

**CHESHIRE TOWNSHIP
ZONING VARIANCE APPLICATION
AND INFORMATION PACKET**

June 2024

CHESHIRE TOWNSHIP

ZONING VARIANCE APPLICATION INSTRUCTIONS AND PROCEDURES

State law and the Cheshire Township Zoning Ordinance give limited authority to the Zoning Board of Appeals (ZBA) of Cheshire Township to grant a variance from a dimensional or other “non-use” provision of the Cheshire Township Zoning Ordinance. All variance requests are subject to the following instructions and procedures:

1. If a proposed project will require a variance, a prospective applicant should review the “Background Information” segment of this packet and consider whether the project can be revised to comply with applicable ordinance requirements without variance relief.
2. If variance is to be requested, applicant must complete the Application For Variance form, including the “Lot Diagram” sheet and any other required attachments.

Note: the ZBA may determine a boundary survey is necessary to properly evaluate a variance application.

3. Applicant files completed application and all supporting information with Township Clerk.
4. Applicant pays required application fee to Township Clerk. Note: Cheshire Township has approved an “actual costs incurred” application fee policy on various types of applications (Resolution #2024-2, adopted and effective March 4, 2024). This policy requires payment of a “base application fee”, and for some types of applications also requires payment of an “initial escrow deposit”. The base application fee on a variance application is presently \$500.00; no escrow deposit is required with a variance application.

Note: ZBA meetings are scheduled as needed. Township has an application submittal deadline for each meeting, to provide sufficient time to comply with legal notice requirements, have application reviewed by Zoning Administrator, and distribute application materials to ZBA members prior to meeting.

5. Applicant must stake-out boundaries of proposed project not later than filing of application.

Note: ZBA members may individually view property and staked-out site before meeting. Filing of application is considered consent to such visits.

6. Township will inform applicant of meeting date application will be considered, and comply with all legal requirements relating to giving notice of hearing on application to property owners and general public.
7. Applicant is expected to attend ZBA meeting at which application will be considered and/or have informed representative attend on behalf (for example, their proposed building contractor or architect).

Applicant must be prepared to explain details of proposed project and facts on which applicant is relying to support requested variance. Applicant has burden of proof on every variance application, based on “variance standards” specified in Section 19.8.1 of Cheshire Township Zoning Ordinance, and all other factors relating to legal authority of ZBA to grant variance relief.

8. Applicant may expect ZBA public hearing/meeting to generally follow this format:
 - ZBA introduces application and requests initial comments from Zoning Administrator and/or Township Attorney.
 - Applicant explains proposed project and facts applicant believes justifies granting variance.
 - General public comments on application.
 - ZBA discusses request and makes findings of fact relevant to variance approval standards.
 - ZBA makes decision on application.
9. ZBA decision options include:
 - denial of any variance relief.
 - approval of variance application as submitted (with or without conditions).
 - approval of variance, but different than requested by applicant (with or without conditions).
 - table application for additional information and/or for applicant to consider revising proposed project.
10. If variance relief is approved, all required construction permits must be obtained before beginning any on-site work associated with project.

Note: an approved variance expires three months after approval date, unless necessary construction permits have been obtained and authorized work has begun. The approved project must also be completed within 12 months, or the variance is deemed abandoned and withdrawn.
11. If variance application is denied, it cannot be reheard by ZBA for one year from date of denial, unless ZBA finds grounds for rehearing based on either newly discovered evidence or proof of changed conditions which were not known to applicant or ZBA at time of initial hearing.
12. All ZBA decisions are shown in ZBA meeting minutes, and are usually certified in writing at ZBA meeting. All proposed and approved meeting minutes are public records available at Cheshire Township Offices in accordance with applicable state laws and township policies.

Note: Incomplete applications will not be accepted, and no application will be considered complete without payment of application fee in full. ZBA also reserves right to request additional information from applicant to give proper consideration to requested variance.

APPLICATION FOR ZONING VARIANCE

---BACKGROUND INFORMATION---

Applicants for a variance from the Cheshire Township Zoning Ordinance should be aware of the standards the Zoning Board of Appeals (ZBA) applies when considering such applications. These standards are found in Section 19.8.1 of the Ordinance and state:

VARIANCE STANDARDS:

1. Standards: No variance in the provision or requirements of this ordinance shall be authorized by the ZBA unless the ZBA finds from reasonable evidence that:
 - By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are **practical difficulties** preventing compliance with the strict letter of the Ordinance.
 - Such variance will not be of substantial detriment to adjoining property.
 - Such variance will not materially impair the intent and purpose of this ordinance or of the public health, safety and welfare.

