

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING
APPLICATION FOR APPEAL
INSTRUCTIONS**

PLEASE, ANSWER ALL QUESTIONS AND FURNISH ALL THE REQUIRED INFORMATION. THE APPLICATION WILL BE CONSIDERED READY FOR PUBLIC HEARING WHEN THE FOLLOWING ITEMS HAVE BEEN RECEIVED AND REVIEWED AT THE PLAN COMMISSION OFFICE.

1. One copy of the 3 page application **TYPED AND COMPLETELY FILLED OUT**.
The application is also available on-line at www.dmmmpc.org in the Plan Commission section.

2. **TEN (10) COPIES OF ALL MAPS ARE REQUIRED**, drawn to scale, of the property involved in the appeal. The maps should consist of a neighborhood map showing the location of the property and surrounding properties out to 300' and a detailed map of the subject property showing the following details: (sample map attached for guidance.)

SPECIAL USE APPLICANTS - PLEASE NOTE, twenty-two (25) copies of the map(s) are needed to enable the Plan Commission members to receive a copy as well as the members of the Board of Zoning Appeals.

- A. Dimensions of the property and the square footage or acreage. (map should be scaled)
- B. Names of all streets and roads adjoining the property.
- C. Prominent physical features such as walls, fences, drives, ditches and water courses.
- D. Existing buildings on the property including their usage, dimensions, and setbacks from the property line.
- E. Exact dimensions of any proposed extension of an existing building or any new building or signage contemplated.

3. One copy of the **DEED** or **CONTRACT** for the property involved.

4. **STAMPED ENVELOPES** addressed to every property owner within a 300 ft. radius from the edge of the property in question and at least two (2) properties deep, with **NO RETURN ADDRESS**. The surrounding property owners list needs to be obtained from the Plan Commission Office. **NOTICE OF PUBLIC HEARING** form will be prepared by the Plan Commission and sent to the surrounding property owners using the stamped addressed envelopes provided by the applicant.

5. If a decision of the Zoning Administrator is being appealed a letter from said officer stating the decision made by him/her and the reason for it.

6. A check or money order for the **filing fee** as established by the fee schedule. This fee is to be paid at the time the application is filed with our office, and should be made **payable** to the **DMMP**.

The applicant will be given a Notice of Public Hearing sign to be posted on the subject property at least 10 days before the hearing and is to be placed by the applicant in a way so that it is visible from the road.

PLEASE PLAN TO ATTEND THE PUBLIC HEARING YOURSELF. Should you be unable to do so, you may authorize someone to appear on your behalf. If neither you nor your representative can be present, you should write to the Plan Commission and ask that the public hearing be continued. Send all correspondence to our office.

IF YOUR REQUEST IS GRANTED, YOU ARE REQUIRED TO OBTAIN ALL REQUIRED PERMITS BEFORE YOU START WORK. IF CONDITIONS ARE IMPOSED ON YOUR CASE, YOU MUST FOLLOW THEM TO THE LETTER.

For questions call the Plan Commission at (765) 747-7740.

REQUEST FOR A VARIANCE

HARDSHIP

PROOF FOR A VARIANCE. It shall be incumbent upon an applicant to conclusively prove at the public hearing that, if compelled to meet the provisions of this Ordinance, the applicant cannot secure reasonable use of the property; that the hardship claimed results from the application of the provisions of this Ordinance; that the hardship claimed is suffered by the property directly, and not merely by other properties; that the hardship claimed is not the result of the applicant's own actions.

VARIANCE

DEFINITION. A variance is a permit which the Board may grant in certain situations, enabling a property owner the use of his property in a way which is in conflict with the literal provisions of the Ordinance. There are two types of variances - a variance of use and a variance of standards. A variance of use refers to a request to vary the permitted uses of a particular zone to allow operation of a use not normally permitted under the usage provisions of that zone - i.e. a business use in a residence zone (which goes beyond the scope of a home occupation. A variance of standards refers to a request to vary some development requirement such as a setback, number of parking spaces, height, lot area, etc.

