



Zoning Administrator  
City of Dearborn  
Economic and Community Development  
16901 Michigan Avenue, Suite 6  
Dearborn, Michigan 48126

## Zoning Board of Appeals

### **General Information**

The ***Dearborn Zoning Ordinance (DZO)*** was codified by Ordinance No. 06-1111 (as may be amended) and is available on the City of Dearborn's website ([www.cityofdearborn.org](http://www.cityofdearborn.org)) through a link on the City Clerk's page.

The ***Zoning Board of Appeals (ZBA)*** was created to provide relief from zoning requirements when there are unique circumstances peculiar to the land or structure, preventing a property owner from conforming to the strict letter of the Zoning Ordinance. The ZBA does not have the power to alter or change the zoning district classification of any property.

The ZBA consists of five members. Three members are required for a quorum. Three affirmative votes are required to approve a dimensional (non-use) variance. Four affirmative votes are required to approve a use variance.

The ZBA starts its deliberation from a position of denial. It is the appellant's burden of proof to demonstrate that a variance is necessary based on very specific findings of fact. Any variance granted should be the minimum necessary to overcome the practical difficulty or unnecessary hardship.

A decision of the ZBA is final, but may be appealed to the Wayne County Circuit Court.

### **Dimensional (Non-Use) Variances**

Appellants requesting relief from dimensional zoning requirements must provide evidence of a practical difficulty that prevents conformity with the strict letter of the DZO.

***Practical difficulty*** standard: Special or unique conditions and circumstances exist, which are peculiar to the land or structure, and are not generally applicable to other land or structures in the same district.

### **Use Variances**

A request for a ***use variance*** (a variance to permit a use not otherwise permitted within a zoning district) has a higher standard for relief. The appellant must show that there is an unnecessary hardship that prevents conformity to the strict letter of the DZO. Applications for a use variance must be reviewed by the city planner with reference to the standards in the ordinance and the Master Plan of the City, prior to any action by the ZBA.

**Unnecessary hardship** standard: 1) the property cannot be reasonably used consistent with current zoning; 2) the circumstances are unique to the property and are not general neighborhood conditions; 3) the proposed use of the property shall not alter the essential character of the locality; **and** 4) the hardship is not the result of the appellant's own actions.

### **Standards for Variances and Appeals**

Variances and appeals shall be granted only in accordance with Michigan Public Act 110 of 2006, as amended, and based on the findings set forth in Dearborn Zoning Ordinance Section 32.05.F.1. The extent to which the following criteria apply to a specific case shall be determined by the ZBA; however, at least one of the applicable criteria must be found by the ZBA.

- (a) Practical difficulties. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render conformity with such restrictions unnecessarily burdensome. ***The showing of mere inconvenience is insufficient to justify a variance.***
- (b) Substantial justice. Granting of a requested variance or appeal would do substantial justice to the appellant as well as to other property owners in the district; or, as an alternative, granting of lesser variance than requested would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- (c) Public safety and welfare. The requested variance or appeal can be granted in such fashion that the spirit of the zoning regulations will be observed and public safety and welfare secured.
- (d) Extraordinary circumstances. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district. ***The conditions resulting in a variance request cannot be self-created.***
- (e) Preservation of property rights. A variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same zoning district.
- (f) No safety hazard. The granting of a variance or appeal will not increase the hazard of fire or otherwise endanger public safety.
- (g) No impact on land values. The granting of a variance or appeal will not unreasonably diminish or impair the value of surrounding properties.
- (h) Neighborhood character. The granting of a variance or appeal will not alter the essential character of the neighborhood.

- (i) Light and air. The granting of a variance or appeal will not impair the adequate supply of light and air to adjacent property.
- (j) Promotes orderly development. The size, character and location of a development permitted after granting of a variance shall be in harmony with the surrounding land use and shall promote orderly development in the zoning district in which it is located.
- (k) Traffic flow. A development permitted upon granting of a variance shall make vehicular and pedestrian traffic no more hazardous than is normal for the district in which it is located, taking into consideration vehicular turning movements, adequacy of sight lines for drivers, location and accessibility of off-street parking, provisions for pedestrian traffic, and measures to reduce contact between pedestrian and vehicular traffic.
- (l) No nuisance impacts. A development permitted upon granting of a variance shall be designed so as to eliminate any dust, noise, fumes, vibration, smoke, lights, or other undesirable impacts on surrounding properties.
- (m) Impact on adjacent properties. The location, design, and height of buildings, structures, fences, or landscaping permitted upon granting of a variance shall not interfere with or discourage the appropriate development, continued use, or value of adjacent land or buildings.
- (n) Relationship to adjacent land uses. The development permitted upon granting of a variance shall relate harmoniously in a physical and economic sense with adjacent land uses. In evaluating this criterion, consideration shall be given to prevailing shopping patterns, convenience of access for patrons, continuity of development, and the need for particular services and facilities in specific areas of the City.
- (o) Relationship to Master Plan policies. The granting of the variance should be reviewed in reference to the adopted Master Plan policies of the city plan commission, and the zoning board of appeals shall find that the variance will not adversely affect said policies.

