

## **ZONING BOARD OF APPEALS**

### ***General Information and Application Procedures***

The Zoning Board of Appeals (ZBA) is created under Michigan Statute with the following responsibilities:

- To offer reviews and make decisions in the interpretation of the zoning ordinance and zoning map upon request.
- To analyze the situation when an order or decision of an administrative official or body is questioned.
- To hear specific dimensional variance requests from the strict interpretation of the ordinance.

The ZBA is not a legislative body, it is a judicial body; it does not have the power to rezone or change uses. A decision of the ZBA must comply with the basic intent of the ordinance while maintaining the public health, safety, and welfare of the community. A variance is not intended to be granted to represent a significant change from the intent of the ordinance. That would require an amendment to the zoning ordinance.

When making a request to the ZBA for a variance, interpretation of the ordinance, or a judicial decision, the applicant needs to submit a completed application, all necessary items as requested on the application, and the filing fee.

The ZBA will take this information and hold a meeting to review and discuss the request with the applicant owner and other interested parties. At this public hearing, the ZBA will approve the request as set forth, approve the request subject to any changes, deny the request for not being in the public interest, or table the request for clarification.

### **APPLICATION PROCEDURES**

Application for any action requested by the Zoning Board of Appeals is made with the City Planning Department. A filing fee is required at this time.

Regular meetings of the Zoning Board of Appeals are scheduled for the third Wednesday of each month at 4:15 pm, and are conducted in the Council Chamber of City Hall. **Please call or email to verify the date of the meetings. It is possible that some months may have required a different meeting date to accommodate holidays or other events.**

The application form and other requirements set forth below must be filed no later than eighteen days prior to a regular meeting of the Board. The filing deadline is required to allow sufficient time for publication of any required public notices, and for review of the application by the City administrative staff and/or independent review by the individual members of the Board.

The applicant or his representative **must attend** the meeting and be prepared to explain the request or justify the appeal for a variance. The Board will take no action unless the applicant or his

representative is present. A public hearing will be required for all variance requests and will occur at the meeting during which your request is reviewed.

Notifications of the request, time, and date of the meeting will be mailed to the applicant and to all property owners of record on the city tax roll within 300 feet of the subject property. The purpose of the hearing is to hear any comments, either in favor or opposed, or suggested modifications to the request before the Board makes a decision.

Variance requests will not be granted unless all conditions set forth in Section 1264.05 of the City of Coldwater Zoning Ordinance are met. The conditions, as stated in the ordinance, are as follows:

- There are exceptional or extraordinary circumstances or conditions applying to the property in question as to the physical characteristics of the property that do not apply generally to other properties in the same zoning district.
- Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- The authorization of such variance will not be of substantial detriment to adjacent property and will not naturally impair the intent and purpose of this Zoning Code or the public interest.
- The condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation. (Ord. 509. Passed 6-26-95.)

**It is imperative that the applicant demonstrates to the Board that each of the conditions are met.** The Variance Criteria form included in your packet must be completed in order for you request to be reviewed. Particular attention is given to the exceptional or extraordinary circumstance that warrants the granting of a variance.

Following the public hearing, the ZBA will approve the request as set forth, approve the request subject to any changes, deny the request for not being in the public interest, or table the request for clarification. Any approved variances are not legitimate until the Memorandum of Variance is filed with the property deed at the Branch County Register of Deeds office.

Questions concerning these requirements and/or the application should be directed to:

**Piers Kirby, City Planner  
One Grand Street  
Coldwater, MI, 49036  
(517) 279-9501  
pkirby@coldwater.org**

**ZONING BOARD OF APPEALS**

**APPLICANT**

*DATE* \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

**OWNER (if different from applicant)**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

**Address of property for which the request is being sought:** \_\_\_\_\_

**What is the purpose of this application?**

- \_\_\_\_\_ Variance from the following requirement(s):
  - ◇ Setback ◇ Height ◇ Signage ◇ Parking ◇ Greenbelt ◇ \_\_\_\_\_
- \_\_\_\_\_ Map/Ordinance Interpretation
- \_\_\_\_\_ Judicial Review
- \_\_\_\_\_ Other \_\_\_\_\_

**List ordinances that are relevant to the above request:**

Section Number	Ordinance Title
_____	_____
_____	_____
_____	_____

**Existing Conditions of Property**

Zoning Classification of property:

Subject Parcel: \_\_\_\_\_ North: \_\_\_\_\_ South: \_\_\_\_\_ East: \_\_\_\_\_ West: \_\_\_\_\_

Yard Requirements: Front: \_\_\_\_\_ Side: \_\_\_\_\_ Rear: \_\_\_\_\_ Height: \_\_\_\_\_

List existing structures on the property and the approximate age of each. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has property involved ever been the subject of a previous application? If yes, please list each one and the date the request came before the ZBA. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Project Description**

Briefly explain your request and the reason for this application. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Why do you feel that this variance request should be granted? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Will the denial of this request create a hardship to the property owner? If yes, please explain. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

***Each request requires the following items to be submitted along with the completed application. All items must be submitted in order for the application to be complete. Please be aware that incomplete applications will not be submitted to the ZBA.***

***Variance Request***

1. Legal description of subject property and a list of all deed restrictions
2. A drawing of the property indicating existing property elements, which includes any structures, drives, fences, and patios. The drawing should also indicate where the proposed variance is to be utilized. The dimensions of all existing and proposed features should be labeled, as well as property dimensions. Include distances between present buildings or proposed buildings and property lines.
3. A completed Variance Criteria form (included in application packet)
4. Filing fee of \$30

***Interpretation Request / Judicial Decisions***

1. Filing fee of \$30

***By signing below, the applicant confirms that they have read and understood the procedures for the Zoning Board of Appeals. The signature also confirms that all information required for submission of an application, as indicated above, has been provided.***

\_\_\_\_\_  
Signature of property owner or owner representative

\_\_\_\_\_  
Date

**ZONING BOARD OF APPEALS**  
*Variance Criteria*

As stated in the application procedures, the City of Coldwater Zoning Ordinance lists four conditions that must exist on the applicant's property in order for a variance request to be granted. Your answers to the following questions will be reviewed by the ZBA to determine if your request satisfies these criteria. Please note that each question must be answered completely. Incomplete applications will not be reviewed by the ZBA.

1. In your opinion, are there naturally occurring characteristics of your property that make it unusual from the properties that surround it? Naturally occurring characteristics can be defined as items including lot size, lot shape, land slope, watercourses, etc.

\_\_\_\_\_ Yes      \_\_\_\_\_ No

If yes, what are they? \_\_\_\_\_

2. In your opinion, will you be able to maintain the enjoyment of your property rights and preservation of property values similar to those in the vicinity if you are not granted this variance?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

Why or why not? \_\_\_\_\_

- 3a. In your opinion, will the surrounding properties be negatively affected by the approval of this variance?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

Why or why not? \_\_\_\_\_

- 3b. Will the approval of this variance allow for the creation of something that will appear incompatible with neighboring properties?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

Why or why not? \_\_\_\_\_

4. In your opinion, did your request for a variance originate because of an unusual or extraordinary situation that would not be likely to occur on other properties throughout the city?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

Why or why not? \_\_\_\_\_