



CITY OF ST. JOSEPH
PLANNING & ZONING DEPARTMENT
700 Broad Street
St. Joseph, MI 49085
Phone (269)983-1212
Fax (269) 985-0347
www.sjcity.com

Dimensional Variance – Zoning Board of Appeals (ZBA)

Process, Instructions and Application*

Contact City Staff to discuss Request



Make Application - must be complete -minimum 24 days prior to desired Zoning Board of Appeals Meeting - see meeting date and deadline schedule as posted annually



Public Hearing before Zoning Board of Appeals- typically second Thursday of each month



Building permit process begins if approved

*See attached detailed directions for all steps involved.



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Process, Instructions and Application

1. **Contact Community Development Director (staff) regarding proposed request.** Staff will review zoning ordinance regulations and determine which process is appropriate for your proposed request. Application forms will be distributed and staff will determine if a pre-submittal meeting is necessary.
2. **Neighborhood Meeting.** Depending on the size and type of a project, staff may suggest the applicant conduct a neighborhood meeting prior to any formal application being made. This meeting will allow the applicant an opportunity to introduce themselves, informally explain the project to the neighbors and hear their thoughts.
3. **Pre-submittal Meeting with staff.** This meeting typically includes the City Engineer, Director of Public Works, Director of Public Safety (Police/Fire), Building Official and the Community Development Director and allows for discussion of the proposed project prior to the finalization of any drawings and submittal for appearance before the Zoning Board of Appeals.
 - a. This meeting is scheduled by staff on an as needed basis. Please provide several dates and times your development team is available to meet. Meetings are typically scheduled one (1) to two (2) weeks out depending on staff availability.
 - b. Prior to the meeting being scheduled, the applicant will need to provide a detailed site plan (see Article XII of the Zoning Ordinance for items to be included) and description of the proposed request. This site plan must be drawn to a legible scale and include existing and proposed changes. It can consist of more than one page if necessary.
 - c. The applicant should include their development team (i.e., engineer, attorney, architect) at the pre-submittal meeting.

4. **Submission of Application.** Complete applications must be submitted no less than 24 calendar days prior to the next regularly scheduled Zoning Board of Appeals (ZBA) meeting. The ZBA typically meets the second Thursday of each month, see meeting and deadline schedule at www.sjcity.com.
 - a. It is suggested that you make an appointment with staff to submit the application.
 - b. All required applications, supplemental information and fees must be submitted at one time.
 - c. You are encouraged to file before the deadline, as incomplete applications are not accepted and will delay the processing of your application.
5. **Acceptance of Application.** Staff reviews the application and supplemental information for completeness prior to formally accepting and scheduling the request before the ZBA.
6. **Application is Formally Accepted.**
 - a. Staff forwards the accepted application packet to the City Engineer, Director of Public Works, Director of Public Safety (Police/Fire) and Building Official for their review and comment.
 - b. Staff prepares the Legal Notice for the newspaper and for property owners within 300' of the site. The legal notice must appear in the local newspaper no less than fifteen (15) days before the scheduled public hearing and the 300' property owner mailer must be sent no less than fifteen (15) days before the public hearing.
7. **Revisions to Drawings.** Based on comments received from the City departments, the applicant may need to revise the supplemental drawings (site plan, building elevations, engineering) prior to appearing before the ZBA. Staff will provide direction to the necessary revisions along with a deadline for submittal of the items.
8. **Staff Memorandum and Zoning Board of Appeals Packet Creation.** Staff prepares a staff memorandum which includes information regarding the proposed request, staff department comments, supporting information and the completed applicant and supplemental information from the applicant. Any written comments received from the public are also included. In most cases the ZBA packet is completed and delivered the Friday before the scheduled ZBA meeting and is available to the general public on the Monday before the meeting.
9. **Zoning Board of Appeals Public Hearing.** The Chair of the ZBA will open the public hearing and invite the applicant to present its case to the ZBA, an overview of the request and explanation of drawings submitted should occur. The Board members can ask questions of the applicant and staff prior to inviting the audience to speak. Once all public comments have been taken, the public hearing is closed. Contact staff prior to the meeting if you need any audiovisual equipment for your presentation.

- 10. **Zoning Board of Appeals Deliberation.** The ZBA will begin to evaluate the request along with reviewing the applicable standards. In some cases, the ZBA will ask for clarification from staff or the applicant.
 - a. The ZBA has four options:
 - i. Motion to approval of the request as presented;
 - ii. Motion to approval of the request with conditions;
 - iii. Motion to denial of the request; or
 - iv. Motion to continue the item to a future meeting to obtain additional information.

- 11. **Building Permit Process.** If and when the application is approved, the applicant can apply for the necessary building permits through the Inspection Department. Engineering plans and work in the public right-of-way requires a permit from the City Engineer. All drawings submitted must comply with those approved by the Zoning Board of Appeals.

- 12. **Recording of Approvals.** Once all meeting minutes are approved, staff will create and provide a copy of the approval packet to the applicant for their records.

Other Information

The ZBA is a quasi-judicial board, made up of five voting members and two alternates. A majority of the quorum present is needed to approve a request. The decision of the ZBA is final and any appeal of its decision is made to the Berrien County Trail Court.

An example of a dimensional variance can include a “variance from the required 30-foot rear yard to 28 feet to allow an open unclosed porch at the rear of the residence”.

Use variances are not permitted (i.e., request for a fast-food restaurant in a residential district).



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DIMENSIONAL VARIANCE (ZONING BOARD OF APPEALS)
APPLICATION

Please print legibly. All portions must be completed. Do not leave any section blank, use N/A. Incomplete forms will be returned. All required materials must be received by the City and determined to be complete no less than 24 calendar days prior to the next Zoning Board of Appeals meeting. If additional space is needed, please use additional sheets of paper.