HARDSHIP EXAMPLE:

1. A small lot or so peculiarly shaped that the owner would have great difficulty in meeting setback requirements and yet erect a suitable building.
2. Severe lot contours or the location of natural features which cause hardship in complying with setback requirements.
3. A physical disability which requires the conduct of a house retail business for selling home made products

WHAT HARDSHIP IS NOT - For the purpose of granting a variance, the following instances or similar ones shall not be considered hardships:

1. That the owner could sell his property for more if the Board would permit its development for commercial purposes.
2. Erection of an apartment with more units than allowed by the ordinance and occupying greater area.
3. A venture which is financially advantageous to the applicant or a financial loss if a variance was denied.
4. The absence of a grocery in a neighborhood and the implication that housewives suffer inconvenience by it.
5. An applicant who, knowingly or not, violated the Zoning Ordinance and then cites his expenditures as a loss which he will suffer if not permitted to continue the violation.
6. Purchase of property with the knowledge of the zoning restrictions and complains that said restrictions have disturbed construction plans.

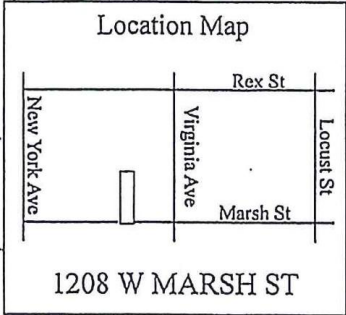
FINDINGS. Before the Board issues a variance, it shall make the following findings:

The Board of Zoning Appeals may approve or deny variances of use from the terms of the Zoning Ordinance. The Board may impose reasonable conditions as part of its approval. A variance of use may be approved only upon a determination that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The need for a variance arises from some condition peculiar to the property involved;
4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
5. The approval does not interfere substantially with the comprehensive plan.

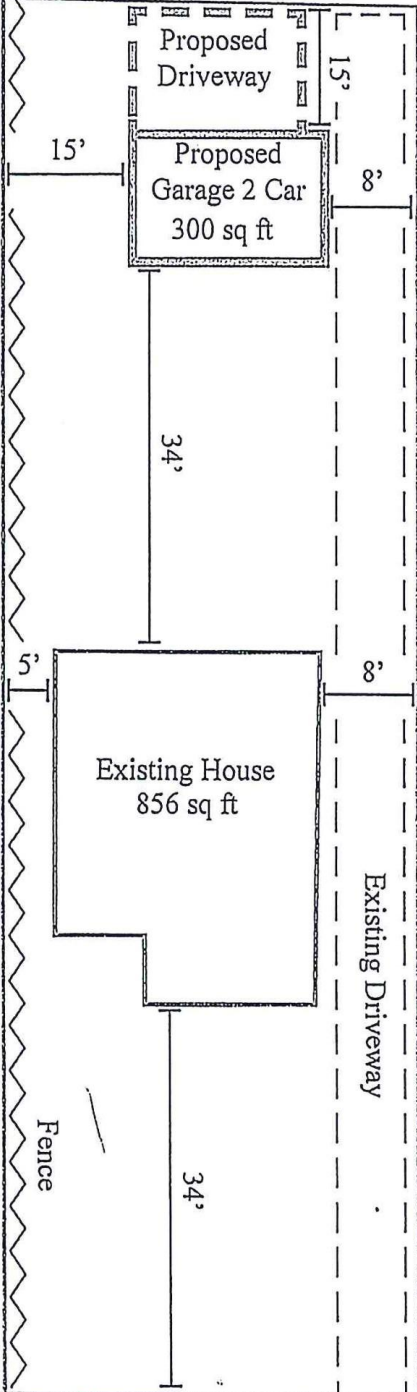
A variance of standards refers to a request to vary some development requirement such as a setback, number of parking spaces, height, lot area, etc. The Board of Zoning Appeals may approve or deny variances from the development standards. A variance may be approved only upon a determination that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.



Board of Zoning Appeals
Sample Map

Alley



W Marsh St