

CASEVILLE TOWNSHIP, 6767 MAIN ST, PO. BOX 519, CASEVILLE, MI 48725 (989) 856-3053 FAX (989) 856-9653

Application for Appeal, Variance or Exemption to Caseville Township Zoning Ordinance.

Filing fee is \$650.00

Print or Type

Date \_\_\_\_\_ Property ID number 3204- \_\_\_\_\_

*Official use only*

Applicant's Name: \_\_\_\_\_

Application No.: \_\_\_\_\_

Address: \_\_\_\_\_

Deposit Amt.: \$ \_\_\_\_\_

Telephone: \_\_\_\_\_

Date Rec.: \_\_\_\_\_ By \_\_\_\_\_

Owner' Name (s) \_\_\_\_\_

Pub Dates: \_\_\_\_\_

Address \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Address/Location of variance: \_\_\_\_\_

Legal description of property: \_\_\_\_\_

SECTION 1 – Required Information

1. Section and subsection of Township Zoning Ordinance involved for appeal, variance or exception: \_\_\_\_\_

2. What is the appeal, proposed variance or exception? \_\_\_\_\_

3. Complete a diagram showing location of streets, lot size, building size and locations, both existing and proposed, location of sewerage and water facilities. Attach to this form.

4. List all adjacent property owners:

Name	Address
_____	_____
_____	_____
_____	_____

5. If possible obtain written consent to a proposed variance/exception from the listed property owners. Attach them to this form.

SECTION 2 – Filing Procedure

1. This application, when fully completed, is to be filed, along with an application fee of \$650.00, with the township. Filing date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Note: If a variance is granted, you have six (6) months to start construction from hearing date.

2. The township will notify the chairman of the Caseville Township Zoning Board of Appeals. The chairman will then call a meeting of the Zoning Board of Appeals. The normal preset date of the ZBA is the last Wednesday of the month. The ZBA chairman was notified on \_\_\_\_/\_\_\_\_/\_\_\_\_. Next ZBA meeting will be \_\_\_\_/\_\_\_\_/\_\_\_\_.

**IMPORTANT NOTICE:** By signing this application, the applicant/owner agrees to fully reimburse Caseville Township for the cost of processing this application within 30 days of the billing, after which 7% interest and any additional fees will be added. Costs exceeding the \$650.00 deposit will be billed to the applicant/owner. *Final approval of this request will be contingent upon full reimbursement.*

Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Signature \_\_\_\_\_

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## REQUIREMENTS FOR VARIANCE APPLICATION

- \_\_\_\_\_ 1. Plats of area to be considered. (Tax Maps)
- \_\_\_\_\_ 2. Plot plan of variance location with dimensions to property lines and existing structures.
- \_\_\_\_\_ 3. Floor plan of areas for variance (construction drawing).
- \_\_\_\_\_ 4. Elevation views.
- \_\_\_\_\_ 5. Landscape plan of area showing completed project.
- \_\_\_\_\_ 6. Legal survey of property.
- \_\_\_\_\_ 7. Existing hardships not created by applicant and/or the applicants predecessors.
- \_\_\_\_\_ 8. Stakes showing location of requested variance.
- \_\_\_\_\_ 9. Septic and well approval from the Huron County Health Department.
- \_\_\_\_\_ 10. Location of owners and abutting property owners well and septic fields.
- \_\_\_\_\_ 11. For canal and lake front lots. Approval of a soil erosion permit before construction.

***These requirements are to be submitted with Application for Variance.***

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## **Caseville Township Zoning Board of Appeals**

# **USE VARIANCE**

### **STANDARDS FOR APPROVAL**

The ZBA may grant a use variance only upon a finding that an unnecessary hardship exists. A use variance is a variance that permits a use that is otherwise prohibited in a zoning district. An applicant must present the board of appeals with proof of "unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance" (statutory). Courts have held that this requires meeting all four (4) of the following standards:

1. The property cannot be reasonably used for any purpose permitted in the zoning district without the use variance. There must be financial proof of the applicant's inability to realize any return, speculation, or a qualitative assessment is inadequate.
  2. The need for the use 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. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return without some adjustment. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the Zoning chapter, not a variance.
  3. The problem and resulting need for the use variance has not been self created by the applicant and/or the applicant's predecessors.
  4. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
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## **RULES**

