

# **Lake Township**

## **Procedures for Applying for a Construction Variance**

This information is supplied to assist property owners who have applied for a land use/zoning permit and have been denied the permit by the Zoning Administrator.

The Zoning Administrator can deny a land use/zoning permit when all pertinent conditions of Lake Township zoning ordinances have not been met. The Zoning Administrator shall provide the applicant with a written denial stating the reason/s for the denial.

### **The Zoning Board of Appeals**

The Lake Township Zoning Board of Appeals (ZBA) is established as specified within the Michigan Zoning Enabling Act, Public Act 110 of 2006. The Board shall have the power to grant variances to Ordinance requirements under strict guidelines laid down in the law.

Such requirements may be lot area and width regulations, yard and depth regulations, and lot coverage, as examples. Any requirement of Lake Township Zoning which can be expressed in terms of numbers may be brought before the Zoning Board of Appeals to be considered for a variance.

The ZBA cannot grant a variance because it is inconvenient or more expensive to build to Ordinance specifications solely to satisfy aesthetic concerns. Aesthetic considerations and self-created hardships are unacceptable grounds for a variance.

It is important to note that a variance applies to the property, rather than the perceived need or preference of the current property owner. Since the property's ownership may change, a perceived need or preference may no longer exist for a subsequent owner. The property itself remains, and must be the basis of approving or not approving a variance request.

*Example of self-created hardship: Property owner purchases a property with existing carport with intention to convert carport to a garage. The desired change will not meet zoning requirements. The owner did not check on zoning codes before purchasing property. As such, this constitutes a self-created hardship.*

### **Application requirements**

The ZBA must have specific information before acting upon each petition for a variance. After a land use/zoning permit has been denied, the following must be submitted to the Township before a public hearing with the ZBA can be scheduled:

1. A completed "Application for Appeal, Variance or Exception to the Lake Township Zoning Ordinance."

2. An application fee of \$450, check made payable to Lake Township.

In addition, the Applicant should also submit the following:

1. A letter signed by the applicant indicating
  - (a) why there is a perceived need to construct the addition, fence, garage, etc.
  - (b) why the construction cannot be in compliance with the Ordinance by relocating on the site, making a size adjustment, etc.
  - (c) what physical problems with the site prevent building in compliance, such as an irregular shaped lot, wetlands or severe topography.
2. Clearly labeled plans or drawings of the proposed structure, any existing structures, complete with their dimensions and placement on the site. Note the lot size and identify location of bordering street/s. Include location of well and septic and their distances from each other, from structures (existing and proposed) and from lot lines.

Depending on the nature of the request, the applicant may be asked to submit floor plans, elevation views, and a landscape plan showing the completed project, and a survey of the property or evidence of at least three survey stakes on the property. If pertinent, the applicant also may need to submit a copy of the Sewage Disposal System Specifications from the Huron County Health Department.

**Nonconforming Properties:** For any variance request that involves a nonconforming lot or nonconforming structure, the applicant must have a survey showing all existing improvements and their location on the property. (All structures including accessory structures, well and septic, and their distance from lot lines and each other).

### **ZBA Public Hearings**

All meetings of the ZBA are public and require public posting at the Lake Township Hall, on the Township's website, and in the Huron County View weekly newspaper. Meetings are held at the call of the ZBA Chair and with consideration of availability of the applicant. The applicant can be accompanied by a chosen contractor and, if needed, give written consent for the contractor to represent the applicant if he or she cannot attend the hearing.

Each hearing includes an opportunity for the applicant to explain the variance request, a reading of correspondence from applicable neighbors favoring or not favoring the request, and public comments from persons attending.

The ZBA members have the opportunity to ask questions of the applicant, as well as discuss the request among the board members. The ZBA must operate under strict guidelines of the

Michigan Zoning Enabling Act, and under the guidance of the Michigan Township Association and Michigan Planning Association.

A simple majority vote of the ZBA will result in one of the following decisions:

1. Grant the variance
2. Grant the variance with conditions
3. Table the variance for further information
4. Deny the variance

A physical variance or the relaxation of a physical requirement offers a property owner relief from the strict application of restrictions governing such matters as area, set-backs, lot coverage and other physical requirements. The physical variance does not affect what land use may be established on a parcel; rather it covers issues related to how permitted land use can be developed in the face of some practical difficulty. A physical variance is sometimes referred to as an area variance, dimensional variance or non-use variance to distinguish it from a use variance.

Zoning Ordinance Chapter 3. Section 303 permits the ZBA to grant a physical variance where strict application of a physical requirement would result in practical difficulty, which is defined as follows:

- a) The problem is not self-created
- b) The plight of the landowner is due to the unique conditions of the property. A unique condition is a condition that is peculiar to the subject property or to at most a few properties within the same zoning district and typically relates to a physical aspect of the subject property.
- c) Compliance with the strict letter of the restrictions governing physical requirements such as lot area, setbacks, and lot coverage unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

Should anything herein be inconsistent with the Lake Township Zoning Ordinance or the Michigan Zoning Enabling Act (MZEA), the Lake Township Zoning Ordinance or the MZEA shall apply.

**For further information**

If there are any questions about fulfilling the application process, please call the Lake Township Hall at 989-856-4867.