WHITEWATER TOWNSHIP

5777 Vinton Road, PO Box 159 • Williamsburg, MI 49690 • PH (231) 267-5141 Fax (231) 267-9020

Case No._____ Date Rec._____/_____/_____ Fee:

Property Information

Date Filed: _____/_____/_____

Tax ID # :_____ Subdivision: _____ Lot #: _____ Zoning District:_____

Flood Plain:_____ Property Address:_____ Year Property was Acquired:_____

Size of Lot: Front_____ Rear:_____ Side 1:_____ Side 2:_____

Present Use of Property:_____ Past Variances on Property in Question (Y / N)

If So State Case No. and Resolution of Appeal:_____

_____

_____

Request Information

Request: ☐ Dimensional Variance ☐ Use Variance ☐ Ordinance Interpretation ☐ Appeal Zoning Administrator Decision

Description of Request:_____

_____

_____

Square Feet of Existing Structure to be demolished (if any):_____

New Structure (Y / N) If So, Size of Proposed Structure (Square Feet):_____

New Addition to Existing Structure (Y / N) If So,

Size of Addition:_____ Size of Existing Structure_____ Size of Existing Structure + Addition:_____

Ordinance in Question (if any):_____

Owner/Applicant Information

Owner Name:_____

Mailing Address:_____ City:_____ State:_____ Zip:_____

Phone: (_____)_____-_____ Fax: (_____)_____-_____ E-Mail:_____

Applicant (if different from owner):_____

Mailing Address:_____ City:_____ State:_____ Zip:_____

Phone: (_____)_____-_____ Fax: (_____)_____-_____ E-Mail:_____

WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS APPLICATION GUIDELINES

Zoning Department
5777 Vinton Road
P.O. Box 159
Williamsburg, MI 49690
231-267-5141 ext. 21
zoning@whitewatertownshipmi.gov

The following are guidelines for variance requests in Whitewater Township. The intent of these guidelines is to address the information that is required to streamline the process of review. Applications will NOT be accepted unless ALL information and fully completed application are submitted.

1. Applications must be submitted to the Planning and Zoning Department **at least four (4) weeks prior** to the Zoning Board of Appeals (ZBA) meeting.

2. ZBA meetings are held on the fourth Thursday of every month, beginning at 7:00 p.m. in the Township Hall, 5777 Vinton Road, Williamsburg, MI 49690.

3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.

4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.

5. Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.

6. The application will be forwarded to the ZBA for a public hearing.

7. A notice of the public hearing will be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.

8. The applicant will receive a notice of the public hearing in the mail, and either the applicant or representative is required to attend the meeting.

9. Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within one (1) year after the granting of the variance. An extension, not to exceed one year, may be granted upon request of the applicant.

10. If the variance is granted, construction authorized by such variance(s) must comply with all other necessary permits.

11. No more than the minimum variance from the terms of this Ordinance shall be granted which is necessary to relieve the practical difficultly or unnecessary hardship.

12. Prior to granting a variance all other existing infractions related to the Zoning Ordinance or other Township Ordinances have been resolved.

13. It is the responsibility of the applicant to present facts supporting the request.

ARTICLE 20 - ZONING BOARD OF APPEALS

20.01 PURPOSE OF BOARD

The Zoning Board of Appeals is established to ensure that the objectives of this Ordinance may be more fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that reasonable flexibility be provided in the application of this Ordinance, and that the public health, safety and welfare is protected.

20.02 MEMBERSHIP, TERMS OF OFFICE

The Zoning Board of Appeals shall consist of five (5) members appointed by the Township Supervisor and confirmed by the Township Board. The first member of the Board of Appeals shall be a member of the Planning Commission. The second member shall be a member of the Township Board. The remaining three (3) members shall be selected from the electors of the Township and shall be representative of the population distribution and interests of the Township. An elected officer of the Township shall not serve as chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member.

Terms shall be for three years except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or the Township Board respectively, and the period stated in the resolution appointing them.

Members of the Zoning Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify him or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct of office.

A vacancy on the Zoning Board of Appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

20.03 ORGANIZATION AND PROCEDURES

A. **Rules of Procedure.** The Zoning Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings properly.

B. Vote.

1) The concurring vote of a majority of members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or Planning Commission and to decide non-use variances. Use variances shall require a vote of 2/3 of the members of the Zoning Board of Appeals.

2) A member of the Zoning Board of Appeals who also is a member of the Planning Commission or Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

C. **Meetings.** Meetings shall be open to the public and shall be held at the call of the Chairperson and at such other times as the Zoning Board of Appeals shall specify in its rules of procedure. The Board shall choose its own Chairperson, and in his/her absence, an acting Chairperson.

