

CITY OF MIDDLEBURG HEIGHTS

Building Division

15700 BAGLEY ROAD, MIDDLEBURG HEIGHTS, OHIO 44130

Phone (440) 234-2218  middleburgheights.com



BOARD OF ZONING AND BUILDING APPEALS AREA VARIANCE APPLICATION

INSTRUCTION SHEET FOR APPLICANTS - PLEASE READ CAREFULLY

In accordance with Zoning Code Chapter [1127](#)

1. All applications for area variances and necessary information shall be on the proper form and filed with the Boards and Commissions Office AT LEAST **30 DAYS** prior to the meeting date. The Board meets the third Wednesday of each month at 7 p.m. at City Hall. Area variances shall be defined as those variances from a zoning regulation that establish minimum or maximum areas, heights, distances, separation, volume, or any US customary unit of measurement. Development density shall not be eligible for area variance consideration. Use variance requests (defined as a variance that is granted to allow the establishment or expansion of a use of land that is not permitted in the zoning district in which the property is located) are not authorized and shall not be considered nor granted by the Board of Zoning and Building Appeals.
2. All applications shall be accompanied by an application fee of \$20 for **EACH** residential area variance request or \$50 **EACH** for commercial and all other variance requests. **ONE** variance request per application, please.
3. **All applications must be complete** and contain a concise description of **EACH** of the specific variances requested. The Board will review each application for an area variance to determine if it complies with the purpose and intent of the Zoning Code and Comprehensive Master Plan based on sufficient evidence demonstrating that the literal enforcement of the Zoning Code will result in a practical difficulty. A practical difficulty exists whenever a zoning standard unreasonably deprives a landowner of a permitted use of their property. All factors set forth in Zoning Code Section [1127.06\(e\)](#) do not need to be satisfied; rather, they shall be weighed together in the analysis as part of a balancing test.
4. **APPLICATION REQUIREMENTS:**
 - TWELVE (12) collated copies of a site plan or survey of the property showing all structures, driveways, property lines, and setbacks of proposed projects at a reasonable scale to convey the need for the variance - the smallest legible size is preferred (11 x 17)
 - TWELVE (12) copies of drawings, photos, and applicable exhibits
 - A USB flash drive containing PDF files of all the above must be submitted or the files may be emailed to kearley@middleburgheights.com.
 - Proof of ownership, legal interest, or written authority
 - Full payment of the variance application fee
 - Any other documents or information deemed reasonably necessary by the Building Commissioner in order to adequately review and make a determination on the application.

INCOMPLETE SUBMITTALS WILL NOT BE ACCEPTED OR WILL BE RETURNED

HEARINGS:

1. All hearings on applications before the Board shall be public hearings. Property owners contiguous to and directly across the street, as well as other interested parties will be notified of the place, date, and time in accordance with Section 1127.03 of the Zoning Code. You will be given a sign to post notifying residents of your request. Please post the sign in the front window of your property until the Board acts on your request. You may remove the sign after final action. Failure to post the sign may result in denial of your variance request.
2. It is the applicant's obligation to bring all necessary witnesses, exhibits, and evidence and present the same to the Board at the time of the scheduled hearing. The burden of proof is on the applicant. Anyone speaking will be sworn in.
3. Failure of the applicant/agent to appear at the scheduled hearing may result in dismissal of the application. **If the property owner is not the applicant/agent, a letter from the property owner stating that they are aware of and support the variance request is required before any variance will be granted.** Meeting notice will be emailed to the agent listed on the application.
4. All members of the Board of Zoning and Building Appeals shall have the right to inspect the site and the right to question the applicant and all parties testifying either for or against the requested variances.
5. Approved area variances that are not fully acted upon within 12 months shall be considered null and void.

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Request for Area Variance Hearing by the Board of Zoning and Building Appeals

FOR OFFICIAL USE ONLY:		DATE _____	
No. of Variances Requested _____	_____ \$20.00 Residential	_____ \$50.00 Others	
Amount Received _____	Cash _____	Check _____	Receipt No. _____
Twelve (12) Sets: <input type="checkbox"/> Site Plan/Survey <input type="checkbox"/> Drawings <input type="checkbox"/> Exhibits <input type="checkbox"/> Photos <input type="checkbox"/> PDFs Received _____			
Code Noncompliance Noted by _____		Date _____	
Building Commissioner			

Name of Applicant _____ Date _____

Complete Address, Phone, and Email _____

Address of Property Involved _____ Permanent Parcel Number _____

Owner of Property (Name, Address, Phone) _____

Name of Agent(s) Representing Applicant _____

Firm's Name, Address, Phone, Email _____

Present Zoning Classification _____

List Specific Zoning Code from which Area Variance is Requested (Only one variance request on each application)

Section _____ Description _____

State Specific Area Variance Requested _____

List Variances Already Granted and Dates _____

SIGNATURE OF APPLICANT _____ Date _____

BZA Agenda Number _____

Date Received by BZA Secretary _____ Placed on Agenda Dated _____

Date Building Dept. Notified to Post Signs _____ Date Posted _____

Board of Zoning Appeals took the following action on _____

DENIED _____ **APPROVED** _____
Signature Signature

With the following conditions: _____

AREA VARIANCE STANDARDS OF REVIEW

The Board of Zoning and Building Appeals will review each application for an area variance to determine if it complies with the purpose and intent of the Zoning Code and Comprehensive Master Plan based on sufficient evidence demonstrating that the literal enforcement of the Code will result in a practical difficulty. A practical difficulty exists whenever a zoning standard unreasonably deprives a landowner of a permitted use of their property. All the factors set forth do not need to be satisfied; rather, they shall be weighed together in the analysis as part of a balancing test. The standards below will be considered and weighed in determining whether property owners seeking an area variance have encountered practical difficulties in the use of their property. Please explain why the area variance should be granted.

1. What special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable, generally, to other lands or structures in the same zoning district? Examples are exceptional irregularity, narrowness, shallowness, or steepness of the lot; or adjacency to nonconforming and inharmonious uses, structures, or conditions.

2. Explain if the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the area variance.

3. Explain if the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.

4. Explain whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the area variance.

5. Explain whether the variance would adversely affect the delivery of governmental services such as water, sewer, and trash pickup.

6. Did the property owner purchase the property with the knowledge of the zoning restrictions?

7. What special conditions or circumstances exist as a result of actions of the owner?

8. Can the property owner's predicament feasibly be obviated through some method other than an area variance?

9. Explain whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting an area variance.
