

IN ORDER FOR A **VARIANCE REQUEST** APPLICATION TO BE PROCESSED, IT MUST INCLUDE ALL OF THE FOLLOWING:

1. A completed application form and page one (1) of the Portage BZA Motion and Findings of Fact sheet.
2. A complete and accurate list of all of the property owners specified in paragraph 1003.04 and their tax mailing address as described in paragraph 1003.03.
3. All of the items requested in paragraph 1003.04
4. A copy of the deed to the property in question to show the full legal description of the property.
5. A justification for the variance describing the hardship or difficulty brought about by the strict adherence to the Zoning Resolution.
6. A check in the amount of \$200.00 made payable to the Portage Township Trustees.
7. Return the completed paperwork and check to the Zoning Inspector for processing.

**All paperwork must be in duplicate**

Included with these instructions are:

1. Article 10 of the Portage Township Resolution
2. Request for Variance form

**REQUEST FOR VARIANCE**

Portage Township, Ottawa County, Ohio

Application # \_\_\_\_\_

Property # \_\_\_\_\_

Two (2) copies must be filed with the Township Zoning Inspector. One copy will be Transmitted to the Board of Zoning Appeals, the second is for the Zoning Inspectors file.

**NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**CITY** \_\_\_\_\_

Location of Property \_\_\_\_\_

Zoning District \_\_\_\_\_

**A.** A variance from the Portage Township Zoning Resolution requested \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**B.** Reason needed \_\_\_\_\_

\_\_\_\_\_

(If additional space is needed attach an addendum sheet.)

**Applicant's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Date Request for Variance filed with Zoning Inspector, \_\_\_\_\_.

Date of Publication \_\_\_\_\_.

Date of Notice to parties of interest \_\_\_\_\_.

Date of Hearing \_\_\_\_\_.

Decision of Board of Zoning Appeals:

\_\_\_\_\_

\_\_\_\_\_

Date of decision of Board of Zoning Appeals \_\_\_\_\_

**BOARD OF ZONING APPEALS ATTEST:**

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

**PORTAGE TOWNSHIP BZA MOTION & FINDINGS OF FACT**

With regard to Zoning Variance Request # \_\_\_\_\_

1. The property in question (will / will not) yield a reasonable return or (can / cannot) be used beneficially without the variance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. The variance (is / is not) substantial because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. The essential character of the neighborhood (would / would not) be substantially altered by the variance and adjoining properties (would / would not) suffer a substantial detriment as a result of the variance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. The variance (would / would not) adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. The property owner (did / did not) purchase the property with knowledge of the zoning restriction because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. The property owner's predicament (can / cannot) feasibly be obviated through some method other than a variance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. The spirit and intent behind the zoning requirement (would / would not) be observed and substantial justice done by granting the variance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Other relevant factors, if any, considered include: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mr./Ms. \_\_\_\_\_ moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (1) (2) (3) (4) (5) (6) (7) (8) weigh more heavily to show that:

- a. Practical difficulty (is / is not) sufficient to warrant granting the Variance requested.
- b. There (is / is not) a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that (supports / does not support) the applicants request for a variance.

Therefore, the Variance should be accordingly (**APPROVED / DENIED / APPROVED WITH THE FOLLOWING CONDITIONS**). The conditions for approval, if any, include: \_\_\_\_\_

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**Motion Seconded by: Mr. / Ms.** \_\_\_\_\_

<b>Vote:</b>	<b>Aye</b>	<b>Nay</b>
Steve Nickel - Chair	_____	_____
Keith Conte – Secretary	_____	_____
Ken Ward - Member	_____	_____
Rose Huskey - Member	_____	_____
John Gluth - Member	_____	_____
Eric Petersen - Member	_____	_____

**Adjudication Hearing Date:** \_\_\_\_\_, 20\_\_\_\_ **BZA Case#** \_\_\_\_\_

**Adopted this** \_\_\_\_ **day of** \_\_\_\_\_, 20\_\_\_\_.

ARTICLE 10

BOARD OF ZONING APPEALS

1000 Membership

1000.01 The Board of Zoning Appeals, hereinafter called the Board, shall be appointed by the Board of Township Trustees and shall consist of five (5) members (none of whom shall be concurrently appointed as a member of the Township Zoning Commission) who are residents of the unincorporated area of the Township.

1000.02 The members of the Board shall serve the same length terms, and appointments should be staggered in the same manner as provided for the Township Zoning Commission in Article 11. The Board of Township Trustees may remove any member for cause, after public hearing, in accordance with the provisions of Section 519.04, Ohio Revised Code. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant.

1000.03 The Board of Township Trustees may appoint two (2) alternate members to the Township Board of Zoning Appeals for terms as determined by the Board of Township Trustees. An alternate member shall take the place of an absent regular member at any meeting of the Board of Zoning Appeals. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. An alternate member of the board of zoning appeals may not simultaneously serve as an alternate member to the zoning commission. (10/15/08)

1001 Rules Of The Board

1001.01 The Board shall by majority vote of its members elect a Chairman, a Vice Chairman, and a Secretary who shall occupy such offices until their successors are duly elected at the next meeting of the Board, which shall be held during the month of January of each year.

1001.02 If any member of the Board is absent for four (4) consecutive meetings, he may be considered, at the option of the Chairman, to have resigned, and the Chairman may request the Board of Township Trustees to appoint a replacement.

1001.03 A quorum shall consist of three (3) members of the Board which shall be the minimum number permitted to conduct business. An affirmative vote of a majority of the members in attendance shall be required for action. Failure of an item to receive a majority vote shall constitute disapproval. When a quorum is lacking, the Board shall postpone or cancel items requiring a vote and may proceed with items presented for information only. (10/15/08)

1002 Jurisdiction

1002.01 Appeals: To hear and decide appeals where it is alleged there is an error in any interpretation, order, requirement, decision or determination by the enforcement officer in the administration and enforcement of the provisions of this Resolution.