Property Information

Property Address: _____

Project Name: _____

Property Code Number (Tax Number): 11-76-_____

Briefly Explain Request: _____

Applicable Section of Zoning Code for Request: _____

Previous Approvals Granted to Property: _____

Applicant Information

In case of trust, provide the name, address and telephone numbers of all trustees and beneficiaries of the trust. An LLC or corporation must provide a copy of Articles of Incorporation. In case the applicant is not the property owner, written permission from the property owner is required.

Name of Applicant: _____

Relationship to Property Owner: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Emergency Number: _____

E-mail Address: _____

Name of Property Owner: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Emergency Number: _____

E-mail Address: _____

Attorney: _____

Relationship to Property Owner: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ E-mail Address: _____

Engineer and/or Architect: _____

Relationship to Property Owner: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ E-mail Address: _____

Site Information

General description or characteristics of the site: _____

Master Plan Designation: _____

Existing Zoning and Land Use: _____

Proposed Land Use: _____

Existing square footage of property: _____

Proposed square footage of property: _____

Existing square footage of all buildings on the property: _____

Proposed square footage of all buildings on the property: _____

Is the property located in any of the following overlay districts?

- | | | |
|-------------------------------------------------------------------|------------|-----------|
| Downtown Height Overlay District (Section 9.4)? | Yes: _____ | No: _____ |
| Lake Bluff Scenic View Protection Overlay District (Section 9.5)? | Yes: _____ | No: _____ |
| Floodplain Overlay District (Section 9.6)? | Yes: _____ | No: _____ |
| Edgewater Beach Overlay District (Section 9.7)? | Yes: _____ | No: _____ |
| Main Street Corridor Overlay District (Section 9.8)? | Yes: _____ | No: _____ |

Existing land use and zoning of adjacent parcels:

North: _____

South: _____

East: _____

West: _____

Dimensional Variance Standards

If needed use additional sheets of paper to respond to Standards.

15.4.10 Dimensional Variance Standards: No Variance to the provisions of this Ordinance shall be granted unless the Board finds, from substantial evidence, that all of the following standards have been met. In each instance, the Board shall specifically address each of the listed criteria in reaching its decision, and each member shall affirmatively state that they believe each of the following nine standards has been met; a member who believes that even one of the following nine standards has not been met shall vote to deny the application:

A. The Variance would not be detrimental to adjacent property and the surrounding neighborhood.

B. The Variance would not impair the intent and purpose of this Ordinance.

C. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended Use of the property that do not apply generally to other properties in the same zoning District and vicinity. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, exceptional shape or topography of the property involved, or to the intended Use of the property. See Section 15.4.8.B.

D. The 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.

E. The condition or situation of the specific piece of property or of the intended Use of said 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 the condition or situation.

F. The condition or situation for which the Variance is sought shall not be the result of actions of the property Owner.

G. Strict compliance with area, Setbacks, Frontage, height, bulk or density requirements would unreasonably prevent the Owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

H. The Variance requested is the minimum change necessary to mitigate the hardship.

I. The Variance will relate only to the property that is the subject of the application.

**DIMENSION VARIANCE APPLICATION
CERTIFICATION**

The Applicant certifies and acknowledges and agrees that:

- A. The statements contained in this application are true and correct to the best of the Applicant's knowledge and belief. The owner of the subject property, if different from the applicant, states that they consent to the filing of the application and that all information contained is true and correct to the best of their knowledge;
- B. The Applicant understands that an incomplete or nonconforming application will not be considered. In addition, the Applicant understands that the City may require additional information prior to the consideration of this application which may include, but is not limited to, a traffic study if required by the Zoning Board of Appeals;
- C. The Applicant shall make the property that is subject of this application available for inspection by the City at reasonable times;
- D. If any information provided in this application changes or becomes incomplete or inapplicable for any reason following submission of this application, the Applicant shall submit a supplemental application or other acceptable written statement containing the new or corrected information as soon as practicable but not less than ten (10) days following the change, and that failure to do so shall be grounds for denial of the application;
- E. The Applicant understands that if the application is approved with conditions, those conditions will need to be met as part of any permit issued; and
- F. The Applicant understands that he/she is responsible for all application fees. Fees are non-refundable and there is no guarantee the application will be approved or permits issued. There should be no outstanding monies owed to the City (i.e., water bill or taxes).

On the _____, day of _____, 20____, I/We have read the above certification, understand it, and agree to abide by its conditions.

Signature of Applicant or Authorized Agent

Name of Applicant or Authorized Agent

SUBSCRIBED AND SWORN

To before me this ____ day of _____,
_____, 20_____

Notary Public

OFFICIAL CITY USE: Date Received: _____ Fee: _____
Completed: Variance Application: _____ Site Plan Review Application: _____ Other: _____

**DIMENSIONAL VARIANCE APPLICATION
OWNER'S CONSENT FORM**

I/We, the Owner(s) of the property listed below, hereby grant permission for the Applicant,

(Company name and contact person) to seek _____
(state request that can be made) as required by the City of St. Joseph, Michigan for the property
commonly known as _____ (street address)
and having the Property Code Number (Tax Number) of 11-76-_____.

On the _____, day of _____, 20_____, I/We have read the above certification,
understand it, and agree to abide by its conditions.

Signature of Property Owner

Name of Property Owner

Signature of Property Owner

Name of Property Owner

SUBSCRIBED AND SWORN

To before me this _____ day of
_____, 20_____

Notary Public