

ROSS TOWNSHIP ZONING VARIANCE APPLICATION INSTRUCTIONS AND PROCEDURES

State law and the Ross Township Zoning Ordinance give limited authority to the Zoning Board of Appeals (ZBA) of Ross Township to grant a variance from a dimensional or other "non-use" provision of the Ross Township Zoning Ordinance. All variance requests are subject to the following 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 a variance is to be requested, the applicant must complete the Application For Variance form, including the "Lot Diagram" sheet and any other required attachments.

Note: a survey prepared by a registered surveyor is required if variance application involves a nonconforming lot (for example a lot smaller than current Zoning Ordinance requires). The Township Zoning Administrator will help determine if this requirement applies to your property. The ZBA may also determine a boundary survey is necessary to properly evaluate variance applications involving conforming lots.

3. Applicant files completed application and all supporting information with Ross Township Offices.
4. Applicant pays required application fee at Ross Township Offices (presently \$1,000; subject to change by Township Board).

Note: regular meetings of ZBA are on first Wednesday of each Month at 5:30 p.m. Applications shall be submitted a minimum of 30 days prior to the meeting to provide sufficient time to comply with legal notice requirements, have application reviewed by Zoning Administrator, 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 will inform applicant of meeting date 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 "standards" specified in Section 23.8A. of Ross 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.
10. If variance relief is approved, all required construction permits must be obtained before beginning any on-site work associated with project.

Note: an approved variance expires six months after approval date, unless necessary construction permits have been obtained and authorized work has begun.

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.
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 Ross Township Offices in accordance with applicable state laws and township policies.

Note: Incomplete applications will not be accepted, and no application will be considered complete without payment of application fee in full. ZBA also reserves right to request additional information from applicant to give proper consideration to requested variance.

APPLICATION FOR ZONING VARIANCE

--BACKGROUND INFORMATION--

Applicants for a variance from the Ross Township Zoning Ordinance should be aware of the standards the Zoning Board of Appeals (ZBA) applies when considering such applications. These standards are found in Section 23.8A of the Ordinance and state:

Standards. The Zoning Board of Appeals shall not grant any non-use variance unless it finds from reasonable evidence that by reason of the exceptional narrowness, shallowness or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary situation of the property in question, there are **practical difficulties** in the way of carrying out the strict letter of the Zoning Ordinance that were not created by the applicant or a predecessor owner in the applicant's family; that such variance will not be of substantial detriment to adjoining property; that such variance will not material impair the intent and purpose of this Ordinance; that such variance will not materially impair the public health, safety and welfare; and further, that at least two of the following circumstances exist in addition to all of the above:

1. That there are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the same zone, provided that hardships based solely on economic considerations shall not be grounds for a variance; and,
2. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone, provided that increased financial return shall not be deemed sufficient to warrant a variance; and,
3. That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this zoning ordinance.

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

- What are the exceptional or extraordinary circumstances involved?
- How are those circumstances 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. 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 Ross Township Zoning Ordinance was adopted in 1986 and includes various amendments made since then. Certain provisions of the current Ordinance are more restrictive than those of the prior ordinance, especially lot line setbacks. The ZBA generally does not approve variance applications where the justification is based only on comparison to conditions that were existing before 1986.

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 will generally 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.

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

Name of Applicant: _____ Date: _____

Mailing Address of Applicant: _____

Property Address: _____

Property Tax ID Number: _____ Present Zoning: _____

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

If Applicant's interest is other than deed holder, does Applicant have consent of deed holder to proposed project and is 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.

Signature of Applicant(s):

Applicant(s) Mailing Address:

Applicant(s) Telephone Number(s):

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

Applicant/Owner: _____

Property Address: _____

Property Tax ID Number: _____

- 1.) Draw lot lines, including any contiguous property under same ownership (show dimensions in feet)
- 2.) Label Street
- 3.) Draw existing structures
- 4.) Draw proposed construction
- 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

Signature of Applicant: _____ Date: _____