ZONING BOARD OF APPEALS
INFORMATION AND APPLICATION PACKET

City of Battle Creek

Planning and Community Development Department
77 East Michigan Avenue, Ste. 204, Battle Creek MI 49017
Phone: (269) 966-3320 Fax: (269) 966-3529

BEFORE SUBMITTING AN APPLICATION

Applications submitted to the Zoning Board of Appeals are not automatically approved. Each appeal is individually reviewed. The Zoning Board of Appeals is required by law to support its decisions with evidence of "Practical Difficulty" or "Unnecessary Hardship". If the evidence is not shown, the Board may not grant or approve the variance.

In order to substantiate your request for a variance, you should be prepared to show how your property meets the five conditions listed below. However, in particular situations there may be other conditions, so you may want to consult with staff prior to completing the application form.

1. The property cannot be put to a **REASONABLE USE** without the variance; and

2. The difficulty must be **UNIQUE** to your property and not generally shared by others in the same zoning district; and

3. There must be **NO REASONABLE, LEGAL ALTERNATIVE** that would accomplish your purpose; and

4. The difficulty is **NOT SELF-CREATED**, i.e. you or previous property owners did not create the present difficulty or problem; and

5. The variance will not adversely affect the **PUBLIC HEALTH, SAFETY AND WELFARE**.

The burden of demonstrating that the above conditions exist on your property is placed on the applicant. Therefore, it is necessary for the applicant, or his designated representative, to be present at the Zoning Board of Appeals meeting. Neither the Zoning Board of Appeals nor staff will argue or present your case for you.

ZONING BOARD OF APPEALS MEETINGS, FEES AND APPLICATION DEADLINE

The Zoning Board of Appeals' meetings are held on the second Tuesday of each month at 4:00 p.m. The meetings are held in the City Commission Chambers, Room 301 in City Hall, 10 North Division Street.

The current application fee for zoning variances is **$100.00** for residential properties and **$200.00** for office/commercial/industrial properties. These fees are NONREFUNDABLE. Please make checks payable to "City of Battle Creek".

The deadline for submitting a zoning variance application is **approximately three (3) weeks** prior to the meeting date (please check with Department Staff for exact dates).

ADDITIONAL REQUIRED MATERIALS

The following information must be submitted with **all** applications for a zoning variance:

- **Plot Plan**. This is a drawing to scale of the lot, indicating the size of the lot, the location of all buildings on the site and the size of all buildings. In addition, the drawing should indicate the set backs for the front, side and rear yards and parking areas.

- **Project Description**. The application must describe in detail the project to be undertaken.

In addition, the following information must be submitted with **residential property** applications, as applicable:

- **Front Elevation.** This required only for new construction or extensive remodeling of a residential property. This drawing should show the building as it would appear looking at it from the front or side of the building.

- **Floor Plan**. This is only required when the project involves the *conversion* of a building to apartments or an *increase* in the number of units or square footage.

In addition, the following information must be provided with **commercial/industrial** applications:

- **Architectural Drawings.** Architectural drawings are required for all commercial/industrial projects.

PROPERTY OWNER'S DESIGNATED REPRESENTATIVE

The Zoning Board of Appeals will not act upon a variance if no one is present to explain the variance request and/or answer questions about the project.

The property owner may designate a representative to represent them for this zoning variance request. This representative may complete the application and appear before the Zoning Board of Appeals on the owner's behalf. However, the **owner** must prepare a letter authorizing this person to represent his/her interest for this zoning variance.

FILING AN APPLICATION

Please complete the attached application and include any additional required materials as indicated above. You must return the **APPLICATION, ANY ADDITIONAL MATERIALS REQUIRED, OWNER'S DESIGNATION AUTHORIZATION LETTER (if applicable) AND THE APPLICATION FEE TO**:

City of Battle Creek
Planning Department
Commerce Pointe, Suite 204
77 E. Michigan Avenue
Battle Creek, MI 49017

Incomplete Applications will NOT be heard by the Zoning Board of Appeals. If information is incomplete, the applicant will be required to complete and resubmit the application before it is scheduled before the Zoning Board of Appeals.