1002.02 Variances: **There are two types of variances which the township may grant: an area variance and a use variance. The factors to be considered by the Board of Zoning Appeals differ for the two types of variances. (1/19)**

**Area Variance:**

**An area variance is a departure from the provisions of the zoning resolution usually relating to setbacks, side yards, height, frontage/lot width, and lot size. These variances relate to the physical characteristics of the property. Strict enforcement of the zoning requirements for the specific lot would present "practical difficulties", basically making the property unusable.**

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. (07/02/97)
- b. Whether the variance is substantial. (07/02/97)
- c. 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. (07/02/97)
- d. Whether the variance would adversely affect the delivery of governmental services (for example, water, sewer, garbage.) (07/02/97)
- e. Whether the property owner purchased the property with knowledge of the zoning restriction. (07/02/97)
- f. Whether the property owner's predicament feasible can be obviated through some method other than a variance. (07/02/97)
- g. Whether the spirit and intent behind the zoning requirements would be observed and substantial justice done by granting the variance. (07/02/97)

The variance as granted shall be the minimum variance necessary to accomplish the reasonable use of the land or building. (07/02/97)

## Summary

**In either type of variance request, the variance as granted shall be the minimum variance necessary to accomplish the reasonable use of the land or building. The granting of a variance runs with the land and is not approved for the present landowner only, unless otherwise specified during the variance approval process.**

1002.03 Conditional Use Permits: As provided in Article 7 of this Resolution.

1002.04 Exceptions: To authorize, upon application, the following exception:

- a. Permit in districts limiting the heights to thirty-five (35) feet or under, schools, hospitals, sanitariums, institutions, churches, and other similar uses allowed under the use regulations of this Resolution, to be erected to a height not exceeding six (6) stories or seventy-five (75) feet, provided that the front and side yard requirements for such buildings are complied with and fire-fighting equipment is available.
- b. Permit a manufactured home on a lot which is owned by the manufactured home occupant, and upon which the occupant is constructing a dwelling, for a period of one year. The manufactured home shall be removed once construction of the dwelling is completed. A six (6) month extension may be granted by the Board. The requirements of Section 806.01 shall not apply in this situation.
- c. Permit two (2) main buildings on one (1) lot for reasons of health, disability, or natural disaster; such permit to be issued for a period of not more than one year, however, the permit may be renewed annually subject to the review of the Board.

## 1003 Procedures

1003.01 Meetings: Meetings of the Board shall be at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and of each member's absence or failure to vote, and shall keep records of every official action. Every rule or regulation, each amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall be filed in the office of the Board of Township Trustees, and shall be a public record.

A quorum shall consist of three (3) members of the Board which shall be the minimum number permitted to conduct business. An affirmative vote of the majority of the members in attendance shall be required for action. Failure of an item to receive a majority vote shall constitute disapproval. When a quorum is

lacking, staff shall postpone or cancel items requiring a vote and proceed with items presented for information only. (07/02/97)

1003.02 Appeals: Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or affected, or by any officer of the Township, regarding any decision of the zoning administrative officer. Such appeal shall be taken within twenty (20) days after the decision by filing with the officer from whom the appeal is taken, and with the Board, a notice of appeal specifying the grounds. If the twentieth day after the decision of the zoning administrative officer falls on a Saturday, Sunday, or holiday, the appeal may be taken on the next business day following. A fee as established by the Board of Township Trustees shall be paid upon the filing of the appeal. A written receipt shall be issued to the person making such payment, and records thereof shall be kept in such a manner as prescribed by law. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. (6/18/98)

1003.03 Public Hearing and Decision: The Board shall fix a date for a public hearing of an appeal, variance, conditional use, or special exception application within thirty (30) days from the date of filing, and shall give at least ten (10) days notice in writing, by first-class mail, to the parties in interest, and to all owners of property within, contiguous to and directly across the street from the property involved in the application; this notice shall be mailed to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list. The applicant shall supply the necessary names and addresses to the Township Zoning Inspector. The failure of delivery of such notice shall not invalidate any action taken by the Board of Zoning Appeals. The Board shall also give notice of such public hearing by one (1) publication in one (1) or more newspapers of general circulation in the County at least ten (10) days before the date of such hearing. Upon the hearing, any individual may appear in person or by attorney or authorized agent. (4/20/95) The Board shall decide the appeal, variance, conditional use, or special exception within thirty (30) days after the date of the public hearing. Every decision of the Board shall be based upon a finding of fact. In addition, the Board shall forthwith transmit a copy of its decision to the applicant. (06/03/93)

1003.04 Application Requirements: Every appeal, variance, conditional use, special exception application(s) shall be accompanied by a plot plan and such other plans as may be necessary to show the location and type of buildings to be erected or to be made.

- a. Each plan shall show:
1. The street providing access to the lot and the exact location of the lot in relation to the nearest cross street.
  2. The name of the concerned lot plan, if any, and the lot numbers of the concerned and abutting properties.
  3. The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location and size of any existing structure thereon.



4. The location and size of the proposed structure(s) and/or the proposed enlargement of the existing structure(s).
- b. Where complete and accurate information is not readily available from existing records, the Board may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.
- c. Each property owner or authorized agent may be required to attest to the correctness of the statements and data furnished with the application.
- d. Any other information or documents required by the Board.  
(07/02/97)

1003.05 Fees: A fee as established by the Board of Township Trustees shall be paid upon the filing of an appeal, variance, conditional use, or special exception application. A written receipt shall be issued to the person making such payment, and records thereof shall be kept in such a manner as prescribed by law.