

CITY OF MENTOR
APPLICATION FOR APPEAL
Board of Building and Zoning Appeals

1) Address: _____ 2) Zoning Classification _____

3) Parcel Number: _____

4) Name and Address of Applicant: (Please Print)

Applicants Name: _____

Contact Person (if other than applicant): _____ Daytime Phone: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

5) Name and Address of Property Owner: (Written authorization required if different than applicant)

Owners Name: _____

Contact Person (if owner is a company): _____ Daytime Phone: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Please read the attached Instructions

6) Nature of Appeal:

7) Nature of Hardship or Practical Difficulty (per § 1131.08 M.C.O.):

8) Statement of Justification (per § 1131.08 M.C.O.):

9) Sketch illustrating variance and surrounding conditions (15 copies if exhibit is larger than 14" x 17")

PLEASE READ:

10) The undersigned applicant hereby applies for a variance or appeals for relief from a municipal administrative ruling on the basis of the representations contained herein, all of which the applicant affirms to be true. The applicant further indicates by his/her signature that he/she is in receipt of the Board's Rules of Procedure and that he or she has read and understands said rights which include the following:

A) The applicant may present documentary evidence or give testimony him or herself or by other witnesses either under oath or not under oath, at the applicants choice, unless otherwise required by the Board in support of his/her appeal and may question witnesses and members of the City administration, other than legal counsel. Unless requested, the Board will assume that the applicant does not wish to have the evidence presented under oath.

B) The applicant may refute evidence and testimony offered in opposition to its position, arguments, or contentions.

11) The Decision of the Board is not Final until the minutes of the meeting are approved. If no objections are raised by any party at the meeting the applicant may sign an Acceptance of Conditional Approval prior to the minutes being approved to obtain a building permit. _____ (initial)

12) A permit must be obtained prior to the start of construction _____ (initial)

13) Applicant Signature: _____ Date: _____

14) Anticipated Date of Hearing: _____ 7:00 p.m. Fee Paid

(REVISION. 2/2008 ALL OTHER VERSION ARE OBSOLETE)

ENTRY OF FINAL DECISION

STAFF USE ONLY

1) Address: _____ 2) Zoning Classification: _____

3) Parcel Number: _____

15) Building or Zoning Inspector: _____ Date: _____

16) Reason For Denial:

Entry of Decision

17) Jurisdiction: Yes No Date: _____

18) Publication and Date of Publication:

19) Did the applicant request that the presentation of evidence be under oath or not under oath?

Under Oath Not Under Oath

20) Entry of Decision:

A) Denied for reasons stated in the record

B) Approved without conditions

C) Approved subject to conditions set forth below and made a part hereof

21) Decisions of the Board shall be final and binding on the applicant provided; however, that any persons or the City aggrieved by any decision of the Board may appeal said decision by filing a petition with the Common Pleas Court within ten (10) days of said decision.

Chairman Board of Building & Zoning Appeals

Planning Administrator

**CITY OF MENTOR
BOARD OF BUILDING AND ZONING APPEALS - APPLICATION FOR APPEAL
-INSTRUCTIONS-**

SITE

1. **ADDRESS:** Address of property for which appeal is requested. If property is vacant, Planning Staff will assign a tentative address.
2. **ZONING DISTRICT:** As identified on the Official Zoning Map. The staff will assist you.
3. **PARCEL NUMBER:** The number assigned to the property by The Lake County Engineers – Tax Map Office. The staff will find this number for you.

APPLICANT

4. & 5. **APPLICANT, PROPERTY OWNER AND/OR THOSE WITH A VESTED INTEREST (OPTION TO PURCHASE, ETC.) REPRESENTATIVE:** The owner of the property or one having evidence of a vested interest therein for which the variance is requested must file the appeal. Other representatives may file an appeal and appear before the BZA on the owner's behalf if authorized by some evidence of the owner's approval. A copy of a purchase agreement or option instrument may give a purchaser authority to stand for appeal.