While it is not required, it is always helpful if an applicant for a variance meets and discusses their request with their neighbors. This can often alleviate any concerns prior to the meeting. The City of Battle Creek is required by law to notify all property owners within 300 feet of your property of a variance request.

*This **is not intended** to discourage you from filing an application for a variance. That is your right and prerogative. This **is intended** to provide you with information and direction learned from the experiences of others who have requested variances through the Zoning Board of Appeals.*

City of Battle Creek

Zoning Board of Appeals Tip Sheet

TIP # 1 **Before Filing a Variance---Do You Really Need One?**

- Understand why your permit was rejected.
- Can you live within the Ordinance?
- Do you really "need" a variance—or just want one?
- Can you wait? (A variance application can take 30 days or more)

TIP # 2 **Before Filing a Variance---Do Your Homework.**

- Talk to the Inspections and Planning Departments.
- Talk to your neighbors.
- Look to see if similar variances or situations exist.
- Understand what the legal test is for Board relief.
- Burden of proof rests with YOU. You must submit sufficient testimony and evidence to meet the legal test for relief.

TIP # 3 **When You File Your Variance**

- Write legibly or type your application.
- Complete the application fully.
- State specifically why you need the variance, what your unnecessary hardship or practical difficulty is, and why strict application of the Planning and Zoning Code unfairly affects you.
- Attach all relevant documentation to your application.

TIP # 4 **After Filing, but Before the Hearing**

- Individual members of the Board will probably inspect the site before the Hearing.
- Talk to your neighbors about your variance/get their support and answer any questions that they might have.
- If you get neighbor support, have them make a brief, concise statement at the meeting or in writing.
- If time permits, attend your Neighborhood Planning Council meeting and seek their support. (For more information, contact the Planning Department).

TIP # 5 **After Filing, but Before the Hearing**

- If you expect opposition, contact the Planning Department a day or two before the Hearing to review any written opposition on file.
- Be prepared to deal with any written objections at the Hearing.
- Consider modifying your variance request to meet objections.

TIP # 6 **At the Variance Hearing**

- Examine the agenda. If there are similar cases to yours, listen to how the Board responds to those cases.
- Look around you. If you see neighbors, try to determine if they are opposed and if so, why? Can you enlist their support because they don't understand what you are trying to do?
- Listen to the Board. Both their discussion and questions may be an attempt to steer you to a compromise. We wouldn't suggest taking an all or nothing position.

TIP # 7 **During your Variance Presentation**

- Once your case has been opened for "anyone wishing to speak in favor of this appeal", you should rise and present your case.
- Be concise and to the point. The Board has read your appeal, examined your documents, read the staff report, and probably inspected the property or variance site.
- Never be rude, threatening, or confrontational with the Board.
- Never read your application word-for-word to the Board---summarize it.
- Convincingly communicate that your request meets the requirements necessary to grant a variance (see TIP # 2).

Date: _____ Appeal No. _____

APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS
City of Battle Creek, Michigan

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: _____

Address: _____ Phone: _____

Name of Owner (if different from Appellant): _____

Address: _____ Phone: _____

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) **Extend** **Erect** **Waive** **Use** **Convert** **Enclose**

Description:

_____

_____

_____

Contrary to the requirements of Section(s) _____ of the Planning and Zoning Code, upon the premises known as _____ Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

_____

_____

_____

Property/Tax I.D. # No. _____ - ____ - _____ - ___ **Size of the Lot:** Width _____ Depth ____

Size of Proposed Building: Width _____ Depth _____ Height _____

The following reasons are presented in support of this appeal (complete each section):

(a.) This property cannot be used in conformance with the ordinance without the requested variance because:

_____

_____

_____

(b.) This problem is due to a unique situation not shared in common with nearby property owners because:

_____

_____

_____

(c.) Granting the variance would not alter the essential character of the area because:

_____

_____

_____

(d.) The problem is not self-created because:

_____

_____

_____

(e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

_____

_____

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. ***In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.***

_____
(Print Appellant Name)

_____
(Signature of Appellant)

_____
(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.