

**ADDISON TOWNSHIP
1440 Rochester Road
Leonard, Michigan 48367
(248) 628-3317**

ZONING BOARD OF APPEALS SUBMITTAL INSTRUCTIONS

Please read the attached information sheet regarding the Board of Appeals. Meetings are held on the 2nd Thursday of the month beginning at 6:00 p.m. in the Township Complex located at 1440 Rochester Road, Leonard, Michigan.

The following items must be filed at a minimum of thirty (30) days prior to a scheduled meeting to appear before the Board of Appeals. To obtain a hearing, you must submit the following information according to the Application of Appeals:

Article 28. Section 28.10.1 The board of appeals may upon appeal of a specific case authorize such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in practical difficulty. A variance from terms of this ordinance shall not be granted by the board of appeals unless and until:

1. A written application for a variance is submitted demonstrating:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other land, structures or buildings in the same zoning district.
 - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - c. That the special conditions and circumstances do not result from the actions of the applicant or his or her predecessor.
 - d. That granting the variance requested will not confer on the applicant any special privileges that are denied by this ordinance to other lands, structures or buildings in the same zoning district.
 - e. No nonconforming use of neighboring land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

You may view the complete Ordinance, Article 28 Zoning Board of Appeals at www.addsiontwp.org or you may request a copy from the office.

- 1.) Application: Complete all questions, which set forth in detail what and why relief is sought. All property owners must SIGN and DATE the application.
- 2.) Written proof of ownership, such as a copy of the deed, land contract, or similar legal document.
- 3.) Provide ten (10) copies of the Site Plan, information and application showing the location of the property with accurate dimensions or if applicable, plot plan to scale with north point of the property showing lot dimensions, total square footage, roads, parking areas, driveways, and all yard lines. Please use a survey.
- 4.) Dimensions, centerlines and right-of-way widths of all abutting streets and alleys.
- 5.) Elevation drawing(s) of proposed building(s).
- 6.) Location(s) of existing and future building(s) (including sheds), distances between building(s) including sizes of all buildings for the plan and lot coverage if applicable.
- 7.) All adjoining properties and building setbacks from those lines.
- 8.) Any easements on or adjacent to the property and rights thereof.
- 9.) Is parcel part of a Homeowners Association? Yes No (Please Check).
If no, proceed to Number 10. If yes, does the requested variance comply with the Homeowner Association rules and By-laws? Yes No (Please Check).
Please attach copy of Homeowner Association rules/ by-laws.

10.) The completed application shall be submitted and include all required information and shall be accompanied by a check in the amount of the established fee made payable to the Township of Addison.

The current fees are as follow:

Application Fee	\$150.00
Other variances including interpretation and/or residential	\$500.00
Other variances or Commercial, Industrial, Public, Office Site Condo, PUD, Open Space and Land Divisions	\$1,000.00

**No additional fees for multiple variances*

A maximum of three (3) cases shall be scheduled at one meeting. These are determined by earliest date of application. If there are numerous Appeal applications received at one time, a second meeting may be scheduled for the third (3rd) Thursday of the month. This is at the discretion of the Zoning Board of Appeals. An applicant may request a Special Meeting at the current established fee, if a quorum is available on the requested date. An application must be received thirty (30) days prior to a scheduled Zoning Board of Appeals meeting in order to be eligible for consideration. Typically, the first meeting is a public hearing, to absorb the comments, typically, action or decision is not rendered until the following month (second meeting) or unless otherwise noted by the ZBA.

Information relative to the powers and duties of the Zoning Board of Appeals may be obtained by reading **Michigan Zoning Enabling Act, P.A. 110 of 2006** of the State of Michigan, as amended, or as outlined in the Addison Township Zoning Ordinance. The Zoning Board of Appeals may require an escrow deposit for additional incurred fees such things as Township engineering, planning consultant, wetland consultant, or attorney fees as may be necessitated by the nature of the request.

**TOWNSHIP OF ADDISON ZONING BOARD OF APPEALS
NOTICE of APPEAL**

TO: The Zoning Board of Appeals

VIA: Building Official

By: _____
Name of Applicant

Address

_____ Zip Code

_____ Phone or Cell Number Email Address

1. I/ We, the above-named applicant(s) hereby appeal to the Board of Appeals in accordance with Article 28 of the Zoning Ordinance.
2. The property in question is located at:

_____, Michigan

being legally described as _____

Property is presently zoned: _____

Parcel ID Number _____

3. A previous appeal has () has not () been made with respect to this property.

Previous Appeal Case Number was _____ dated _____

To Be Completed by Building Official or Appointee:

Decision on previous Appeal (if applicable) _____

4. The appeal is for: (Check applicable type of Appeal)

_____ **4. 1 Ordinance Interpretation.**

A. Interpret the Ordinance text and map and all matters relating thereto whenever a question arises in the administration of this Ordinance as to the meaning and intent of any provision or part of this Ordinance. Any text interpretation shall be narrow and, in a manner, as to *carry* out the intent and purpose of this Ordinance. Interpretations shall not have the effect of amending the Ordinance.

