

MELROSE TOWNSHIP ZONING VARIANCE APPLICATION

Date Received

Case #

\$600 FEE

Return check (payable to Melrose Township) & form in person at 04289 M-75 North or mail to
Zoning Administrator, P.O. Box 189, Walloon Lake 49796
Questions? Phone: 231-535-2310 ext. 6 or Email zoning@melrosetwp.org

1. Owner: Name: _____

Address: _____

Telephone: (daytime) _____ (evening) _____

Applicant if other than owner: _____

Address _____

Telephone _____

2. Describe Variance Request: _____

3. Legal Description of Property (attach separate sheet if necessary):

Property Tax Code # 15-010- _____ Zoned District: _____
or Subdivision and Lot #

Nearest Intersection:

4. Address of Property: _____

5. Attach 7 copies of a certified survey of the Site showing all the following:

- a) Property Boundaries, with property line dimensions
- b) Lot location (road names, lakeshore, easements, right-of-ways, topo)
- c) Existing and Proposed Building, with dimensions (indicate height also)
- d) The Distance from the Lot Lines of Each Existing or Proposed Building
- e) Unusual Physical Features of the Site or Building.
- f) Abutting Streets
- g) Approximate Well and Septic Tank, and Field Location.
- g) Other structures and uses within 100 feet of the property.

Applicant must supply seven (7) copies and one electronic copy of all maps, drawing, pictures, graphs, etc., in order to inform the board of the type of building or activity, and how it will look

when accomplished. This information must be supplied **at least three weeks** prior to the date of hearing. Applicant shall mark/stake all corners of the Site to establish visual identification of property boundaries to facilitate Site inspection by Aoning Board of Appeals members.

6. Effect of Request on Applicant – What specific problem(s) would be created to you as petitioner if your request is not granted? What are the unique or exceptional conditions that apply to this property?

7. STANDARDS FOR GRANTING A VARIANCE:

a. Why will the granting of the variance not adversely affect the purposes or objectives of the Zoning Ordinance and why will the granting of the variance not be contrary to the public interest?

b. How is the variance necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity?

c. Why will the granting of variance not cause any adverse effect to property in the vicinity or in the Zoning District or in the Township? Will it create any problems or concerns to property in the area?

d. What exceptional or extraordinary circumstances or conditions exist with the property that have not resulted from any act of the applicant?

I understand that if the requested variance is granted, I am in no way relieved from all other applicable requirements of the Melrose Township Zoning Ordinance. It is also understood that any approval by the ZBA involving site improvements, use, and/or construction does not relieve the applicant from obtaining other applicable authorizations (for example, site plan, building, health department, soil erosion, and engineering approval, etc.).

I authorize Melrose Township (staff, appointed board, Trustees, or committee members) to enter upon the subject property for purposes of making inspections related to the project or request identified in this application.

I certify that all the above information in this Zoning Variance Application is accurate to my fullest knowledge.

Owner's Signature: _____ **Date:** _____

Petitioner's Signature
If different than owner: _____ **Date:** _____

Decision and Order of the ZBA:

Signature _____

Date of hearing _____

NOTE: Applications must be received three weeks prior to the ZBA meeting. Meetings are scheduled as cases warrant.

Please send completed application to Zoning Administrator, PO Box 189, Walloon Lake, MI 49796 or drop off at 04289 M-75 North, Walloon Lake Telephone (23) 535-2310; Email zoning@melrosetwp.org

**Melrose Township
ZONING BOARD OF APPEALS
VARIANCE GUIDELINES**

- **VARIANCE = License to break the law**

It is permission that is not intended to be easy to achieve. Variances granted without proper justification may lead to an ordinance that becomes unenforceable.

- **Nonuse Variances are generally referred to as dimensional variances**

Regulations subject to nonuse variance requests include:

- ☞ Front, side, or rear yard setback regulations
- ☞ Height regulations
- ☞ Parking and vehicular access regulations
- ☞ Sign regulations
- ☞ Landscaping or buffering restrictions
- ☞ Lot coverage or bulk restrictions

The ZBA is authorized to grant nonuse variances ONLY when strict enforcement of the ordinance would cause *practical difficulties* for the property owner due to circumstances *unique* to the property. Self-imposed difficulties should not be considered.

Should be kept as small as possible

May contain conditions

- **Uniqueness typically refers to:**

- ☞ Irregular lot shape ☞ Small size parcels
- ☞ Non-conforming lot
- ☞ Special physical conditions such as wetlands or other water bodies, valuable trees, bedrock, threatened or endangered plant species, steep slopes, etc.

- **Standard for considering non-use variances**

The Michigan Courts have applied standards when considering nonuse variance which require the applicant to demonstrate a *practical difficulty* unique to the property (and not the applicant) in order to qualify. In order to grant a variance, **all** the standards must be met.

- ☞ ***Would strict compliance with the restrictions governing area, setbacks, frontage, height, bulk or density unreasonably prevent the owner from using the property for a permitted purpose, or would strict compliance render conformity with such restrictions unnecessarily burdensome?***

This test requires the applicant to demonstrate that existing dimensional regulations place unreasonable limitations on use of the property, or that the regulations are unreasonably restrictive. When applying this test, the ZBA should have the applicant demonstrate that alternative building or siting designs were considered but eliminated for valid reasons. Language should be incorporated in the variance application

indicating that reasonable alternatives need to be considered as a means of avoiding a variance.

- ☞ ***Would the granting of a variance do substantial justice to the applicant as well as other property owners in the district, or would a lesser relaxation of the standards than that applied for give substantial relief to the owner of the property and be more consistent with justice to other property owners?***

Assuming conditions are essentially the same among neighborhood properties and that those properties have been developed without variances, the ZBA should not extend, by granting a variance, a right or privilege not made available to others. Additionally, the ZBA must consider the impact the variance will have on neighboring properties. Lastly, consider if it is necessary to authorize the full variance as requested. Perhaps, assuming a variance is warranted, a reduced variance would suffice.

With respect to a reduced variance, the ZBA should proceed with caution. First, a determination must be made as to whether a variance is even warranted. If so, then a determination of the magnitude of the variance may be made.

- ☞ ***Is the plight of the owner due to unique circumstances of the property and not to general conditions in the area?***

Is there something different about the property, when compared to other properties in the neighborhood that unreasonably restricts its use under the dimensional standards of the ordinance?

Under this test, the applicant must demonstrate that their property possesses physical or other unique characteristics, not generally associated with surrounding properties, rendering development of the property impossible or unnecessarily burdensome under present dimensional standards.

- ☞ ***Is the problem self-created?***

Did the applicant or property owner create the problem necessitating a need for the variance? If so, then no variance is warranted. For example, if the owner originally had a larger parcel and divided a portion, thereby reducing its size and limiting placement of the use he now desires, then the problem was self-created.

The issue of self-creation may be difficult to measure for the ZBA. In most all cases, an applicant will either deny self-creation or plead ignorance to causing the situation at hand.

- **Remember, when considering non-use variances, the ZBA must insure that the “spirit of the ordinance is observed, public safety secured and substantial justice done.”**