Most people think that when they submit a request for a variance to the Zoning Board of Appeals, it will automatically be granted. This is not true. The Zoning Board of Appeals is required by state law to support its decisions with evidence of “practical difficulty.”

In order to prove your property is entitled to a variance, you should be prepared to show it meets the conditions listed below:

1. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zone.
2. That literal interpretation of the provisions of the Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone under the terms of the Ordinance.
3. That the special conditions or circumstances do not result from the actions of the applicant.
4. That the authorizing of such variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of the Ordinance.

Legal representation is not required at the Zoning Board of Appeals Public Hearing. However, you may wish to retain competent, expert advice if you think you need it to support your variance request.

Although the Zoning Board of Appeals is composed of seven members, only four is required for a quorum. State law mandates that you get concurrence from at least four members of the Zoning Board of Appeals to approve your variance. Thus, the burden lies with the applicant to prove that the property meets the four conditions.
ELK RAPIDS TOWNSHIP, ANTRIM COUNTY, MICHIGAN
ZONING BOARD OF APPEALS

NOTICE OF APPEAL - APPLICATION

Owner ___________________________________
Address __________________________________
Phone ________
Agent (If one) _____________________________
Address _________________________________
Phone __________________________________

Note: If additional space is needed to answer any question, please number and attach additional sheets. The number of attached sheets is ________.

A. ACTION REQUESTED

I, (we), the undersigned, request a hearing before the Zoning Board of Appeals for the purpose indicated below: (check one)

_____ Variance  _____ Appeal from Administrative Decision
_____ Interpretation of Ordinance or Map  _____ Other

B. PROPERTY INFORMATION

1. Property Tax #______________________________

Legal description of property affected by this appeal: _____________________________
__________________________________________________________________________
__________________________________________________________________________
Address of Property: _____________________________
__________________________________________________________________________

Updated 3-18-2013
2. This area is _______ unplatted, _______ platted, _______ will be platted. If platted, name the plat ____________________________________________

3. Present use of the property is ____________________________________________

4. Present zoning classification is ____________________________________________

5. To your knowledge, has a previous appeal ever been made with respect to this property? ________ When? ________ What was the action requested? ____________________________________________

Was the appeal ________ granted, or ________ denied?

6. List any deed restrictions that might in any way relate to your appeal __________________________

7. **Most Important:** Attach a site plan drawn to a scale of your choice showing: 1) The boundaries of the property. 2) The location of present buildings, including neighboring buildings which are closer than ten (10) feet from your property line. 3) Your proposed changes, structural additions, etc, which give rise to your appeal.

   **Note:** It is requested that if at all possible your drawing be based upon a surveyor’s drawing.

C. **DETAILED REQUEST AND INFORMATION**

   1. Variance from the requirements of the Zoning Ordinance.

      a. The variance (s) requested has (have) to do with:

         _______ Setback          _______ Height          _______ Off-street parking
         _______ Signs            _______ Side Yard        _______ Area requirements
         _______ Placement        _______ Lot coverage    _______ Other

      b. State what is intended to be done **on**, or **with**, the property which necessitates a variance ____________________________________________

         ____________________________________________
         ____________________________________________
         ____________________________________________
         ____________________________________________
c. What are the characteristics of the property, which require a variance?

<table>
<thead>
<tr>
<th></th>
<th>Too narrow</th>
<th>Elevation</th>
<th>Soil</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Too small</td>
<td>Slope</td>
<td>Subsurface</td>
</tr>
<tr>
<td></td>
<td>Too shallow</td>
<td>Shape</td>
<td>Other – describe</td>
</tr>
</tbody>
</table>

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

d. To justify granting the requested variance, the appellant must show that literal enforcement of the requirements of the Ordinance would involve practical difficulty, and that granting the variance would not create a situation inconsistent with the general intent and purpose of the Ordinance. To assist the Zoning Board Of Appeals in making a proper decision, it is requested that you answer carefully the following questions:

(1) To the best of your knowledge was the practical difficulty described above the result of an action of anyone having a proprietary interest in the property after the Zoning Ordinance became law in May 1979? ___ Yes ___ No. If “yes” please explain.

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

(2) Are the conditions on the property the result of other manmade changes such as the relocation of a road or by the taking of part of the original property through the “right of eminent domain”? If “Yes”, please explain.

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

(3) Do other properties in this neighborhood or general area have the same unique conditions(s) which cause you to seek a variance? If “yes”, how has the problem been handled on these other properties?

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________
(4) Please state here or on a separate sheet, anything else you wish to say in support of your request.

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

2. Interpretation of Zoning Ordinance or Map.

   a. The appellant requests that the Zoning Board of Appeals make an interpretation of:

      _____ (a) The provisions of Chapter _________ Section _________ of the Township Zoning Ordinance.

      _____ (b) The location of zone/district boundaries on the Township Map.

      _____ (c) Other ________________________________________________________

   b. Please describe the nature of the problem for which the interpretation is required.

      ______________________________________________________________________
      ______________________________________________________________________
      ______________________________________________________________________

   c. Appeal from Administrative Decision.

      The applicant requests the Zoning Board of Appeals to reverse/modify the decision, or requirement, determination or refusal of the Zoning Administrator with regard to the following:

      ______________________________________________________________________
      ______________________________________________________________________
      ______________________________________________________________________
      ______________________________________________________________________
      ______________________________________________________________________
D. AFFIDAVIT

The undersigned acknowledges that if a variance is granted or other decision favorable to the undersigned is rendered upon this appeal, the said decision does not relieve me/us from compliance with all other provisions of the Township Zoning Ordinance. The undersigned further affirms that he/she is or they are (specify) the ________ owner(s), ________ lessee(s), or ________ authorized agent of the owner(s) involved in the appeal (owners MUST sign), and that the answers and statements herein contained and the information herewith submitted are in all respects true and correct to the best of the knowledge and belief of the undersigned.

________________________________________________________________________

Owner                                                Date                              Agent

________________________________________________________________________

Owner                                                Date

________________________________________________________________________

Owner                                                Date

E. PERMISSION TO ENTER PROPERTY

I/We herewith grant permission for members of the Elk Rapids Township Zoning Board of Appeals to enter my lot(s)/property for the purpose of investigating the scope and effect of this request.

________________________________________________________________________

Signature                                              Title                                Date

________________________________________________________________________

Signature                                              Title                                Date

________________________________________________________________________

Signature                                              Title                                Date

TIME LIMITATION OF VARIANCES

Any variance becomes null and void twelve months from the date granted unless the owner or his/her agent shall have taken substantial steps toward effecting the variance as granted by the Zoning Board of Appeals. (Ordinance Section 18.08)