

**VILLAGE OF FAIRPORT HARBOR
BOARD OF ZONING APPEALS – APPLICATION FOR
VARIANCE OR APPEAL INSTRUCTIONS**

SITE

1. **ADDRESS:** Address of property for which appeal is requested. If property is vacant, the Village Administrator will assign a tentative address.
2. **ZONING CLASSIFICATION:** As identified on the Official Zoning Map. The Zoning Department will assist you.
3. **PARCEL NUMBER:** The number assigned to the property by The Lake County Engineers – Tax Map Office. The Zoning Department will provide 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 or appeal is requested must file the application. Other representatives may file an application for a variance or 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 apply for a variance or appeal.

VARIANCE or APPEAL

6. **NATURE OF VARIANCE or APPEAL:** Check the box that applies.
7. **NATURE OF UNNECESSARY 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 unnecessary hardship or practical difficulty.**

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 1141.02 of the Codified Ordinances and further subject to the required findings set forth in sub-paragraph (B) or sub-paragraph (C) depending on the type of variance sought. **The applicant for a 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 prevented through some method other than a variance;
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice be 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 Village.

C. Use Variances

The Board may authorize a use variance, 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 unnecessary 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 Zoning Department will discuss the appropriate sketches with you.
10. – 12. Read, sign, and date.

