

HOW TO APPLY FOR A VARIANCE IN MASON COUNTY

Variance applications can be submitted to the Mason County Zoning Office located at 102 E. 5th Street in Scottville when the Zoning Administrator has determined that particular provisions of the Zoning Ordinance cannot be met.

Administrative Appeals to the Zoning Board of Appeals (ZBA) can be filed by anyone aggrieved by a determination made by the Zoning Administrator in the administration or enforcement of the zoning ordinance. The ZBA can reverse or affirm, wholly or partly, or may modify the Zoning Administrator's decision.

APPLICATION PROCESS

1. Submit complete application to the Zoning Office with required fee.
 - Variance Form and completed questions on Page 2 of this packet.
 - Site plan including lot dimensions, north arrow, the size and location of existing buildings/signs, the locations and dimensions of proposed buildings/signs or alterations, location of well and septic (including septic tank and drain field) and any natural or topographic peculiarities of the property in question.
 - Please take note that variance requests are measured from the eave of the structure, not the walls. If 1-foot or 2-foot eaves are planned, please take that into account on the site plan.
 - Fee: \$400
2. Please stake the property two weeks prior to the meeting: Staff will visit the property, note observations, and take photographs. Please have the area in question (ex: garage, addition, deck) staked out so we can verify the location of the structure. If the property is not staked out, the variance request may be delayed.
3. The Zoning Board of Appeals holds a public hearing on the application and makes its decision. Prior to the meeting, the Zoning staff will notice the meeting in the Ludington Daily News and send notices to property owners within 300 feet of the property in question.

APPROVAL

Zoning Administrator enforces the ZBA's decision. The Board may impose conditions upon an affirmative decision. The ZBA may modify the request to a lesser amount than what was requested. For example, if a 10-foot variance was requested a 5-foot variance may be approved.

DISAPPROVAL

Applicant can appeal ZBA decision to Mason County Circuit Court.

Standards for Variances

The ZBA cannot approve a variance unless it finds that all of the following conditions are met:

1. The strict enforcement of the provisions of this Ordinance would cause a practical difficulty and deprive the owner of rights enjoyed by all other property owners within the same zoning district.
2. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title.
3. The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district.
4. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.

ZONING VARIANCE APPLICATION (To be included with application)

1. The strict enforcement of the provisions of this Ordinance would cause a practical difficulty and deprive the owner of rights enjoyed by all other property owners within the same zoning district.

1. Practical Difficulty: A practical difficulty exists on the subject site (such as exceptional narrowness, shallowness, shape or area; presence of floodplains; exceptional topographic conditions) and strict compliance with the Zoning Ordinance standards would unreasonably prevent the owner from using the subject site for a permitted use or would render conformity unnecessarily burdensome. Economic hardship or optimum profit are not considerations for practical difficulty.

2. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title.

Not Self-Created: Can you affirm that the hardship described above was not created by an action of anyone having an interest in the property after the Zoning Ordinance or applicable part thereof became law? Yes _____ No _____. If "no" explain why the hardship should not be regarded as self-imposed (self-imposed hardships are not entitled to a variance).

3. The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district. Will granting the variance give the applicant any special privilege that is denied by the Zoning Ordinance to owners of other lands, structures, or buildings in the same zoning district? Please explain.

4. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance. Specify how the granting of the variation requested will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in with the property is located.

SOME HELP IN RESPONDING TO THE FOUR (4) VARIANCE STANDARDS

Asking for a zoning variance is essentially like asking for permission to break the law—so you have to present valid, factual information to convince the board that you have good reason to break the law. An example would be like getting stopped for speeding. A good reason to speed would be that you have a pregnant woman in the back seat. A poor reason would be that you just got a new car and wanted to test it out. Zoning is no different, the Board of Appeals is going to be looking for good reasons to give relief from a zoning standard—not just that the applicant “wants it” or thinks it would “look better”.

It is important to present factual information and evidence to support your belief that your property is significantly different (or unique) from those in the surrounding area. The suggestions below are by no means the only valid justifications for a variance on your property. These examples are provided to allow you to consider the uniqueness of your property in your response to the four standards. The ZBA considers each variance on its unique merits.

1. The strict enforcement of the provisions of this Ordinance would cause a practical difficulty and deprive the owner of rights enjoyed by all other property owners within the same zoning district.

You need to explain what is hindering you from complying with the zoning law. Is there a connection between what you allege is the practical difficulty and why your neighbors or others in the same zoning district can do what you can not. Three examples are below:

- A. This property is unusual and unique because _____
- B. The property owner can not use the property in manner to gain a reasonable use in comparison with the adjacent properties because _____
- C. The hardship in developing this property is to the extent that no reasonable use of the property is possible or at least that adverse economic impact is substantial.

In determining if a “practical difficulty” exists the Zoning Board of Appeals will review the physical conditions of the land as well as other special circumstances such as lot size, date that the lot was created (is it conforming or nonconforming, and location of well and septic. Examples are listed below and one or more of something similar may apply to your property:

A. Physical features peculiar to this lot or tract not applicable to the adjacent lots:

1. Steep slopes impact ____% of lot
2. Waterbodies, water courses, wetlands, floodplain impact ____% of lot

B. Platting features peculiar to this lot or tract not applicable to the adjacent lots:

1. the lot is oddly shaped
2. the lot has more than two street frontages or no street frontage
3. the lot is impacted by many or wide easements for utilities, driveways, drainage

C. Zoning features peculiar to this lot or tract not applicable to the adjacent lots:

1. the lot is non-conforming in area, width or depth
2. the structure/building was constructed under different zoning rules

D. The special conditions and circumstances are more than an inconvenience or financial burden because:

1. removing the encroachment would severely damage the structure
2. removing the encroachment would render the structure unusable
3. the septic system/leachfield and or well can not be moved

4. the physical features of the lot limit construction locations and options
5. the access to the lot can not be physically relocated

E. I (we) considered all the possible conforming alternatives and I (we) are not able to:

1. redesign the structure because _____
2. move the structure because _____
3. move lot lines or replat the property because _____
4. rezone the property because _____
5. acquire abutting the property because _____

2. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title.

To the best of your knowledge, can you affirm that the hardship described above was not created by an action of anyone having an interest in the property after the Zoning Ordinance or applicable part thereof became law? Please keep in mind that self-imposed hardships are not entitled to a variance.

Common examples of a condition created by the owner:

- Did you build the porch or deck that is requiring you to ask for a variance to place a detached garage?
- Did you build the house knowing you would need a deck or landing and not take that into account when you placed the house in that location?

3. The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district.

Examples are listed below and one or more of something similar may apply to your property:

A. The variance will not:

1. give this property special privileges to me above my neighbor
2. increase traffic in the neighborhood
3. change the character of the neighborhood
4. negatively impact the abutting property owners

B. The encroachment is not visually evident

C. The nonconforming use or structure can be made more conforming if variance is granted.

4. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance. How will the board's decision affect the following:

1. Protect public health, safety or welfare
2. Encourage the use of lands in accordance with their character and capabilities and to limit the improper use of land
3. Avoid overcrowding of populations
4. Lessen congestion on the public roads and streets
5. Reduce hazards to life and property
6. Reasonably consider the character of each district

Recommended (but not required) : The variance granted is the minimum variance that will make possible a reasonable use of the land.

Please explain why this variance will give this property equal treatment with its neighbors and nothing more. That you are asking for the least relief from the zoning law that is possible to allow a reasonable use of the property. That you are not advocating for rights superior to your neighbors or others in the same zoning district.