

# Zoning Board of Appeals

## Introduction

The Zoning Board of Appeals exercises the powers as provided by Act 110, Public Acts of 2006, as amended, in such a manner that the objectives of the Zoning Ordinance are observed, public safety, morals and general welfare assured, and substantial justice done. The Zoning Board of Appeals consists of five (5) members.

The Zoning Board of Appeals maintains the following powers and duties:

- To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Building Department or Planning Commission in the administration or enforcement of the Zoning Ordinance.
- To grant use variances which allow uses on a specific property within a zoning district which are not normally permitted based on a finding that the regulations create an unnecessary hardship.
- To grant dimensional variances from the provisions of the Zoning Ordinance as may be in harmony with its general purpose and intent so that the function of the Ordinance be observed, public safety and welfare secured, and substantial justice done, including the following:
  - Interpret the provisions of the Ordinance in such a way as to carry out the intent and purpose of the plan as shown in the use districts accompanying the Zoning Map.
  - Permit such modification of the height, setback, area or other dimensional regulations as may be necessary to secure and appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be improved without such modification. The ZBA does have the authority to grant use variances.
  - Review and approve temporary uses.

### Village Information:

The Village is Located at:  
4018 Huron Street, North Branch MI 48461

The Village Contact Numbers:  
Phone: (810) 688-2620  
Fax: (810) 688-4521

The Village's Hours are:  
Monday - Thursday 9 a.m.- 5 p.m. (*closed Fridays*)

### Zoning Board of Appeals Dates:

The Zoning Board of Appeals holds its regularly scheduled meeting on the 1st Thursday of each month prior to Village Council Meetings at either 6:00 or 6:30 p.m. unless otherwise posted

All meetings are held at Village Hall unless otherwise posted.

# ZBA Application Submission Requirements

Listed below are the basic submission requirements for all Zoning Board of Appeals applications.

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- Applicable fee (If additional reviews are required, additional fees will be collected)

10 copies of the following:

- Application (completed and signed);
- Survey of the property showing the location, placement, dimensions, setbacks, etc. as it pertains to the variance request;
- Any other pertinent information pertaining to the submission.
- For submissions pertaining to temporary uses, please include the following:
  - Location of the use and any improvements on the property
  - Dimensions of the use area and any improvements on site
  - Paved parking area showing designated parking spaces and handicap parking spaces (if applicable)
  - Provide information regarding the hours of operation and the length of time the use will be on site
  - Any Lighting
  - Landscaping

- ***Incomplete submissions will not be accepted.***
- ***If you have any questions prior to submitting your application, please contact the Village Clerk at (810) 688-2620 or the Building Department at (810) 688-3031.***

# ZBA Variance Review Process

The standards from which the Zoning Board of Appeals operates under are identified within Article XX of the Village of North Branch Zoning Ordinance. The procedure for filing a ZBA variance is as follows:

- Applicant submits a complete application to the Village Clerk
- Application is placed on the next available Zoning Board of Appeals agenda for a public hearing.
- Notice of the variance request is given in the newspaper and to all property owners within 300' of the subject property.
- The ZBA will likely make a decision on the night of the public hearing.
- If the Board requests additional information the application will be tabled/postponed until the following meeting.
- The ZBA will review the application to determine if a practical difficulty or unnecessary hardship has been established. If so, the variance request may be approved.

## Possible Zoning Board of Appeals Decisions:

- Practical Difficulty or Unnecessary Hardship has been established - Approve as presented; or
- Practical Difficulty or Unnecessary Hardship has been established - Approve a lesser amount of the variance requested; or
- Postpone (Table) the application to allow the applicant time to address issues raised by the Board or Public; or
- Practical Difficulty or Unnecessary Hardship has not been established - Deny the request.

## Remember!

A concurring vote of a majority of the entire Board membership is required to receive a variance.

## Following Approval of a Variance

- Following an approval, no order of the Zoning Board of Appeals shall be valid for a period longer than one (1) year, unless a building permit is obtained within such period, and such activity is started and proceeds to completion in accordance with the terms of such permit.

## F.A.Q.

Yes. An applicant that has been denied has thirty (30) days following the issuance of the ZBA's decision in writing, or twenty-one (21) days following the approval of the meeting minutes, to appeal the ZBA's decision in circuit court.

