



City of Frankfort • 412 Main Street • P.O. Box 351 • Frankfort, Michigan 49635-0351
Phone: (231) 352-7117 • Fax: (231) 352-7100

Application for Variance

APPLICANT: Name: _____

Address: _____

Telephone: _____ Facsimile: _____

OWNER: Name: _____

(if different Address: _____

from applicant) Telephone: _____ Facsimile: _____

DESCRIBE YOUR REQUEST (attach additional pages): _____

PROPERTY ADDRESS: _____

PARCEL TAX ID NUMBER: _____

LEGAL DESCRIPTION OF PROPERTY (attach additional pages): _____

PRESENT ZONING OF PROPERTY: _____

PRESENT USE OF PROPERTY: _____

APPLICANT REQUIREMENTS: (Please check all that apply)

1...Paid fee (as established by the City Council) to the City for variance consideration. \$ _____

Applicant is applying for a:

2...Zoning Variance: Two (2) of the following facts and conditions exist: (see attached 18.06)

a... There are exceptional or extraordinary circumstances of conditions applying to the specific property that do not apply generally to other properties in the same zone.

b... A variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone, provided that increased financial return shall not be deemed sufficient to warrant a variance.

c... The condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.

3...Land Use Variance:

a... The property cannot be reasonably used for uses allowed within the district in which the property is located.

SIGNATURES:

I (we), the undersigned, certify that the information contained on this application and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) also agree to reimburse the City of Frankfort for all costs, including consultant costs, to review this request in a timely manner. I (we) understand that these costs may also include administrative review which may occur after the City has taken action on my (our) request.

Applicant's Signature

Date

Owner's Signature

Date



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(Excerpt from the City of Frankfort Zoning Ordinance)

8105.04 Appeals

1. Appeals to the Board of Appeals may be taken by any party aggrieved by a decision or order to the Administrator where it is alleged that there is error or misinterpretation in any order, requirement, decision or refusal made by the Administrator or other administrative agency in the carrying out of the provisions of this Ordinance. There shall be no appeal from a decision made by the Planning Commission on approval or disapproval of a site plan, special use, or planned unit development.
2. A notice of appeal specifying the grounds thereof shall be filed with the secretary of the Board of Appeals within thirty (30) days after the date of the action appealed from. A copy of the notice shall promptly be served upon the officer from whom the appeal is taken who shall forthwith transmit to the Board of Appeals all records upon which the action appealed from was taken.
3. An appeal shall stay all proceedings, decisions or orders unless said officer certifies to the Board of Appeals that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order by the Board of Appeals or by the Circuit Court.

8105.05 Variances

Subject to the provisions of **8105.06 Variances Prohibited** of this Ordinance, and in addition to other duties and powers specified within this Ordinance, the Board of Appeals, after public hearing, shall have the power to decide applications for variances:

1. Where it is alleged that by reason of the exceptional narrowness, shallowness or shape of a specific parcel of property or by reason of exceptional topographic conditions or other extraordinary situation of the land or structure or of the use of property immediately adjoining the property in question, the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship, provided that the Board of Appeals shall not grant a variance on a lot if the owner or members of his family own or owned adjacent land which could, without undue hardship, be included as part of the lot.
2. Where it is alleged that there is practical difficulty or unnecessary hardship in carrying out the strict letter of this Ordinance and a request made to vary such regulations so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.
3. Where it is alleged that the condition or situation of the specific property or the intended use of said property is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.

8105.06 Variances Prohibited

No variance in the provisions or requirements of this Ordinance shall be effected by the Board of Appeals unless it finds from reasonable evidence that such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or of the public health, safety and welfare, and, further, that two of the following facts and conditions exist:

1. That there are exceptional or extraordinary circumstances of conditions applying to the specific property that do not apply generally to other properties in the same zone.
2. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone, provided that increased financial return shall not be deemed sufficient to warrant a variance.
3. That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.

8105.07 Land Use Variance

The Board of Appeals shall not schedule a public hearing on a land use variance for a use not permitted in a zone or for a use requiring the report or recommendation of the Planning Commission for a period of thirty (30) days after receipt of the appeal. The Board of Appeals shall notify the Planning Commission of any such appeal and request a study and report. No decision shall be made by the Board of Appeals until the report of the Planning Commission is received, provided such report shall be made within thirty (30) days of the next regularly scheduled Planning Commission meeting. No land use variance shall be granted by the Board of Appeals unless it finds that the property cannot be reasonably used for uses allowed within the district in which the property is located.

