



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

**Fence Variation – 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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## **Fence Variation – Zoning Board of Appeals (ZBA)**

### **Process, Instructions and Application**

1. **Contact Community Development Director (staff) regarding proposed request.** Staff will review City of St. Joseph Code of Ordinance and the 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. You may want to talk to your neighbors about your request individually to hear their opinions.
3. **Pre-submittal Meeting with staff (typically not needed for Fence Variation request).** 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. The applicant will need to complete the Pre-Submittal Application with all supplemental information such as a detailed site plan (see Article XII of the Zoning Ordinance for items to be included). The site plan must be drawn to a legible scale and include existing proposed changes. It can consist of more than one page if necessary.
  - b. Once the completed application and preliminary site plan has been received, the meeting will be scheduled. 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 and typically last one hour or less.
  - 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](http://www.sjcity.com).
  - a. It is suggested that you make an appointment with staff to submit the application.
  - b. All required applications, supplemental information (site plan and fence 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 property owners within 300' of the site. This notice is mailed to the 300' property owner and residents no less than fifteen (15) days before the public hearing. Section 12-10(c) of the Code of Ordinances does not require a legal notice to appear in the local newspaper.
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”.

An example of a fence variation is a request to construct a fence greater than three feet six inches in the front yard.

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



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**FENCE VARIATION (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 Code of Ordinances 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: \_\_\_\_\_

**Fence Contractor, 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: \_\_\_\_\_

**Fence Variations**

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

**Section 12-10(a)(1) of the Code of Ordinances states the zoning board of appeals shall have the power to:**

- (1) Allow a variation from the application of any provision of this chapter when, in its opinion, there are special circumstances of the property which are not the reasonably foreseeable result of the actions of the property owner, and the strict enforcement of this chapter would unreasonable deprive the owner of the lawful use and enjoyment of the property or would be contrary to the spirt and purpose of these provisions or the public interest.

In your own words and based on the language above, explain why the Zoning Board of Appeals should grant your fence variation.

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**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, 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 they are 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

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**OFFICIAL CITY USE:** Date Received: \_\_\_\_\_ Fee: \_\_\_\_\_  
Completed: Fence Variance Application: \_\_\_\_\_



**FENCE VARIATION 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