# Establishing a Practical Difficulty

To receive approval of a variance from the Zoning Board of Appeals, an applicant must establish a practical difficulty. The criteria utilized by the ZBA to determine if a practical difficulty has been established is outlined below. The Zoning Board of Appeals is not authorized by law to approve an application for a variance unless it has been found positively that each of the following criteria has been met:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district.
- The strict and literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- That the special conditions and circumstances do not result from the actions of the applicant, particularly any failure of the applicant to investigate the requirements of this Ordinance before purchasing the property upon which a variance is requested, and
- That granting the variance requested will not confer on the applicant any special privilege that is denied to this Ordinance to owners of other lands, structures, or building in the same district.

## F.A.Q.

No. Financial reasons cannot be considered by the ZBA when determining if a practical difficulty has been established.

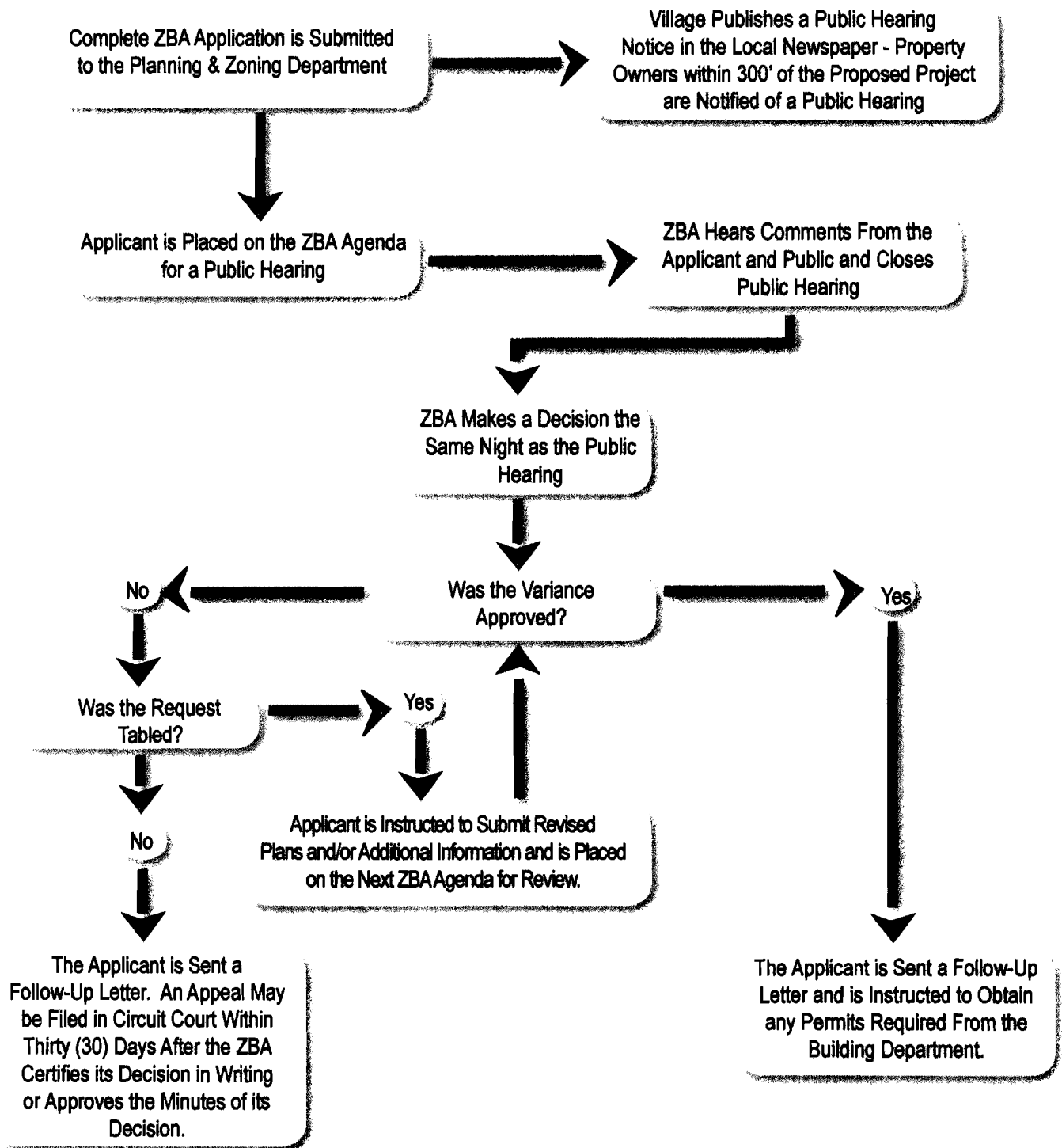
No. The ZBA must find that each of the criteria for establishing a practical difficulty has been met. If a site can be reasonably designed in such a manner that a variance can be avoided, it is unlikely that a practical difficulty can be established.

