



**Hayes Township**  
**Zoning Variance Application**  
Zoning Administrator Phone (231) 547-6961

**GENERAL INFORMATION**

Name of Property  
Owner(s) \_\_\_\_\_

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

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

**PROPERTY INFORMATION**

Property Tax Code Number: 15- 007- \_\_\_\_\_

Legal  
Address \_\_\_\_\_

Nearest Road  
Intersection \_\_\_\_\_

Zone District \_\_\_\_\_

Please type or print; fill in all blanks and return with **\$935.00 fee** payable to Hayes Township

**VARIANCE OR INTERPRETATION REQUESTED**

Relief from the following Zoning Ordinance Section(s):

Please review the online copy of the zoning ordinance for the exact section number.  
[charlevoixcounty.org/hayes.asp](http://charlevoixcounty.org/hayes.asp)

Submit an exact scaled drawing on the reverse side of this document or on a separate sheet of paper showing

- lot location (road names, lakeshore, streams, easements, rights-of-ways, unusual topographic features),
- lot dimensions,
- location and dimensions (including height) of existing and proposed structure(s),
- distance between structure(s) and front, rear, and sides lot lines,
- location of driveway giving distance to nearest side lot line,
- locations of well, septic tank and drain field,
- other structures and uses within 100 feet of the property.

Note: Applicant must supply exact maps, drawings, etc. in order to inform the Zoning Board of Appeals of the type of building or activity, and how it will look when desired construction is completed.



**DESCRIBE REASON FOR REQUESTED VARIANCE,  
INCLUDING EXACT SIZE AND TYPE OF VARIANCE NEEDED.**

**DESCRIBE THE PRACTICAL DIFFICULTY THAT EXISTS**

What are the unique conditions of your situation)?

**EFFECT ON APPLICANT IF VARIANCE IS DENIED**

What specific problem(s) would be created to you, as applicant, if your request is not granted? What rights that others enjoy, will you be denied if this variance is denied?

**EFFECT OF REQUESTED VARIANCE ON OTHER PROPERTIES**

If your variance request is granted, what effect will it have on the area? Does your request represent a change in the types of uses permitted? Will it hamper access by emergency vehicles or personnel? Will it restrict light, air, or access to adjacent properties? Will it in any other way create problems or concerns to other properties in the area?

**APPLICANT'S STATEMENT AND AUTHORIZATION**

I understand that if the requested variance is granted, I am in no way relieved from all other applicable requirements of the Hayes Township Zoning Ordinance. It is also understood that any approval by the Zoning Board of Appeals involving site improvements, use, and/or construction does not relieve the applicant from obtaining other applicable authorizations (for example, site plan, building, health department, soil erosion , and engineering approval, etc.).

I authorize Hayes Township staff and Zoning Board of Appeals members to enter upon the subject property for purposes of making site inspections related to the project and request identified in this application.

I believe that all the above information in this Zoning Variance Application is accurate to my fullest knowledge.

Owner(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant must supply seven (7) copies of all required documents (1 original & 6 copies)

Property owners within 300 feet of this property will be notified by US mail of this variance request

The general public will be notified of this variance request by publication in a local newspaper.

**Application must be submitted by the first of the month to have the request heard the following month.**

Application and fee can be sent to:

Zoning Administrator  
Hayes Township  
09195 Old US 31 N.  
Charlevoix, MI 49720

231-549-6961

**Zoning Administrators Signature** \_\_\_\_\_

**DATE RECEIVED** \_\_\_\_\_

**CASE NO.** \_\_\_\_\_

**NOTE: The Township may need to inspect the layout of the building(s) and property to verify all application information. The signature of the applicant on this application authorizes the inspection of this property.**

## **SECTION 8.07 VARIANCES**

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.
5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.

## **SECTION 8.08 CONDITIONS OF APPROVAL**

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in section 9.03 of this Ordinance.

## Zoning Board of Appeals Process - Additional Applicant Information

The purpose of the Hayes Township Zoning Ordinance is to promote the public health, safety and general welfare of the township. It encourages the use of lands in accordance with their character and adaptability and limits the improper use of land; controls sprawl and maintains rural character; controls congestion on the public roads; facilitates infrastructure and considers the character of each zoning district.

It is impossible to write the perfect ordinance that covers every conceivable use, configuration, size, water features, environmental aspects, terrain or non-conformities. Thus, the Zoning Board of Appeals was established by the Michigan Zoning Enabling Act for:

1. Interpretation of the zoning map.
2. Interpretation of the ordinance text.
3. Decisions made by the zoning administrator.
4. Decisions made for enforcement of zoning.
5. And, anything else referred to the appeals board or that the township ordinances indicate can be appealed to that board.

