



# City of North Canton

145 North Main Street  
North Canton, Ohio 44720-2587  
Phone: (330) 499-8223, Option 4  
Fax: (330) 966-3630  
[permits@northcantonohio.gov](mailto:permits@northcantonohio.gov)

## Variance Request

### NOTICE:

After the application and supporting documents have been filed and processed, a notification will be sent out by mail. This notification will contain the date on which the application will be considered before the City of North Canton Zoning Board of Appeals. The owner/agent must be present at the hearing. The following information is to assist in the presentation of your case to the Board of Zoning Appeals.

The application will be considered at a public hearing in the City Council chambers. At the hearing, the owner/agent will be invited to present any information believed to be relevant to the application and will have the opportunity to tell the Board why the application should be granted. The Zoning Board of Appeals consists of a five-person panel and will also entertain comments and/or arguments from any neighbors or fellow residents who either support or oppose your application.

It is important to note that the owner/agent will have the burden to prove why the application should be granted and why the zoning regulation(s) in question should not apply to the property. Please note the items listed below as the Board will require these issues to be addressed. The application will be granted or denied based on the following:

- Special conditions existing unique to the property in question;
- Literal interpretation of the ordinance deprives the property owner/agent of rights enjoyed by other property owners;
- Special conditions resulting from actions not of the property owner/agent;
- The requested variance is the minimum variance that allows a reasonable use of the property or building.

All forms and supporting documents must be filled out in their entirety and in a legible manner. Failure to do so may delay the application. Questions regarding the process and/or the application for a variance are welcomed. Please contact the Department of Building and Permits with any questions at (330) 499-8223, Option 4.

# Instructions for Filing a Variance Request

1. Applications shall be typewritten or printed, accompanied by the application fee of \$75.00, and shall be submitted to the Permits Department by the 8<sup>th</sup> day of the month to be evaluated that month. Regular Zoning and Building Standard Board of Appeals meetings are held monthly on the fourth Tuesday of the month after filing, at 6:00 p.m. at North Canton's City Hall. Applications that cannot be read may be delayed or returned without action.
2. The application shall be accompanied by a to-scale plot plan of the property affected and shall contain the following information:
  - a. Lot lines and dimensions;
  - b. Location of *all* existing and proposed buildings;
  - c. Location of *all* existing and proposed driveways and/or parking areas;
  - d. Location of *all* existing and proposed signs;
  - e. Indication of *all* front, side and rear yard setbacks; and
  - f. A north arrow.
3. The application for an area variance shall include a map showing *all* property adjoining and across the street from the property on which the variance is requested. See page 4 to fill in the City lot numbers, owner names and mailing address (including city and zip-code) for each property.
4. The application for use variance shall include a map showing *all* property within 200 feet of the property on which the variance is requested. See page 4 to fill in the City lot numbers, owner names and mailing address (including city and zip-code) for each property.
5. The applicant or its representative shall be present at the hearing in order for the Board to consider the application.
6. The applicant is responsible for the accuracy and completion of the required information.

Failure to include all required above-mentioned items may delay or prevent processing your application.

This form is intended to assist you in preparing the variance application. This form is not intended to be legal advice. Before applying this information to a specific zoning problem, we strongly recommend you seek advice from a licensed attorney.

# What to Expect at a Variance Adjudication Hearing

After processing your variance application, we will notify you by mail of the date of your hearing before the Zoning and Building Standards Board of Appeals. The property owner or its representative must appear at the hearing for the Board to evaluate the variance application. The following information is provided to assist you in preparing for your hearing:

The Board will evaluate your variance application during an adjudication hearing. The hearing is your opportunity to present evidence to the Board that you are entitled to the variance. You or your representative, or both, may appear on your behalf, but if neither of you appear, the Board will dismiss your application.

The Board consists of a five-person panel of City residents and will evaluate the evidence you present together with that of neighbors or fellow residents who believe they may be impacted by the Board's decision should it approve your variance. The Board's decision must be supported by a preponderance of substantial, reliable, and probative evidence. As the applicant, you have the burden to present the Board with evidence of why you are entitled to the variance.

Because an adjudication hearing is a quasi-legal proceeding, you, and any other that wish to offer evidence either for, or against, your application, will be sworn in, under oath, and are subject to cross examination. Although the hearing is open to the public, adjudication hearings, however, are not subject to such public comment but, instead, involve the determination of your rights and whether such rights should be granted based upon evidence (not public opinion) presented at the hearing.

There are two types of variances: area and use. An area variance application is a request to deviate from a zoning ordinance because of an odd configuration of the lot or a natural condition that prevents normal construction within the City's zoning ordinances. A use variance application, however, is a request to use a lot in a way not permitted within the zoning ordinance.

For an area variance, the Board must evaluate the following 10 criteria to determine whether the literal enforcement of the City ordinance will result in practical difficulty:

1. 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 adjacency to non-conforming and inharmonious uses, structures or conditions;
2. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance (note that the fact that property can be put to a more profitable use does not, in itself, establish a hardship if less profitable alternatives are available within the zoning classification);
3. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

4. 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;
5. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
6. Whether the property owner purchased the property with knowledge of the zoning restrictions;
7. Whether special conditions or circumstances exist as a result of actions of the owner;
8. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
9. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and
10. 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.

For a use variance, the applicant must demonstrate, by clear and convincing evidence, an unnecessary hardship exists and satisfy all of the following criteria:

1. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;
2. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
3. The hardship condition is not created by actions of the applicant;
4. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
5. The granting of the variance will not adversely affect the public health, safety or general welfare;
6. The variance will be consistent with the general spirit and intent of the Ordinance; and
7. The variance sought is the minimum that will afford relief to the applicant.

This form is intended to assist you in preparing for an adjudicatory hearing regarding a variance by providing you with broad, general information regarding zoning variances; is not intended to be legal advice. Before applying this information to a specific zoning problem, we strongly recommend you seek advice from a licensed attorney.



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Fee: <u>\$75.00</u>
Case #: _____
Date Filed: _____
Hearing Date: _____

## Variance Application

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

Lot #: \_\_\_\_\_ Zoning: \_\_\_\_\_ Frontage: \_\_\_\_\_ Depth: \_\_\_\_\_

Owner: \_\_\_\_\_ Phone: \_\_\_\_\_

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

Describe the Variance Requested: \_\_\_\_\_

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Code and Section from which the Variance is Requested: \_\_\_\_\_

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### Justification of the Variance:

In order for the variance to receive consideration, the applicant must be prepared to convince the Board of Appeals that the following items are true:

- Special conditions existing unique to the property in question;
- Literal interpretation of the ordinance deprives the property owner/agent of rights enjoyed by other property owners;
- Special conditions resulting from actions not of the property owner/agent;
- The requested variance is the minimum variance that allows a reasonable use of the property or building.

Owner/Agent Signature: \_\_\_\_\_ Date: \_\_\_\_\_ 5

Nearby property owners shall be notified of events taking place in their area. Property owners for abutting properties or within 200 feet (depending on variance type) shall be notified. Please list these persons, firms or corporations below. Failure to provide the required information may delay the processing of the application. This information may be obtained from the Stark County Auditor's webpage found at <https://www.starkcountyohio.gov/auditor> or by calling the Stark County Auditor's Office at (330) 451-7357. Should this space be insufficient please attach additional page(s) as needed.

Lot Number	Owner Name	Mailing Address