Yes. The ZBA can only approve a variance amount determined necessary to accommodate the practical difficulty. The ZBA can never grant a variance amount that is more than what has been advertised.

## Remember!

If your request for a variance is based on a self-created issue, or an issue created by the actions of someone who owned the property previously, it will most likely not meet the definition of a practical difficulty. There must be something inherently unique about your property that prevents you from meeting the strict requirements of the Zoning Ordinance.

# ZBA Variance Process Flowchart



# Village of North Branch

Village of North Branch Offices  
4018 Huron Street, P.O. Box 704  
North Branch MI 48461  
phone: (810) 688.2620 fax: (810) 688.4521

**TYPE OF REVIEW:**

Variance Request

Date: \_\_\_\_\_

Filing Fee: \_\_\_\_\_

Variance Number: \_\_\_\_\_

Receipt No.: \_\_\_\_\_

**LOCATION:**

Street Address and/or Location of Request: \_\_\_\_\_

**APPLICANT'S NAME:** \_\_\_\_\_

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

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Are You:      Property Owner: \_\_\_\_\_      The Owner's Agent: \_\_\_\_\_

                 Contract Purchaser: \_\_\_\_\_      Option Holder: \_\_\_\_\_

**APPLICANT REPRESENTATIVE:** \_\_\_\_\_

Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Legal Description of the Subject Property (or attach separately)** \_\_\_\_\_

**PARCEL IDENTIFICATION NUMBER (Tax ID No):** # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

**CURRENT ZONING OF THE PARCEL:** \_\_\_\_\_

**PRESENT USE OF THE PARCEL:** \_\_\_\_\_

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## VARIANCE/DECISION TYPE:

Check Below For The Item Which A Variance/Decision Is Being Requested:

- |  |  |
|--|--|
| <input type="checkbox"/> Lot Size            | <input type="checkbox"/> Temporary Uses      |
| <input type="checkbox"/> Lot Coverage        | <input type="checkbox"/> Residential         |
| <input type="checkbox"/> Lot Width           | <input type="checkbox"/> Setbacks            |
| <input type="checkbox"/> Area Requirements   | <input type="checkbox"/> Accessory Buildings |
| <input type="checkbox"/> Height Requirements | <input type="checkbox"/> Parking             |
| <input type="checkbox"/> Fences              | <input type="checkbox"/> Landscaping         |
| <input type="checkbox"/> Signs               | <input type="checkbox"/> Property Splits     |
| <input type="checkbox"/> Miscellaneous/Other | <input type="checkbox"/> Use Variance        |

## EXPLANATION:

The following general questions will typically be reviewed as a part of a variance request. Please respond to each of the five criteria as it pertains to your request.

That the strict enforcement of the provisions of the Village Zoning Ordinance would cause practical difficulty and/or unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.

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That the conditions and circumstances are unique to the property which are not similarly applicable to other properties in the same zoning district.

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That the conditions and circumstances unique to the property were not created by the owner or his/her predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.

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That the requested variance will not confer special privileges that are denied other property owners similarly situated and in the same zoning district.

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That the requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.

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If the requested decision is for an appeal of an administrative decision or interpretation please indicate the reason or rationale for such a request and any pertinent information relative to the request.

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The facts presented above are true and correct to the best of my knowledge:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Type or Print Your Name Here: \_\_\_\_\_





