

## Notice Of Appeal

### ATTENTION

#### PLEASE READ THE FOLLOWING BEFORE FILING AN APPLICATION FOR A ZONING VARIANCE

Most people think that when they submit a request for a variance to the Zoning Board of Appeals, it will automatically be granted. This is not true. The Zoning Board of Appeals is required by state law to support its decisions with evidence of “practical difficulty.”

In order to prove your property is entitled to a variance, you should be prepared to show it meets the conditions listed below:

1. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zone.
2. That literal interpretation of the provisions of the Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone under the terms of the Ordinance.
3. That the special conditions or circumstances do not result from the actions of the applicant.
4. That the authorizing of such variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of the Ordinance.

Legal representation is not required at the Zoning Board public hearing. However, you may wish to retain competent, expert advice if you think you need it to support your variance request.

Although the Board is composed of seven members, only four is required for a quorum. State law mandates that you get concurrence from at least four members of the Board to approve your variance. Thus, the burden lies with the applicant to prove that the property meets the four conditions.

**NOTICE OF APPEAL**

To: Elk Rapids Township  
Zoning Board of Appeals

By:

Owner \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Phone \_\_\_\_\_

Agent (If one) \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Phone \_\_\_\_\_

For Office Use Only	
Appeal No.	_____
Date Received	_____
Fee Received	_____
	(Amount, Date)
Hearing Date	_____
Action	_____
	_____
	_____
	_____
	_____
	_____
	_____

Note: If additional space is needed to answer any question, please number and attach additional sheets. The number of attached sheets is \_\_\_\_\_.

**I. ACTION REQUESTED**

I, (we), the undersigned, request a hearing before the Zoning Board of Appeals for the purpose indicated below: (check one)

- |   |  |
|---|--|
| <input type="checkbox"/> Variance                           | <input type="checkbox"/> Appeal from Administrative Decision |
| <input type="checkbox"/> Interpretation of Ordinance or Map | <input type="checkbox"/> Other                               |

**II. PROPERTY INFORMATION**

A. Legal description of property affected by this appeal: \_\_\_\_\_  
\_\_\_\_\_

Address of Property: \_\_\_\_\_  
\_\_\_\_\_

B. This area is \_\_\_\_\_ unplatted, \_\_\_\_\_ platted, \_\_\_\_\_ will be platted.  
If platted, name the plat \_\_\_\_\_  
\_\_\_\_\_

C. Present use of the property is \_\_\_\_\_  
\_\_\_\_\_

D. Present zoning classification is \_\_\_\_\_

A. To your knowledge, has a previous appeal ever been made with respect to this property?  
\_\_\_\_\_ When? \_\_\_\_\_ What was the action requested?  
\_\_\_\_\_

Was the appeal \_\_\_\_\_ granted, or \_\_\_\_\_ denied?

B. List any deed restrictions that might in any way relate to your appeal \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. **Most Important:** Attach a site plan drawn to a scale of your choice showing: 1)The boundaries of the property. 2) The location of present buildings, including neighboring buildings which are closer than ten (10) feet from your property line. 3) Your proposed changes, structural additions, etc, which give rise to your appeal.

**Note:** It is requested that if at all possible your drawing be based upon a surveyor's drawing.

III. DETAILED REQUEST AND INFORMATION

A. Variance from the requirements of the Zoning Ordinance.

1. The variance (s) requested has (have) to do with:

- |                 |                    |                          |
|-----------------|--------------------|--------------------------|
| _____ Setback   | _____ Height       | _____ Off-street parking |
| _____ Signs     | _____ Sideyard     | _____ Area requirements  |
| _____ Placement | _____ Lot coverage | _____ Other              |

2. State what is intended to be done on, or with, the property which necessitates a variance

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. What are the characteristics of the property, which require a variance?

- |                   |                 |                        |
|-------------------|-----------------|------------------------|
| _____ Too narrow  | _____ Elevation | _____ Soil             |
| _____ Too small   | _____ Slope     | _____ Subsurface       |
| _____ Too shallow | _____ Shape     | _____ Other – describe |

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4. To justify granting the requested variance, the appellant must show that strict application of the provisions of the Ordinance would result in practical difficulties or unnecessary hardships, and that granting the variance would not create a situation inconsistent with the general intent and purpose of the Ordinance. To assist the Board in making a proper decision, it is requested that you answer carefully the following questions:

a. To the best of your knowledge was the hardship described above the result of an action of anyone having a proprietary interest in the property after the Zoning Ordinance became law in May 1979? \_\_\_ Yes \_\_\_ No. If "yes" please explain.

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b. Are the conditions on the property the result of other manmade changes such as the relocation of a road or by the taking of part of the original property through the "right of eminent domain"? If "Yes", please explain.

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c. Do other properties in this neighborhood or general area have the same unique conditions(s) which cause you to seek a variance? If "yes", how has the problem been handled on these other properties?

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d. Please state here or on a separate sheet, anything else you wish to say in support of your request.

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B. Interpretation of Zoning Ordinance or Map.

1. The appellant requests that the Board of Appeals make an interpretation of:

\_\_\_\_\_ (a) The provisions of Article \_\_\_\_\_ Section \_\_\_\_\_ of the Township Zoning Ordinance.

\_\_\_\_\_ (b) The location of zone/district boundaries on the Township Map.

\_\_\_\_\_ (c) Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Please describe the nature of the problem for which the interpretation is required.

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C. Appeal from Administrative Decision.

The applicant requests the Board of Appeals to reverse/modify the decision, or requirement, determination or refusal of the Zoning Administrator with regard to the following:

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IV. AFFIDAVIT

The undersigned acknowledges that if a variance is granted or other decision favorable to the undersigned are rendered upon this appeal, the said decision does not relieve me/us from compliance with all other provisions of the Township Zoning Ordinance. The undersigned further affirms that he/she is or they are (specify) the \_\_\_\_\_ owner, \_\_\_\_\_ lessee, or \_\_\_\_\_ authorized agent of the owner involved in the appeal, and that the answers and statements herein contained and the information herewith submitted are in all respects true and correct to the best of the knowledge and belief of the undersigned.

_____	_____	_____
Signature	Title	Date
_____	_____	_____
Signature	Title	Date
_____	_____	_____
Signature	Title	Date

V. PERMISSION TO ENTER PROPERTY

I/We herewith grant permission for members of the Elk Rapids Township Zoning Board of Appeals to enter my lot(s)/property for the purpose of investigating the scope and effect of this request.

_____	_____	_____
Signature	Title	Date
_____	_____	_____
Signature	Title	Date
_____	_____	_____
Signature	Title	Date

TIME LIMITATION OF VARIANCES

Any variance becomes null and void twelve months from the date granted unless the owner or his/her agent shall have taken substantial steps toward effecting the variance as granted by the Board. (Ordinance Section 18.08)