

# **APPLICATION FILING FOR ZONING BOARD OF APPEALS**

## **REQUIREMENTS:**

1. Completed Application Form
2. Completed Authorization for Access
3. Plot Plan drawn to scale showing:
  - a. Lot dimensions
  - b. Location and dimensions of all existing buildings
  - c. Distances between buildings and between buildings and property lines
  - d. Driveway location and dimensions
  - e. Proposed construction shown
4. Elevations of proposed construction (if applicable)
5. Written responses (please answer clearly and concisely) to each of the Factors Used to Determine Practical Difficulty of an Area Variance per Code Section 1214.09 (C)(1).
6. Application fee of \$75.00 (Cash or check only. Please make check payable to the City of Avon Lake)

## **ADDITIONAL INFORMATION THAT MAY BE SUBMITTED, BUT NOT REQUIRED:**

1. Photographs of the property and the area affected by the variance
2. Signatures of neighbors stating they understand the request and have no objections
3. Examples of similar structures in the neighborhood

To the Applicant:

You are requesting a variance from the City of Avon Lake Planning & Zoning Code. This is intended to help you understand the process and be prepared for a thorough presentation of your case. Yourself, an appointed representative or counsel may represent you. You will be asked if you have read and reviewed the factors from Code Section 1214.09 (C)(1). In order to properly present your case, it is required that you address these issues. If you are not prepared, the Zoning Board may ask you to come back when you are prepared.

### **WHAT IS THE ZONING BOARD OF APPEALS?**

The Zoning Board of Appeals (ZBOA) is a citizens' board whose function is to hear appeals to the Planning & Zoning Code as deemed appropriate by the Zoning Administrator. If a citizen applies for a zoning permit and is denied because it does not meet the requirements of the Planning & Zoning Code, he may appeal for a variance from this code to the ZBOA. The ZBOA is a quasi-judicial body that functions as a court of first resort.

### **WHAT IS THE ZBOA'S AUTHORITY IN GRANTING VARIANCES?**

The Zoning Board is authorized to grant two types of variances, by the state and specifically the city code, from the terms of the Planning & Zoning Code, provided that the variance is not contrary to the public interest. For an area variance, the appellant must show that a practical difficulty exists. The City Planning & Zoning Code limits the authority of the ZBOA to grant variances by Code Section 1214.09. A variance shall not be granted for a mere inconvenience or desire to make more money. There must be some unique characteristic of the land or practical difficulty that prohibits the homeowner from using his land the way others in the area are able to use theirs.

### **HOW DOES THE ZBOA MAKE ITS DECISIONS?**

The ZBOA considers many factors in determining whether a variance should be granted. The Board will review each application for a variance to determine if it complies with the purpose and intent of the code and evidence demonstrates that the literal enforcement of the code will result in practical difficulty in the case of an area variance. You must address these factors in writing before the hearing. While these factors must be considered, they are not the sole basis for the granting or denial of a variance request.

### **WHAT IS THE ROLE OF THE APPELLANT IN THE APPEAL PROCESS?**

The applicant has the most important role in the appeal process because he/she must show that literal application of the Code would be unfair. An applicant who seeks a variance of a particular zoning requirement has the burden of establishing that the strict and literal enforcement of the zoning regulation is unreasonable when applied to the particular piece of property in question. It is up to the applicant to present the case as thoroughly and completely as possible. **THE APPLICANT HAS THE BURDEN OF PROOF.** The ZBOA may not prove the case for you.

# APPLICATION FORM

## City of Avon Lake --- Zoning Board of Appeals

**Please Note:** APPLICANT MUST BE THE OWNER OF RECORD OF THE SUBJECT PROPERTY IN THIS REQUEST OR THE APPLICANT MUST SUBMIT WRITTEN AUTHORIZATION FROM THE LEGAL PRPOERTY OWNER AT THE TIME APPLICATION IS SUBMITTED.

OWNER / AUTHORIZED APPLICANT MUST APPEAR AT THE BOARD MEETING.

**Applicant's Name:** \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email address: \_\_\_\_\_

**Property Owner's Name:** \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

### LOCATION OF PROPERTY

Property Address: \_\_\_\_\_

Permanent Parcel Number: 04-00-\_\_\_\_ - \_\_\_\_ - \_\_\_\_ Zoning District: \_\_\_\_\_

### REQUEST

Code Section(s) \_\_\_\_\_

Specific Details of Variance Request: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# AUTHORIZATION FOR PROPERTY ACCESS

**By signing this form, I authorize members of the City's Zoning Department and Zoning Board of Appeals access to the subject property for the limited purposes of photographing and/or viewing the area affected by the variance requested in this application and verification of project dimensions.**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Any dog(s) on property?** \_\_\_\_\_ **YES** \_\_\_\_\_ **NO**

**Please Print or Type:** \_\_\_\_\_

**Applicant / Agent Name:** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

**Daytime Phone Number** \_\_\_\_\_

## **Factors Used to Determine Practical Difficulty of an Area Variance**

**Where an applicant is seeking an area or dimensional variance, the following factors shall be considered and weighed by the ZBA to determine if a practical difficulty exists that would justify approval of the variance. However, no single factor listed below may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.**

**Please respond to each question as it pertains to your variance request. It is important to be as thorough and detailed as possible. If you need additional space you may use a separate sheet to answer the questions. The following factors from Code Section 1214.09 (C)(1) are used to determine practical difficulty:**

## **Factors Used to Determine Practical Difficulty of an Area Variance**

A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or proximity to non-conforming and inharmonious uses, structures or conditions;

B. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

C. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;

F. Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);

G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;

I. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district; and

J. Whether a literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code.