B. Map interpretations shall be based on Section 2.01 and Article 8 of this Ordinance and any relevant information.

_____ **4. 2 Appeals of Administrative Decisions.**

A. To hear and decide appeals where it is alleged by the Appellant that there is error in any order, interpretation, requirement, permit, decision, or refusal made by the Building Inspector, in enforcing any provision of this Zoning Ordinance.

_____ **4. 3 Non-Use or Dimensional Variances.**

A. To hear and decide on all matters referred to it or upon which it is required to pass under this Ordinance.

B. Permit such modification of the height, placement and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without modification.

C. Permit the modification of the automobile parking space requirements where, in the particular instance, such modifications will not be inconsistent with the purpose and intent of such requirement.

D. Permit the modification of screening and landscaping requirements.

E. Permit the phasing of required site plan improvements are relatively high: in relation to the total cost of the applicant's development or addition. Planning Commission recommendations shall be required. A bond or similar security in the amount of the deferred improvements may be required to assure completion of the phasing.

With regard to the above appeal, I/ We apply for the following specific decision. (Specific decision: Specify for example, building height, special exception use, variance in lot area, list applicable zoning ordinance etc.)

5. I authorize _____

to act as my Authorized Agent in the hearing on my appeal.

(You may attach supplementary information on your appeal.)

Signed: _____ Date _____

Signed: _____ Date _____

To be completed by Municipality:

Case Number: _____

Date Received: _____

Fee Received: \$ _____

Copy sent to:
Building Official _____
Administrative Official _____
Planner _____
Board of Appeals _____

Action:
_____ Approved
_____ Denied

Date: _____

**ADDISON TOWNSHIP
BOARD OF APPEALS FINDINGS GUIDE**

The Board of Appeals may, upon appeal of a specific case, grant a variance from the terms of the zoning ordinance. A variance from terms of the zoning ordinance shall not be granted by the board of appeals unless and until:

A written application for a specific and defined variance is submitted and there is record evidence supporting the following:

a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other land, structures or buildings in the same zoning district.

Yes ___ No ___

Supported by the following findings in the record:

b. That a strict enforcement of the zoning ordinance would cause a practical difficulty and that literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.

Yes ___ No ___

Supported by the following findings in the record:

c. That the special conditions and circumstances do not result from the actions of the applicant or his or her predecessor in title.

Yes ___ No ___

Supported by the following findings in the record:

d. That granting the variance requested will not confer on the applicant any special privileges that are denied by the zoning ordinance to other lands, structures or buildings in the same zoning district.

Yes ___ No ___

Supported by the following findings in the record:

e. That granting the variance requested will not be detrimental to the public or other properties in the zone or district where the property at issue is located.

Yes ___ No ___

Supported by the following findings in the record:

f. That granting the variance requested will not adversely affect the purposes or objectives of the master plan.

Yes ___ No ___

Supported by the following findings in the record:

ARTICLE 28. - BOARD OF APPEALS⁶¹

Footnotes:

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Cross reference— Boards and commissions, § 2-91 et seq.

State Law reference— Board of appeals, MCL 125.288 et seq.

Section 28.01. - Establishment.

A board of appeals is hereby established which shall consist of five (5) regular members to be appointed by the township board in accordance with Public Act 110 of 2006 (MCL 125.3101—125.3702) as amended. The members shall be representative of the population distribution and of the various interests present in the township. Members of the board of appeals may be removed from office by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing. Membership on the board of appeals shall be as follows: The first regular member shall be a member of the township planning commission. The other four (4) regular members shall be selected from electors residing in the unincorporated portion of the township and not currently holding an elected or appointed position within the township. One (1) member of the board of appeals may be a member of the township board. Terms shall be for three (3) years, except that the terms of planning commission and township board representatives shall be limited to the time they are members of their respective boards. The township board may appoint two (2) alternate members for the same term as the regular members to the board of appeals. The alternate members may be called upon to serve on the board in the absence of a regular member if the regular member is to be absent for a period of two (2) or more consecutive meetings or will be unable to attend meetings of the board for a period of more than thirty (30) consecutive days. An alternate member may be called upon to serve as a regular member for purpose of reaching a decision in a particular case when the regular member must abstain due to a conflict of interest. The alternate member will serve as a regular member until the disposition of the particular case. The alternate member shall have the same voting rights as a regular member during the time of service.

(Ord. No. 09-01, § 4, 2-17-2009)

Section 28.02. - Proceedings.

The board of appeals shall adopt rules necessary to conduct its affairs and in keeping with the provisions of this ordinance. Meeting shall be held at the township hall at the call of the chairperson and at such other times as the board of appeals may determine. The chairperson, or in his or her absence the acting chairperson, may administer the oaths and compel the attendance of witnesses. All meetings shall be open to the public. The board of appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Addison Township Clerk.