8105.08 Conditions of Approval

For the approval of a variance by the Zoning Board of Appeals, conditions shall be imposed to:

1. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the proposed land use or activity.
2. Protect the health, safety and social and economic well being of:
 - a. those who will use the proposed land use or activity;
 - b. residents and landowners immediately adjacent to the proposed use or activity;
 - c. the community as a whole.
3. Ensure compatibility with adjacent land uses;
4. Promote the use of land in a socially and economically desirable manner.
5. Protect the natural environment and resources, according to relevant conditions of this Ordinance.
6. Relate to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
7. Achieve the objectives and standards of this Ordinance and of the Michigan Zoning Enabling Act (**Public Act 110, P.A. 2006, as amended**).

The Zoning Board of Appeals may, at its discretion, impose other conditions and/or make suggestions that it deems relevant to any aspect of the proposed land use or activity.

The conditions imposed with respect to the approval of a special land use shall be upon the mutual consent of the Zoning Board of Appeals and the landowner. The Zoning Board of Appeals shall maintain a record of any and all such conditions that are changed.

8105.09 Public Hearings

When an application for hearing or appeal has been filed in proper form supplied by the City and the fee paid with the required data, the Secretary of the Board of Appeals shall immediately place said application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served. A notice shall be sent at least fifteen (15) days prior to the hearing to the applicant and to all owners of the property as shown by the City Assessor's office within three hundred (300) feet of the premises involved, or of contiguous property in common ownership, by regular U.S. Mail, with proof of posting, postage prepaid, addressed to the last known address of such property owners as shown by said records. Any interested party may appear and be heard at such hearing in person or by agent or attorney.

8105.10 Decisions

1. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.
2. Upon the date for hearing any application or appeal, the Board of Appeals may adjourn the hearing to a specified time and date in order to permit the obtaining of additional information, or to cause such

further notices it deems proper to be served. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of said hearing unless the Board of Appeals so decides.

8105.11 Fees

Fees shall be established by the City Council.

8105.12 Time Limit

If a variance is granted or other action requested by the applicant is authorized, the necessary building permit shall be secured, and the authorized action begun within six (6) months after the date and the variance is granted and completed within eighteen (18) months of said date. The Board of Appeals may, upon good cause shown, extend either the six (6) or the eighteen (18) month period; and if the Board of Appeals further finds that conditions have altered or changed in the interval since the action was granted, the Board of Appeals shall revoke or rescind its approval. Should applicant fail to obtain the necessary permit or fail to commence work within such six (6) month period, it shall be conclusively presumed that the applicant has waived, withdrawn and abandoned his appeal; and all permissions, variances and permits shall be deemed automatically rescinded.

8105.13 Vote Necessary for Decision

The final disposition of any matter by the Board of Appeals shall receive the concurring vote of a majority of the members of the Board of Appeals. The Board of Appeals shall not conduct business unless a majority of the members are present.

8105.14 Minutes and Records

The Secretary shall keep minutes of the Board of Appeals proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The Secretary shall keep records of the Board of Appeals examinations and official actions, all of which shall be filed with the City Clerk and be a public record. The grounds for determination made shall be so stated in any motion of approval or denial. A copy of each determination shall be sent to the Administrator and to the Planning Commission. No building permit shall be issued until such copy has been received by the Administrator.

8105.15 Limitation of Board

The Board of Appeals may not, through any decision, interpretation or action, alter, vary or otherwise negate any provision of this Ordinance except as specified. Where the Board of Appeals finds recurrent requests for relief from specific provisions of this Ordinance, or where the Board of Appeals considers specific provisions are creating unnecessary hardship, the Board of Appeals shall recommend action to amend such provision as provided by law.

8105.16 Posting of Financial Guarantee

The Zoning Board of Appeals may require a performance bond, irrevocable letter of credit or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping, and drainage improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the City at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated on the approved plan. If conditions set forth in the approved plan are not faithfully completed, the performance guarantee shall be forfeited. The City shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Administrator. In cases where the provisions of this Article have not been met, the amount of the aforementioned performance guarantee shall be used by the City to complete the required improvements and to enforce the Zoning Ordinance; and the balance, if any, shall be returned to the applicant.