

Variance Request

What is a variance? A Variance is an approved exception from the Township Zoning Code for a specific use of your land, usually a construction project. Because it is a special request to vary Township Zoning Codes, a variance requires review by the Township and notice to the community and your neighbors.

Who decides to grant or deny a variance? The Board of Zoning Appeals (BZA), a board of residents appointed by the Trustees of Wayne Township, votes to approve or deny your application after a public hearing based on the following factors:

1. The property cannot be put to a reasonable use under the conditions allowed by the official Code and strict adherence to the regulations of this Zoning Code would cause undue hardship.
2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having interest in the property. Economic considerations alone shall not constitute an undue hardship, if reasonable use for the property exists under terms of the Zoning Code.
3. The granting of the variance will be keeping with the spirit and intent of the Zoning Code and will not alter the essential character of the locality or be injurious to the use or enjoyment of the other properties in the vicinity.
4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

How does the Board of Zoning Appeals decide? At the public hearing, the BZA hears from all interested parties—the applicant, supporters and/or opponents (if any), and staff who submit a report which recommends approval or denial. The staff report and the BZAs decisions are based on **finding of hardship**-proof that there is something unique about your property that prevents you from reasonably using your land according to the Township Zoning Code.

Guidelines for Requesting a Variance to Sections of the Wayne Township Zoning Code

The BZA has authority to rule on variances only on an appeal basis. This power is granted by Sections 519.14 and 519.15 of the Ohio Revised Code.

The Wayne Township Zoning Inspector must first have disapproved an application for a Zoning Permit. The application for a zoning permit must have been in writing and accompanied with the necessary information required for issuance of a permit.

The Wayne Township Zoning Inspector shall notify the applicant in writing of his or her decision to deny the zoning permit and provide rationale for said denial.

The aggrieved applicant or any officer of the Township may file an appeal of the Wayne Township Zoning Inspectors decision within twenty (20) days after the decision is issued.

The appeal shall be filed with the Wayne Township Zoning Inspector and the Wayne Township BZA, specifying the grounds of said appeal. (Continued)

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The Wayne Township Zoning Inspector shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed was taken.

The BZA shall fix a reasonable time for the Public Hearing of the appeal, give at least ten (10) days' notice in writing to the parties of interest (adjoining and adjacent property owners across the street from the parcel described in the appeal), give notice of such Public Hearing by one (1) publication on one (1) or more newspapers of general circulation in the county at least ten (10) days before the date of such hearing and decide within a reasonable time after it is submitted. Upon hearing, any person may appear in person or by attorney.

Upon completion of the above outlined requirements, Ohio Revised Code § 519.14 (B) grants the power to the BZA to grant a variance. Said Board may authorize upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done; THIS SECTION OF THE ORC REQUIRES THAT UNNECESSARY HARDSHIP BE PROVEN

The following general standards have been established to determine the presence of unnecessary hardships:

1. The applicant's supposed hardship cannot be of economics alone.
2. The hardship must result from circumstances affecting a particular and unique piece of land and not from a general condition throughout the neighborhood. As an example, for topography to be justified as a hardship, it must be unique to the particular piece of property. Then the same topographic difficulties extend over a substantial area, they will not provide basis for variance.
3. A variance must not alter the essential character of a neighborhood.
4. It is not enough to show that the effects of a variance would be harmless. The applicant must still establish real unnecessary hardship.
5. Hardship must result from the requirements of the zoning resolution and not from the applicant's own actions. A variance request is properly denied when the applicant's knowingly bought or created a parcel of land too small for their intended use of the land.
6. Even if a hardship is established, a variance must not be contrary to the public interest.
7. A variance must not be granted that would permit a use otherwise prohibited from the zoning district.

A filing fee of \$500 (five hundred dollars) must be paid to the Wayne Township Zoning Inspector at the time the request for appeal is filed.