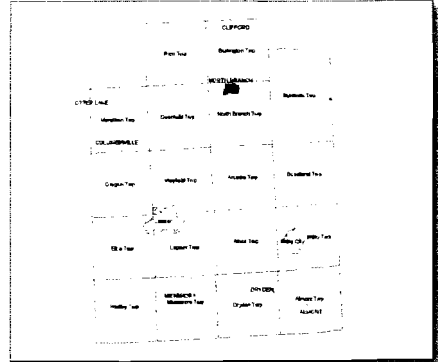
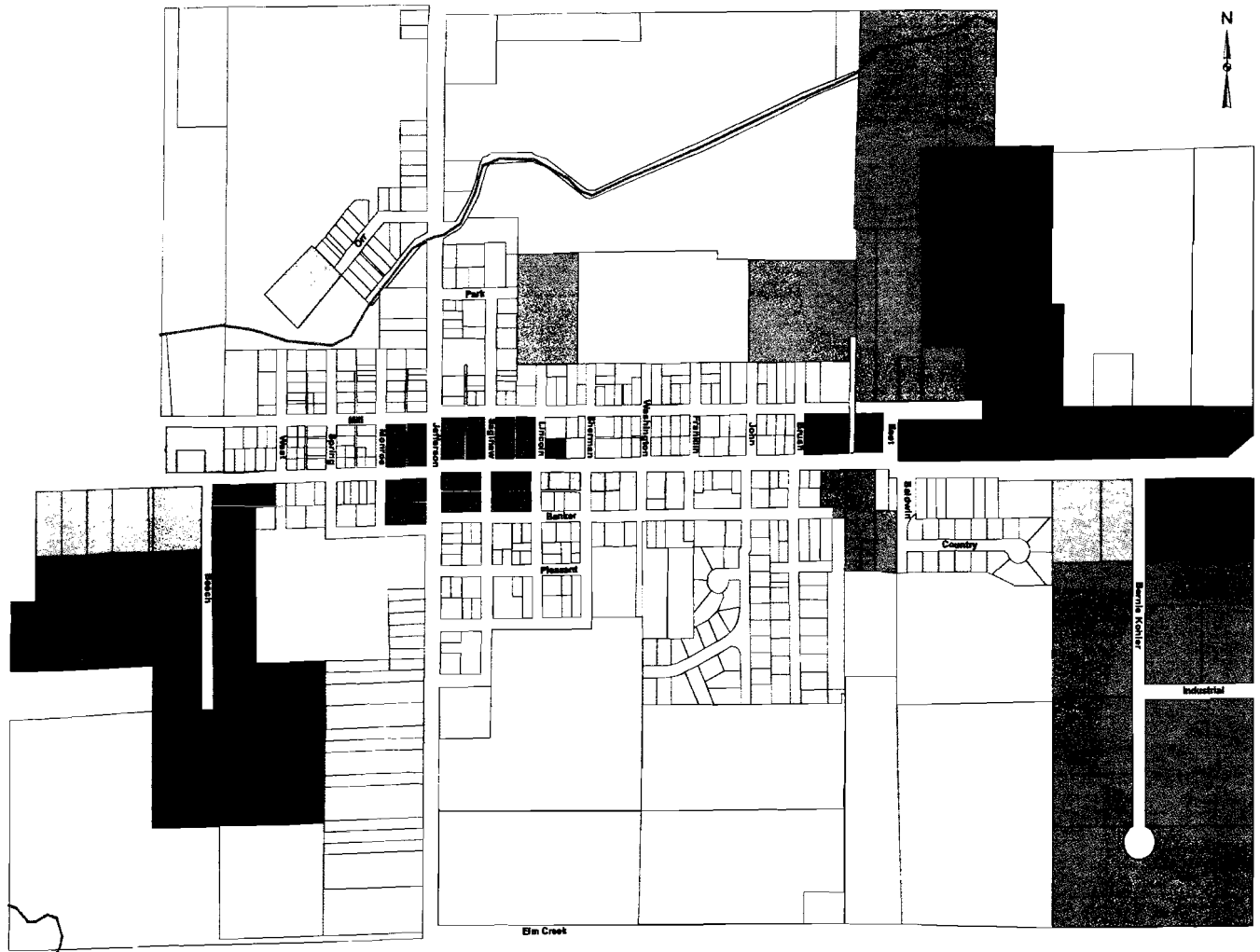
# VILLAGE OF NORTH BRANCH

Lapeer County, Michigan

## ZONING MAP

### LEGEND

- R1 - SINGLE FAMILY RESIDENTIAL
- RM RESIDENTIAL MULTIPLE FAMILY
- RMH RESIDENTIAL MOBILE HOME
- C COMMERCIAL
- C-1 COMMERCIAL/OFFICE
- CBD CENTRAL BUSINESS DISTRICT
- I-1 INDUSTRIAL
- I-2 HEAVY INDUSTRIAL



**Prepared By:**  
The Village of North Branch Planning Commission

**Adopted By:**  
The Village of North Branch Council

**Amended Thru:**  
April 1, 2010

**Base Map Provided By:**  
Lapeer County Esplanade Department