

**Application For A Zoning Variance**  
Brunswick Hills Township Board of Zoning Appeals  
Medina County, Ohio

**Date of Application** \_\_\_\_\_ **Zoning Receipt Number 2013-**\_\_\_\_\_

**Fifteen (15) Copies of Supporting Documents Required**

The undersigned owner(s) of the following legally described property hereby request the consideration of change from the zoning regulations as specified below:

Name of Applicant/Owner \_\_\_\_\_ Phone \_\_\_\_\_

Mailing Address \_\_\_\_\_

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

Permanent Parcel Number (*required*) \_\_\_\_\_

Present Zoning District \_\_\_\_\_ Previous Variance Requests Yes \_\_\_ No \_\_\_ Date \_\_\_\_\_

Variation Requested (Include Section Number of Zoning Resolution) and reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How will strict application of the provisions of the resolution result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the resolution?

\_\_\_\_\_  
\_\_\_\_\_

What are the exceptional or extraordinary circumstances of conditions applying to the property or use involved that do not apply generally to others in the same district?

\_\_\_\_\_  
\_\_\_\_\_

Why will the granting of the variance not be a substantial detriment to the public interest or to property or improvements in such district and will not materially impair the purpose of the resolution?

\_\_\_\_\_  
\_\_\_\_\_

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

Zoning Inspector's Signature \_\_\_\_\_ Date \_\_\_\_\_ Fee **\$350.00**

Cash \_\_\_\_\_ Check # \_\_\_\_\_ BZA Meeting date \_\_\_\_\_ BZA Decision: Yes \_\_\_ No \_\_\_

**Meeting will be at the Brunswick Hills Town Hall, 1918 Pearl Rd. 7p.m.**

## VARIANCES

### “USE”

A “use” variance is granted only upon the finding of an “**unnecessary hardship**” which generally means that the property owner cannot make any economically viable use of the property under the current zoning restrictions. A “use” variance is an application for a deviation from the permitted uses in the subject zoning district. “Use” means exactly what it says, a “use” of the property as opposed to zoning restrictions on setbacks, building, height, etc. The standards for determining a “use” variance are generally called the “Duncan Factors”. They are as follows:

### DUNCAN FACTORS

1. The variance request stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
2. The hardship condition is not created by actions of the applicant;
3. The granting of the variance will not adversely affect the rights of adjacent owners;
4. The granting of the variance will not adversely affect the public health, safety or general welfare;
5. The variance will be consistent with the general spirit and intent of the zoning code;
6. The variance sought is the minimum which will afford relief to the applicant; and
7. There is no other economically viable use which is permitted in the zoning district.

## **“AREA/SIZE”**

Variances for area, size and setback requirements are judged by a less stringent legal standard than for “use” variances, i.e. “practical difficulty” in meeting code requirements is all that is required to be shown by a property owner, NOT an “unnecessary hardship”. (“unreasonable hardship” standard cannot be applied for an “area” variance).

The factors to be considered and weighed to determine whether a property owner has encountered practical difficulties are (but are not limited to) the following:

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 substantial detriment as a result of the variance;
4. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
5. Whether the property owner purchased the property with knowledge of the zoning restrictions;
6. Whether the property owner’s predicament feasibly can be obviated through some method other than a variance; and
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

The **Duncan** opinion does not limit the analysis to only these seven factors. For example, municipalities have added such factors as: whether the property has unique physical characteristics, i.e. exceptional narrowness of the lot or irregular terrain; or whether the practical difficulty exists solely through the actions of the property owner. An appellate court in Ohio has, however, used the seven **Duncan** factors to uphold a zoning board's decision in spite of other standards in the municipal code that were different. The **Duncan** factors may likely be applicable to township zoning board rulings on variances, in general, as set forth in ORC 519.14 (see Zoning Inspector for referenced cases)

Brunswick Hills Township – Board of Zoning Appeals  
APPLICATION CHECKLIST

BZA Checklist for the Zoning Inspector

- A memo from the Zoning Inspector indicating the decision why the applicant was not approved.
- List of questions or concerns from the Zoning Inspector regarding the application request.
- Copy of the applicant violation letter and supporting documents

BZA Checklist for All Applicants for Conditional Zoning:

- Letter of Intent from the Applicant: written explanation for the zoning request (*including reference to the Zoning Resolution sub-sections pertaining to the request*) and detailed information on the planned use.
- Detailed site plan (and/or lot improvement plan; or architectural drawings when appropriate) showing:
  1. The property dimensions of the entire parcel(s)
  2. The location of all structures on the property and their dimensions
  3. The setback dimensions of all structures, and/or activity areas, from the property boundary lines (including open parking, if applicable)
- Site plan for conditional zoning request checked by the Zoning Inspector for variances

BZA Checklist for All Area and Use Variance Requests

- Letter of Intent from the Applicant: written explanation for the zoning request (*including reference to the Zoning Resolution sub-sections pertaining to the request*) and detailed information on the planned use.
- Detailed site plan (and/or lot improvement plan; or architectural drawings when appropriate) showing:
  1. The property dimensions of the entire parcel(s)
  2. The location of all structures on the property and their dimensions
  3. The setback dimensions of all structures, and /or activity areas, from the property boundary lines (including open parking, if applicable)
- Zoning Inspector has provided applicant with a copy of the Duncan Factors

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DUNCAN FACTORS (Criteria reviewed for variance requests)

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 the 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 –
5. Whether the property owner purchased the property with the knowledge of the zoning restriction-
6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. –
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. -

Signature of Applicant

- Check list to be completed and signed by the applicant. If the checklist *or the application* is incomplete, the BZA has the right to deny hearing the applicant's request.
- Signature of Applicant that criteria has been reviewed with Zoning Inspector.

*Decisions made by the Board of Zoning Appeals are not final for 30 days until the minutes are signed and the applicant has been properly served with a decision letter – therefore, no activities should be started by the applicant until the proper documents are secured from the Zoning Inspector and the minutes are official.*

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Signature of Applicant

Date

[attach document to application]