APPEAL

6. **NATURE OF APPEAL:** State as clearly as possible the substance of your request, for example "to construct a 2-car garage 5 feet from the rear property line".
7. **NATURE OF HARDSHIP OR PRACTICAL DIFFICULTY:** The BZA is empowered to grant variances to provisions of the Zoning Code based on findings of unnecessary hardship and/or practical difficulty (depending on the type of variance sought). State the hardship or practical difficulty. (Applicable Code Section Below)

1131.08 REQUIRED FINDINGS FOR VARIANCE

A) When considering a request for a variance the Board shall be subject to the powers and the limitation of powers set forth in Section 1131.04 of the Zoning Code and further subject to the required findings set forth in subparagraph (B) or subparagraph (C) depending on the type of variance sought. The applicant for variance shall have the burden of proof in these proceedings.

B) Lot Area or Set Back Areas

No variance to the provisions or requirements of the Zoning Code, pertaining to the lot area or set back shall be granted by the Board unless the Board has determined that a practical difficulty does exist or will result from a literal enforcement of the Zoning Code. The factors to be considered and weighed by the Board in determining whether a property owner, seeking an area or set back variance, has proved practical difficulty include:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
2. Whether the variance is substantial;
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer, garbage, fire, police or other);
5. Whether the property owner purchased the property with the knowledge of the zoning restriction;
6. Whether the property owner's predicament can be obviated through some method other than a variance;
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;

8. The granting of the variance will not be contrary to the general purpose, intent and objectives of this Zoning Code or other adopted plans of the City of Mentor.

C). Variances other than Area and Lot Set Back:

The Board may authorize a variance, other than for lot area and/or set back, in specific cases, from the strict application of the Zoning Code; provided that it has considered the factors enumerated in subparagraph (B) 1 through 8 above, and further provided that all conditions enumerated in 1 through 5 below have been met:

1. That the variance requested arises from such a condition which is unique and which is not ordinarily found in the same zoning district; and is created by the Zoning Code and not by an action or actions of the property owner or the applicant;
2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the Zoning Code of which variance is requested will constitute unnecessary hardship upon the property owner or the applicant;
4. That the variance desired will not adversely affect the public health, safety, morals or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of the Zoning Code.

8. **STATEMENT OF JUSTIFICATION:** State any reasons, beyond the nature of the hardship/practical difficulty, which may justify the request, for example, "neighbor at rear yard does not object".
9. **SKETCH:** Sketches required will vary with the nature of the request. The intent is to provide all information necessary for the BZA to make a decision. The Staff will discuss the appropriate sketches with you.
- 10 – 13 **APPLICANT'S RIGHTS & SIGNATURE:** Please read this statement of your rights in the appeal process. Your signature and initials will indicate that you have read and understand them. The Planning Staff will be glad to answer any questions for you but cannot give legal advice or speak on behalf of the BZA.
14. **ANTICIPATED DATE OF HEARING & FEE:** The BZA meets on the second Tuesday of the month. The appeal will not be placed on the agenda without a signed application and fee of \$30.00. The receipt will be provided for cash or check. Make checks payable to "City of Mentor".

15 – 21 **FOR ADMINISTRATIVE USE ONLY:** Please leave these items blank.

PLEASE READ:

(1) **Filing Deadline:** The Planning Division is required to advertise your appeal in a local newspaper at least five (5) days prior to the meeting and send notices to all adjacent property owners. Your appeal must be submitted at least 18 days prior to the meeting. Ask the Staff for the deadline date.

(2) **Prior to the Meeting:** The applicant or his representative is encouraged to discuss with the Administrative Assistant the appeal and any witnesses, documentary evidence, or other matters pertaining to the appeal at a reasonable time prior to the hearing and preferably prior to the filing deadline. Such discussion is intended to ensure sufficient information at the hearing, protection of the rights of the applicant, and to facilitate fair and timely resolution of the appeal. The BZA meets only once a month, and tabling an item due to insufficient time for review of evidence may cause serious delays in an applicant's project.

(3) Granting of the variance does not constitute approval of a building permit. A permit must be obtained from the Building Division prior to start of construction.