

Charter Township of Union

APPLICATION FOR ZONING BOARD OF APPEALS REVIEW

Variance Administrative Appeal Interpretation Sign Variance Other: _____

A complete application will contain all the information required per the Zoning Ordinance, Section 14.4 (Variances and Appeals).

Name of Proposed Development/Project _____	
Common Description of Property & Address (if issued) _____	
Applicant's Name(s) _____	
Phone/Fax numbers _____	Email _____
Address _____ City: _____ Zip: _____	

Legal Description: _____	Attached _____	Included on Plan/Survey _____	Tax Parcel ID Number(s): _____
Existing Zoning: _____	Land Acreage: _____	Existing Use(s): _____	
ATTACHED: Letter summarizing the request and responding to the applicable review criteria found in Section 14.5.B.			

Firm(s) or Individuals(s) who prepared the plan or survey drawing.	1. Name: _____ Phone: _____ Email _____ 2. Address: _____ City: _____ State: _____ Zip: _____ Contact Person: _____ Phone _____
Legal Owner(s) of Property. All persons having legal interest in the property must sign this application. Attach a separate sheet if more space is needed.	1. Name: _____ Phone: _____ Address: _____ City: _____ State: _____ Zip: _____ Signature: _____ Interest in Property: _____ 2. Name: _____ Phone: _____ Address: _____ City: _____ State: _____ Zip: _____ Signature: _____ Interest in Property: _____

I do hereby affirm that all the statements, signatures, descriptions, exhibits submitted on or with this application are true and accurate to the best of my knowledge and that I am authorized to file this application and act on behalf of all the owners of the property. False or inaccurate information may be cause for rejection of the application or revocation of any action by the Board of Appeals. Approval of a variance shall not constitute the right to violate any other provisions of the Zoning Ordinance or other applicable codes and ordinances.

Signature of Applicant Date

Office Use Only

Application Received By: _____ Fee Paid: \$ _____

Date Received: _____ Escrow Deposit Paid: \$ _____

Section 14.4 Variances and Appeals (excerpts)

B. Authority of the Zoning Board of Appeals.

1. **General Authority.** The Zoning Board of Appeals (ZBA) shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance. The ZBA has no authority to grant variances or overturn decisions involving special uses or planned unit developments.

2. **Administrative Review.** Appeals may be taken to the ZBA by a person, firm or corporation aggrieved by the order, requirement, decision or determination; or by an officer, department, board, commission or bureau of the Township, county, state, or federal governments. Such appeals shall be filed within thirty (30) days of the order, requirement, decision or determination in question.
 - a. In hearing and deciding appeals under this subsection, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official, board or commission from whom the appeal is taken.
 - b. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Administrator certifies to the ZBA after the notice is filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by a court of record upon application, upon notice to the Zoning Administrator from whom the appeal is taken, and upon due cause shown.
 - c. The ZBA shall reverse an administrative decision only upon determining that the order, requirement, decision or determination constituted an abuse of discretion, was arbitrary or capricious, was based upon an erroneous finding of a material fact or was based upon an erroneous interpretation of the Zoning Ordinance.
 - i. After making such a determination, the ZBA may, reverse or affirm wholly or in part; modify the order, requirement, decision or determination; or make such order, requirements, decision, or determination as ought to be made, and may issue or direct the issuance of a permit.
 - ii. To that end, the ZBA shall have all the powers of the official(s) from whom the appeal is taken.

3. **Interpretation.** The ZBA shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance.

4. **Variances.** The ZBA shall have authority in specific cases to authorize one or more dimensional or "non-use" variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance.

Authority to grant dimensional or non-use variances shall be exercised in accordance with the following standards.

- a. **Practical Difficulties.** The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist *and* that the need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. In determining whether practical difficulties exist, the ZBA shall consider the following factors:
 - i. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
 - ii. The variance will do substantial justice to the applicant, as well as to other property owners.
 - iii. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - iv. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors. (For example, a variance needed for a proposed lot split would, by definition, be self-created, so such a variance typically would not be granted.)
- b. **Responsibility of Applicant to Provide Evidence.** In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

C. Applications and Notices.

- 1. **Application.** All applications to the ZBA shall be filed with the Zoning Administrator or his/her designee, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board. Applications shall include three (3) individually folded and one (1) digital copy of all plans, studies and other information and data to be relied upon by the applicant.
- 2. **Plot Plan.** A plot plan shall be required with all variance requests. The plan which shall accompany all variance requests shall be based on a mortgage survey or land survey prepared by a licensed land surveyor. The plan shall be to scale and shall include all property lines and dimensions, setbacks and all existing and proposed structures. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Section 14.2 shall satisfy the requirements of this section.

The Zoning Board of Appeals has the authority to require a land survey prepared by a licensed land surveyor when the ZBA determines it to be necessary to insure accuracy of the plan.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

- 3. **Applications Involving an Appeal of Administrative Order.** In a case involving an appeal from an action of an administrative official or entity, the administrative official, or the clerk or secretary of the administrative entity, as the case may be, upon notice from the Zoning Administrator, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- 4. **Consent of Property Owner Required.** Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.