The Zoning Board of Appeals is made up of five Hayes Township residents who volunteer their time to serve their community. There are five members so that different perspectives are taken into account in an effort to be fair to the applicant. The Zoning Ordinance is law. The Zoning Board of Appeals has the responsibility to enforce the ordinance (the law) unless there are unique or special circumstances that may prevent the applicant from using his or her property if the strict compliance of the ordinance is required. A good example might be a highway that has a minimum speed limit. The law says the minimum speed limit is forty five miles per hour, but if the road is covered with ice, is it unreasonable for someone to go slower? The Zoning Board of Appeals is the board that considers all factors to decide if the zoning ordinance requirements are unreasonable for a specific use or property.

The process for interpretation, deliberation and decisions of the Zoning Board of Appeals is dictated by the State Zoning Enabling Act, is adopted as law by the township, and is incorporated in Article VIII of the Hayes Township Zoning Ordinance. Section 8.07 of the Zoning Ordinance outlines the *five* point criteria the board is required to use. Listed below are those *five* criteria with some further explanation:

- 1) The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water or topography and is not due to the applicant's personal or economic hardship.

*There are several properties in the township that do not meet the minimum requirements of the current zoning ordinance, or that have unique features, making it difficult to meet the yard setbacks. The board may only consider a hardship/unique circumstance as it relates to the physical conditions of the property. They cannot consider personal hardships.*

- 2) The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).

*A self-created hardship is an action taken by an individual that causes their property or use to no longer meet the requirements of the zoning ordinance. A couple of examples might be: building too close to a property line or selling part of the property.*

*The Zoning Board of Appeals must always assume a buyer purchased the land knowing the property did or did not meet current zoning requirements.*

- 3) That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

*A variance can only be granted for circumstances unique to the property as listed above. A variance cannot be granted for something unique to the property owner.*

*The Zoning Board of Appeals needs to figure out if there is a way to accomplish the same purpose without a variance. And, if denying the variance would prevent the owner from using the property for uses that are allowed by right within the zoning district.*

- 4) Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

*The zoning ordinance is not meant to take away all of an individual's property rights, however, when these regulations treat an applicant unfairly in relation to the unique aspect of the land or other properties in the vicinity, the Zoning Board of Appeals may look at relaxing the requirements of the ordinance. The Zoning Board of Appeals must first decide whether a lesser variance could accomplish the same or fair benefit. The Zoning Board of Appeals is required to stay as close to the zoning ordinance as possible.*

- 5) That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.

*The zoning ordinance was adopted to allow organized and planned development while protecting properties and uses of properties. The ordinance and the reasons for having the ordinance should be respected in an effort to protect.*

The Zoning Board of Appeals must consider all five criteria, review the application and materials provided with the application, discuss information gathered at site visits, consider Zoning Administrator and applicant presentations, comments made from the public, written correspondence, and property history when determining the "findings of fact". The findings of fact are then discussed to make a determination as to whether a variance should be granted or not.

The Zoning Board of Appeals follows the process outlined below:

- The Chairperson declares the public hearing open.
- The Zoning Administrator introduces the case and presents exhibits.
- The Applicant(s) are recognized and either they, or their agent, are allowed to present the case. *It is important for the presenter to understand that only the facts of the case as they relate to the property can be considered. Please remember that the Zoning Board of Appeals cannot consider personal or economic hardships.*
- Board Members report on their site inspections, if any and ask questions they may have for the Applicant(s) or the Applicant's agent.
- Discussion may take place between the Applicant(s)/agent and Board Members.
- Members of the public are given opportunity to speak to the case during public comment portion of meeting.
- Any written correspondence received about the variance, is read or has been included in member packets.
- Anyone can ask the Board questions regarding the Applicant's presentation or speeches that were given. The Board will attempt to obtain answers. Answers and questions must be addressed to the chairperson. In order to maintain order and ensure that all questions and comments are considered, no discussion, questioning and answering, shall take place between any two or more persons except between Board Members and whoever has the floor. *During this portion of the meeting it is important that the board and the members of the audience conduct themselves in a professional, respectful manner.*
- **The Chairperson declares the public hearing closed. The Applicant(s), their agent, and the general public are asked to not interrupt or distract the Board in any way as they begin deliberations on the case.**
- The Board reviews applicable sections of the Hayes Township Ordinance.
- The Board reviews the facts as known and discussion takes place gathering findings of fact until a member puts forth a motion that includes the findings of fact. With support of that motion, voting shall be by roll call and shall be recorded.
- The hearing is over and the board may take up any further business it may have pending, prior to adjournment.

**Again, it is important that all persons show respect for each other understanding that the applicant has a personal interest, and the Board has a responsibility to uphold the Ordinance.**

**We encourage you to meet with the Zoning Administrator prior to the Zoning Board of Appeals meeting to answer any questions you may have about the meeting process. This can be done during the Zoning Administrators regular business hours, or 30 minutes prior to the scheduled meeting at the Hayes Township Hall.**

#### **Hayes Township**

Office of Zoning Administrator

09195 Old US 31 N

Charlevoix, Michigan 49720

[zoning@hayestownshipmi.gov](mailto:zoning@hayestownshipmi.gov) U11 IJ11 & •,

**Regular office hours are Mondays 8:00-12:00 and Wednesdays 12:00-4:00.  
Please call if you would like to meet just prior to the meeting.**

