



PLANNING & ZONING DIVISION
BOARD OF ZONING APPEALS

APPEAL FOR VARIANCE

(Meetings are held first Wednesday of the Month)

Applicant's Name _____

Mailing Address _____

Telephone Number(s) _____

Owner's Name _____

Mailing Address _____

Property Address _____

Parcel Number(s) _____

Use of Property _____

Zoning District Classification _____

Requested Variance – Area and Dimensional or Use:

1. The appeal is brought before the Board of Zoning Appeals for the following reason(s):

- Exceptional narrowness, shallowness, or shape of a specific piece of property
- Exceptional topographic condition
- Extraordinary situation or condition of the property
- Other (explain below)

2. Describe any unique circumstances and the hardship that pertains to your property that impairs conformance to the zoning regulations. Hardship is to be based on the physical attributes of the property with respect to the uses permitted in the zoning ordinance.

3. If the variance is granted will it negatively affect the surrounding properties?

4. If the variance is granted will it affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital service?

5. I certify that I am the applicant named below (and can represent the owner of the property) and the information presented above is accurate to the best of my knowledge.

Date _____ Applicant's Signature _____

This application must be accompanied by:

- 1) Copy of a plot plan of the property's physical features (or PDF);
- 2) Preliminary plans and elevations of proposed construction (or PDF);
- 3) \$150.00 (Residential) \$300.00 (Commercial) fee for processing (checks made payable to City of Middletown)

DEPARTMENTAL USE ONLY

Plot plan received _____ Other plans received _____. Fee paid _____

Application is accepted for the BZA Agenda. Secretary's initials _____

BZA Case No. _____ Legal Notice No. _____ Date _____

Please turn in application into:

City of Middletown Planning & Zoning Department
One Donham Plaza, Middletown, OH 45042

James Metz, City Planner
jamesme@cityofmiddletown.org

Board of Zoning Appeals Review Criteria:

Where an applicant seeks a variance to any of the area or dimensional standards in this code, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as defined in Section 1226.10(c)(3)&(4) below.

Area and Dimensional Variance Review Criteria:

A. The following factors are considered by the BZA to determine practical difficulty:

- i. 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;
- ii. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- iii. Whether the special conditions and circumstances are a direct result from the actions of the applicant, his or her agents, or prior property owners;
- iv. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
- v. 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;
- vi. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;
- vii. Whether special conditions or circumstances exist as a result of actions of the owner;
- viii. Whether the property owner's predicament can feasibly be obviated through some method other than a variance;
- ix. Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or
- x. 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.

B. No single factor listed above may control the BZA's decision and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Use Variance Review Criteria:

In order to grant a use variance, the BZA shall determine that strict compliance with the terms of this code will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;
- B. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
- C. The variance requested cannot otherwise be resolved by a zoning map amendment or a zoning map amendment is not the most beneficial approach;
- D. The essential character of the neighborhood will not be substantially altered as a result of the variance;

- E. There is an existing structure that cannot be reasonably used for a permitted use or a conditionally permitted use in the applicable zoning district;
- F. The proposed use is listed in Table 1204-3;
- G. The hardship condition is not created by actions of the applicant;
- H. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- I. The granting of the variance will not adversely affect the public health, safety or general welfare;
- J. The variance will be consistent with the general spirit and intent of this code;
- K. The requested use is permitted in another district in this code; and
- L. The variance sought is the minimum that will afford relief to the applicant.