### **Zoning Board of Appeals Process**

1. Review your current project plans. If there are changes that can be made to fully comply with the Zoning Ordinance (or come as close to compliance as is reasonably possible), make those changes. Remember, the ZBA will not grant a variance unless you are able to demonstrate a practical difficulty or unnecessary hardship.
2. Discuss your proposed appeal with the Zoning Administrator.
3. Submit a fully completed Zoning Board of Appeals Application along with all required documents, supplemental information, and the required application fee. ***Failure to properly complete the application will delay the ZBA's consideration of your request.*** Contact the Zoning Administrator if you have any questions about your application.

4. The current property owner must:
  - a. sign the form,
  - b. have the form notarized, and
  - c. provide proof of ownership {tax bill or deed}
5. Payment must be in the **form of a check** and made to the **City of Dearborn**.
6. Your application must include a copy of a mortgage survey or a site plan to a specific scale that contains all of the following information: a) all buildings and structures showing dimensions and elevations, including distances from adjoining property lines and structures; b) all property lines and easements, with dimensions; c) a "north" directional arrow; and d) the name, address, and phone number of the person who prepared the plan (residential plans must be notarized).
7. Include 11" x 17" copies of the existing and proposed site plan, building elevations, floor plans, and other drawings that will assist the Board in its consideration of your appeal. (Files in .pdf format are also acceptable.)
8. Your application form and required documents will be reviewed and verified for completeness by the Zoning Administrator and other city representatives as deemed necessary or appropriate by the Zoning Administrator. If required or appropriate, this may include a Site Plan Review.
9. ***Incomplete applications will be returned for correction.***
10. After your properly completed application is reviewed and accepted by the Zoning Administrator, your appeal will be scheduled for the next available regular meeting of the Zoning Board of Appeals that is ***no less than twenty-four (24) days after the date of acceptance.*** You will receive written notification of the date, time and location that your appeal will be heard.
11. Regular meetings of the Zoning Board of Appeals are typically scheduled on the third or fourth Thursday of each month (excluding December) and are conducted in the City Council Chambers at City Hall. In order to afford sufficient time and proper attention to each appeal, the ZBA reserves the right to limit the number of appeals that will be heard each month.
12. The Zoning Administrator will include a summary of your appeal in a properly published public notice of the ZBA agenda. A summary of your appeal will also be forwarded to all property owners and tenants of record within 300 feet of the subject property. Interested parties may submit comments to the Zoning Administrator prior to the ZBA meeting or appear in person to present their comments.
13. At its meeting, the ZBA will conduct a ***public hearing*** for each appeal on its agenda. ***You or your representative must attend the meeting and be prepared to present your appeal and the justification (Section 32.05.F) for the variances requested.***

14. Members of the public will be invited to present arguments in favor of or against your request. Comments received by the Zoning Administrator prior to the meeting will also be read into the record.
15. After comments are heard, the ZBA will close the public hearing and will deliberate the merits of your request. Your appeal may be granted as requested, granted with conditions, modified, tabled, or denied.
16. The decision of the ZBA is final, but may be appealed to the Wayne County Circuit Court.
17. After the ZBA decision is rendered, there is a five day waiting period before a permit may be issued.
18. If a permit is not issued and construction has not commenced within twelve (12) months of the ZBA decision, the order of the ZBA shall be void, pursuant to city ordinance.

