two types of variances: a non-use variance sometimes referred to as a dimensional variance or a use variance.

Variance requests will appear on a City Council agenda and the meetings are held on the first and third Mondays of each month at 6:00 p.m. in City Hall. Completed applications and all required documentation must be received prior to being placed on an agenda and are subject to a 30 day waiting period. A non-refundable application fee of \$350.00 must be paid at the time of the application.

Obtaining a variance from the City's zoning laws is difficult. Any decision of the ZBA must comply with the basic spirit (intent) of the ordinance while maintaining the general health, safety, and welfare of the community. A public hearing will be held after notification by regular mail, not less than 15 days before the public hearing to:

- a. Applicant;
- b. All persons to whom real property is assessed, within three hundred (300) feet of the boundary of the property in question; and
- c. The occupants of all structures within three hundred (300) feet of the boundary of the property in question.

The Clerk shall also publish a notice of public hearing in a newspaper of general circulation.

Variance Procedures:

After holding a public hearing, the Zoning Board of Appeals shall have the power to grant requests for variances from the provisions of this Ordinance. Depending upon the type of the variance granted, the applicant has the responsibility to prove that there is ***practical difficulty or unnecessary hardship*** in the way of carrying out the strict letter of the ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty. The following are conditions that must be met:

- That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;
- That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties;
- That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- The variance will not impair the intent and purpose of this Ordinance.
- That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

A **use variance** may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:

- That the building, structure, or land cannot be reasonably used for any of the uses permitted by right or special approval in the zone district in which it is located.
- That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land,

building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would cause unnecessary hardship;

- That the proposed use will not alter the essential character of the neighborhood.

Note: Prior to the Zoning Board of Appeals hearing on a request for a Use Variance, the Planning Commission shall consider such request and forward a report to the Zoning Board of Appeals. For this report the Planning Commission shall consider the Master Plan, the ability of the property owner to use the property for a use already permitted under the existing zoning classification, the effect of the request on the essential character of the neighborhood, and other such factors as the Planning Commission may deem relevant.

DECISIONS:

The Zoning Board of Appeals decision shall become final five (5) days after their decision. Any variance granted shall only be valid for a period of twelve (12) months from the date of approval.