Section 28.03. - Powers and duties.

The powers and duties of the board of appeals are to interpret the provisions of the Addison Township Zoning Ordinance and map boundaries and, in addition, in specific cases where there is practical difficulty in complying strictly with the provisions of this ordinance, may vary such conditions in harmony with the purpose and intent of this ordinance so that the public health, safety and general welfare may be maintained and substantial justice done.

(Ord. No. 09-01, § 5, 2-17-2009)

Section 28.04. - Fees for appeals.

A fee shall be paid to the Addison Township Treasurer at the time of the first filing of a notice of appeal from a ruling by the building inspector. This fee will become a part of the township general fund to cover the costs of the appeal. Said fees shall be set by the Addison Township Board.

Section 28.05. - Hearing [notification].

Applicants appealing to the township board of appeals shall be notified by first class mail of the time and place set for hearing.

Section 28.06. - Appellate jurisdiction.

The board of appeals shall hear and decide appeals regarding matters within the province of the board of appeals appellate jurisdiction pursuant to MCL 125.3101—125.3702 and/or where it is alleged there is an error in an order, requirement, decision or determination made by the building inspector, administrative official, board or commission charged with the enforcement of this ordinance or that a literal enforcement of provisions of this ordinance would result in practical difficulty. Rezoning, special use, and planned unit development applications are not heard by the board of appeals.

(Ord. No. 09-01, § 6, 2-17-2009)

Section 28.07. - Appeals filing.

Appeals to the board of appeals concerning interpretation of or administration of this ordinance may be taken by any person aggrieved by an office or bureau of the governing body of the township, building inspector or planning commission. Such appeal shall be made within a reasonable time not to exceed sixty (60) days by filing with the building inspector and the board of appeals a notice to appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the board of appeals all papers constituting the record upon which the action appealed from was taken. An appeal form shall be provided by the township.

(Ord. No. 09-01, § 7, 2-17-2009)

Section 28.08. - Hearings.

The board of appeals shall fix a reasonable time for a public hearing not to exceed forty-five (45) days from the filing of a complete notice of appeal, and give notice thereof to the parties and decide the same within a reasonable time. At the hearing, any party may appear in person, or by agent, or by attorney. Public hearing notifications shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, including public notice not less than fifteen (15) days before the hearing.

(Ord. No. 09-01, § 8, 2-17-2009)

Section 28.09. - Stay of proceedings.

An appeal shall stay all proceedings in the furtherance of the action appealed from, unless the building inspector from whom the appeal is taken certifies to the board of appeals after notice of appeal is filed with him or her that by reason of the facts stated in the certificate, a stay, in his or her opinion, would cause imminent peril of life and property. In such cases, proceedings shall not be stayed other than by a

restraining order which may be granted by the board of appeals or by the circuit court, on application, on notice to the building inspector from whom the appeal was taken and on due cause shown.

Section 28.10. - Zoning variances.

The board of appeals may upon appeal of a specific case authorize such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in practical difficulty. A variance from terms of this ordinance shall not be granted by the board of appeals unless and until:

1. A written application for a variance is submitted demonstrating:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other land, structures or buildings in the same zoning district.
 - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - c. That the special conditions and circumstances do not result from the actions of the applicant or his or her predecessor.
 - d. That granting the variance requested will not confer on the applicant any special privileges that are denied by this ordinance to other lands, structures or buildings in the same zoning district.
 - e. No nonconforming use of neighboring land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
2. The board of appeals shall make findings of fact based upon evidence submitted by the applicant for the variance and all other interested parties.
3. The board of appeals shall further make a finding that the reasons set forth in the application justify the granting of a variance or deny granting of a variance and the variance is the minimum that will make possible the reasonable use of the land, building or structure.
4. The board of appeals shall further make a finding that the granting or refusal to grant a variance will be in harmony with the general purposes and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
5. In granting any variance, the board of appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance, pursuant to Section 30.06. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable as such.
6. Under no circumstances shall the board of appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.
7. Effect of decisions of the board of appeals. In exercising the above-mentioned powers, the board of appeals may, so long as such action is conformity with the terms of the ordinance, reverse, modify or affirm, wholly or partly, the orders, requirements, decisions or determinations appealed from and may make such orders, decisions or determinations as ought to be made, and to that end shall have the powers of the building inspector from whom the appeal is taken under appellate jurisdiction.
8. The board of appeals shall have the power to interpret this ordinance and zoning map boundaries.
9. Appeals from the board of appeals. Any person or person, or any taxpayer, department, board or bureau of the township aggrieved by any decision of the board of appeals may seek review by the circuit court of such decision in the manner provided by the laws of the State of Michigan.

(Ord. No. 09-01, § 9, 2-17-2009)

State Law reference— Variances, MCL 125.290.