The following rules shall be applied in the granting of variances:

1. The ZBA may specify, in writing, such conditions regarding the character, location and other features that will, in its judgment, secure the intent and purposes of this chapter. The breach of any such conditions shall automatically invalidate the permit granted.
2. Each variance granted under the provisions of this chapter shall become null and void unless:
  - a. The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance.
  - b. The occupancy of land premises, or buildings authorized by the variance has taken place within two (2) years, after the granting of the variance.
3. No application for a variance which has been denied wholly or in part by the board shall be resubmitted for a period of one (1) year from the date of the last denial except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

## **APPEALS FROM ZBA DECISIONS**

1. The decision of the ZBA rendered pursuant to § 154.372 shall be final. However, a person having an interest affected by the zoning ordinance may appeal to the Huron County Circuit Court within thirty days (30) days of the ZBA's decision in writing signed by the chairman or members or twenty one days (21) after the minutes have been approved. The aggrieved party shall be responsible for securing a copy of the transcript of the hearing for said appeal, and shall be responsible for the cost of preparing said transcript. Upon appeal, the Circuit Court shall review the record and decision of the ZBA Appeals to insure that the decision:
  - a. Complies with the constitution and laws of the state.
  - b. Is based upon proper procedure.
  - c. Is supported by competent, material and substantial evidence on the record.
  - d. Represents the reasonable exercise of discretion granted by law to the ZBA.
2. If the court finds the record of the ZBA inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the ZBA, the court shall order further proceedings before the ZBA on conditions which the court considers proper. The ZBA may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court. As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the ZBA.

## Caseville Township Zoning Board of Appeals

# AREA (NONUSE) VARIANCE

### STANDARDS FOR APPROVAL

The ZBA may grant an area (nonuse) variance only upon a finding that practical difficulties exist. An area variance is a variance from any dimensional standard or requirement of the chapter, such as, but not limited to, a deviation from density, height, bulk, setback, or parking, landscaping and sign standards and requirements. The applicant must present the board of appeals with proof of the existence of "Practical difficulty...in the way of carrying out the strict letter of the ordinance" (statutory). Courts have held that the following four (4) standards are applicable in determining whether a "practical difficulty" sufficient to warrant relief by grant of a variance exists. In granting an area (nonuse) variance, a board of appeals must insure that the "spirit of the ordinance (is) observed, public safety secured, and substantial justice done (Statutory).

*Note: It would seem an applicant would always have to meet standards "2" and "3" and not have a self-created problem "4", in order to get approval for a nonuse/dimensional variance under these standards. (If "2" and "3" are met but not "4", the request is likely to meet "1". However, an applicant could not meet "1" and then fail to meet "2", "3" or "4" or a combination thereof and still get approval for the non use variance).*

1. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably present the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners;
3. Whether the plight of the landowner is due to the unique circumstances of the property;
4. Whether the problem is self-created by applicant and/or the applicants predecessors.

Additionally, a finding of practical difficulties shall require demonstration by the applicant of allof the following:

### Basic conditions

That any area variance:

1. Will not be contrary to the public interests or to the intent and purpose of this chapter.
2. Shall not permit the establishment of any use which is or can be interpreted as a permitted use within the zoning district.
3. Will not cause a substantial adverse effect upon property values in the immediate vicinity, in the district in which the property of the applicant is located or in the same districts throughout the township.
4. Is one that is required because the specific conditions relating to the property are so unique as to make the formulation of a general regulation for such condition impractical.
5. Will relate only to property that is under control of the applicant.
6. Is one where the hardship being appealed is not caused by the property owner, past or present.

### Special conditions

When all of the foregoing basic conditions can be satisfied, an area variance may be granted when anyone (1) of the following special conditions can be clearly demonstrated:

1. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties in terms of the use of a particular parcel of land are unique only to the parcel for which the appeal is requested and no other parcel in the zoning district in which it is located.
2. Where there are exceptional or extraordinary circumstances or physical conditions such as the narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not apply to other properties or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant after the adoption of this chapter.
3. Where such area variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.