**Application Fees**

Appeal board application fees are regulated by Dearborn Code Section 9-38. Applications to the Zoning Board of Appeals shall be accompanied by the following fees, payable prior to scheduling of the appeal:

- |    |   |          |
|----|---|----------|
| a. | Residential—for first variance per appeal .....           | \$250.00 |
|    | Each additional variance per appeal .....                 | 100.00   |
| b. | Commercial—for first variance per appeal.....             | 300.00   |
|    | Each additional variance per appeal .....                 | 125.00   |
| c. | Use variance—does not include dimensional variances ..... | 500.00   |
|    | Each dimensional variance per appeal .....                | 125.00   |
| d. | Special meeting.....                                      | 1,000.00 |
|    | Each variance per appeal.....                             | 100.00   |
| e. | Tabled residential appeals .....                          | 200.00   |
|    | Each variance per appeal.....                             | 100.00   |
| f. | Tabled commercial appeals.....                            | 300.00   |
|    | Each variance per appeal.....                             | 125.00   |

If your application is withdrawn within five (5) business days from the date and time it was received, then 100 percent of the fee shall be refunded to the appellant. Thereafter, no refund will be given.



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 City of Dearborn  
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 13615 Michigan Avenue, Suite 9  
 Dearborn, Michigan 48126-3582

<b>For Office Use Only</b>	
Date Submitted:	_____
Fee Included: \$	_____
Check Number:	_____
Staff Initials:	_____
ZBA Appeal #:	_____

**Zoning Board of Appeals Application**

**I. PROPERTY INFORMATION:**

**Example**

**Property Address:** 12345 Dearborn Street

**Business Name or Property Known As:** formerly XYZ Insurance Company

**Parcel ID Number(s):** 82-09-123-45-678

**Subdivision:** Dearborn Subdivision      **Lot Number(s):** 10-12

**Zoning District(s):** BA      **Lot Size:** 40' x 100'

**II. DESCRIPTION OF CURRENT PROJECT/ACTIVITY:**

Occupy an existing commercial structure for use as a restaurant.

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**III. OTHER INFORMATION:**

Permits have been requested granted denied in relation to this appeal

*Certificate of Occupancy (C of O) Status:*

- Full Certificate of Occupancy
- Temporary Certificate of Occupancy
- Applied for Certificate of Occupancy on: \_\_\_\_\_
- No Certificate of Occupancy

*Prior appeals involving this property:*

Zoning Board Appeals (indicate appeal numbers or dates):  
#05-999 Landscape Variance

Plan Commission (indicate case numbers or dates):  
 \_\_\_\_\_

**IV. VARIANCES REQUESTED:**

Code Citation: 4.01	Nature of Code Section: Off-Street Parking	Unnecessary Hardship or Practical Difficulty: Pre-existing site layout only accommodates 6 spaces. Cannot increase parking without decreasing required landscaping and setbacks.
Code Requirement: 10 parking spaces		
Proposed Plans Provide: 6 spaces + lease for 4 off-site spaces		

Code Citation:	Nature of Code Section:	Unnecessary Hardship or Practical Difficulty:
Code Requirement:		
Proposed Plans Provide:		

Code Citation:	Nature of Code Section:	Unnecessary Hardship or Practical Difficulty:
Code Requirement:		
Proposed Plans Provide:		

Code Citation:	Nature of Code Section:	Unnecessary Hardship or Practical Difficulty:
Code Requirement:		
Proposed Plans Provide:		

*Additional pages attached.*



VII. CURRENT PROPERTY OWNER INFORMATION:

Current property owner must--

- sign the form,
- have the form notarized, and
- provide proof of ownership {tax bill or deed}

**Name/Contact:** Mr. Larry Landlord, Esquire

**Business Name:** Dearborn Prime Properties, Inc.

**Mailing Address:** 500 Town Dr., Suite 100      **Telephone:** 313-777-1000

**City, State, Zip:** City, State Zip      **Cell/Fax/Other:** 313-777-2000 Fax

- I hereby certify that I am the OWNER (or its duly authorized representative) of the property herein described. And,
- I have given the above named PROJECT OWNER AND APPLICANT permission to apply for the requested variance(s). Or,
- I have given the above named APPLICANT the permission to represent me in this application for variance(s). Furthermore,
- The Zoning Board of Appeals and its authorized representatives are hereby granted permission to enter onto my property for the purpose of considering this appeal.

**Signature:** Property Owner Signature

Subscribed and sworn to before me this 27<sup>th</sup> day of July, 2011

Notary Signature

Notary Public, \_\_\_\_\_

County, \_\_\_\_\_ State

My commission expires: mm/dd/yy

Notary Stamp or Seal