D. **Records.** Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with votes of the members and the final disposition of each case. The ground of every determination shall be stated and such determination from which the appeal is taken. Such minutes shall accompany and be attached to the standard forms

required of persons appealing as part of the Zoning Board of Appeals permanent records. Such minutes shall be filed in the office of the Township Clerk and shall be public record. A copy of the decision shall be sent promptly to the applicant or appellant and to the Zoning Administrator.

E. **Secretary and Counsel.** The Township Clerk shall be responsible for providing secretarial services for the Zoning Board of Appeals and the Township Attorney may give legal counsel to the Zoning Board of Appeals upon its request.

F. **Hearings.** When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the Zoning Administrator shall immediately place the request for appeal upon the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal.

20.04 STAY

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of appeal has been filed that, for reason of facts stated in the certificate, a stay would, in his/her opinion, cause immediate peril to life or property, in which case the proceedings shall not be stayed otherwise than by restraining order, which may be granted by the Zoning Board of Appeals, or on application, by the Circuit Court, on notice to the officer from whom the appeal is taken, when due cause can be shown.

20.05 FEE FOR APPEAL

A fee in accordance with the duly adopted schedule of fees shall be paid at the timing of filing an application with the Zoning Board of Appeals. The purpose of the fee is to cover all necessary notification and investigation expenses incurred by the Zoning Board of Appeals in connection with said appeal.

20.06 DUTIES AND POWERS OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall have all powers and duties granted by State law, by this Ordinance and the Township Board including the following specified duties and powers:

A. Review. Shall hear and decide appeals from and review any order, requirement, decision or determination made in the administration of this Ordinance by the Zoning Administrator or Planning Commission.

B. **Interpretation**. Shall have the power to:

1) Hear and decide upon appeals for the interpretation of the provisions of this Ordinance.
2) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
3) Classify a use which is not specifically mentioned in the Zoning Ordinance.
4) Consider use variances.
5) Consider non-use variances.

20.07 APPLICATION OF THE VARIANCE POWER

A. **Use Variance**. The Zoning Board of Appeals may grant a use variance only upon finding that an unnecessary hardship exists. A use variance is a variance that permits a use that is otherwise prohibited in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of the following:

1) The property cannot be reasonably used for any purpose permitted in the zoning district without the variance.
2) The need for the variance is due to unique circumstances particular to the property and not generally applicable in the area or to others properties in the same zoning district.
3) The problem and resulting need for the 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 characteristic of the site and the surrounding area will be considered.

B. **Non-Use Variance.** The Zoning Board of Appeals may grant a non-use variance only upon finding that practical difficulty exists. A non-use variance is variance from any standard or requirement of the Ordinance, such as, but not limited to, a deviation from density, bulk, setback, parking landscaping and sign standard requirements. A finding if practical difficulty shall require demonstration by the applicant of the following:

1) Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance.
2) Granting the variance shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.
3) Granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township.
4) There are practical difficulties on the site which unreasonably prevent the owner from using the property for a permitted purpose without presenting an excessive burden and the practical difficulty not resulting from any act of the applicant.
5) The variance will do substantial justice to the applicant, but the decision shall not bestow the property special development rights not enjoyed by other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety or welfare.
6) The requested variance is the minimum necessary to permit reasonable use of the land.
7) The practical difficulty is not self-created.

20.08 RULES

In addition to the foregoing conditions the following rules shall be applied in the granting of variances:

A. The Zoning Board of Appeals may specify, in writing, to the applicant such conditions in connection with the granting that will, in its judgment, secure substantially the objectives of the regulations or provisions to which such variance applies including the requirement of a bond. The breach of any such condition shall automatically invalidate the permit granted.

B. No more than the minimum variance from the terms of this Ordinance shall be granted which is necessary to relieve the practical difficulty or unnecessary hardship.

C. Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within one (1) year after the granting of the variance. An extension, not to exceed one year may be granted upon request of the applicant.

D. Prior to granting a variance, all other existing infractions related to this Ordinance or other Township Ordinances have been resolved.

E. The applicant shall, in writing, receive the decision upon completion of the hearing.

20.09 APPEAL TO CIRCUIT COURT

The decision of the Zoning Board of Appeals rendered pursuant to this Article shall be final. However, a person having an interest affected by the decision may appeal to Circuit Court within 30 days of the decision. Upon appeal, the Circuit Court shall review the record and decision of the Zoning Board of 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 Zoning board of Appeals.

If the court finds the record of the Zoning Board of Appeals 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 Zoning Board of Appeals, the court shall order further proceedings before the Zoning Board of Appeals on conditions which the court considers proper. The Zoning Board of Appeals 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.