If the ZBA finds all of the preceding standards to be satisfied, to grant variance relief the ZBA must further find that two (2) of the following facts and circumstances exist:

- a. That the exceptional or extraordinary circumstances or conditions applying to the specific property do not apply generally to other properties in the same zone; or,
- b. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone; or,
- c. That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this zoning ordinance.

In determining whether the standards for variance relief have been shown to be satisfied the ZBA shall be governed by the following additional legal principles:

- The circumstances or conditions submitted by the applicant to justify the variance relief must pertain to the property at issue, and

not the personal circumstances of the applicant and/or other occupants or users of the property.

- The circumstances or conditions submitted by the applicant to justify the variance relief must not have been self-created by the applicant or some other person under the control of the applicant or for whose conduct the applicant is responsible.
- Increased costs associated with complying with the strict letter of the ordinance are not a basis for variance relief.
- Increased financial return if variance relief is granted is not a basis for variance relief.
- The ZBA may find the standards for relief from the strict letter of the ordinance have been shown to be satisfied, but not to the extent of the variance requested by the applicant, and in such circumstances the ZBA shall grant only such lesser variance relief as is necessary.

When applying for a variance applicants should ensure their written materials are clear, factually correct, and directly address the following issues:

- What are the exceptional or extraordinary circumstances involved?
- How are those circumstances related to the specific property under consideration?
- How would denial of a variance preclude the use of the property in a manner otherwise allowed in the zone?
- What alternatives to the proposed variance have been considered, and why are they not viable?

Applicants may find the following comments helpful in preparing their justification or in deciding whether or not to apply for a variance:

- Economic factors---in adding a structure or making a change to a structure, the fact that it will cost more to comply with the Ordinance than it would if a variance is granted is not justification for a variance. Increased cost is not considered a “practical difficulty” for the purpose of justifying a variance.
- Property characteristics---applicants should be able to demonstrate some aspect of the property that makes it virtually impossible to comply with the strict letter of the Ordinance requirement. For example, terrain features such as hills or wetlands; lot features such as shape or shoreline configuration; or other relevant features.

- Personal circumstances---personal circumstances of the applicants, rather than the circumstances or conditions of the land itself, do not justify variance relief. The applicants preferred design or layout for a structure is therefore also not sufficient to establish the requisite “practical difficulty” to justify a variance.
- Crowded land or buildings---the fact that the property has been developed in such a manner as to be crowded and afford little space for addition to or change of structures does not justify a variance. Such conditions are often found in lake front properties, and older plats, and the Ordinance and township policy are consistent in their direction not to make such nonconforming conditions worse.

The current Cheshire Township Zoning Ordinance was adopted in 2007 and includes various amendments made since then. The ZBA generally does not approve variance applications where the justification is based only on comparison to conditions that were existing before 2007.

The ZBA has very limited authority to grant variances from zoning requirements. Variance applications involving a worthy project will nevertheless be denied if the applicant is not able to show compliance with the legal standards governing the approval of variance relief. When a variance is denied the ZBA or Zoning Administrator may try to explain what the Ordinance does allow, or help applicants modify their proposed project so that it complies with the Ordinance requirements and still achieves their objectives.

**CHESHIRE TOWNSHIP ZONING BOARD OF APPEALS
APPLICATION FOR VARIANCE**

Name of Applicant: _____ Date: _____

Mailing Address of Applicant: _____

Property Address: _____

Property Tax ID Number: _____ Present Zoning: _____

Interest of Applicant in the Property: _____
(Deedholder, Land Contract Purchaser, Lessee, Other)

If Applicant's interest is other than deedholder, does Applicant have consent of deedholder to proposed project and this application? Yes ___ No ___

Generally describe proposed project (i.e. addition to house, attached garage, detached accessory building, etc.): _____

*Attach completed "Lot Diagram" (and survey when required); and drawing of proposed construction with dimensions and elevations.

Indicate requirement/ordinance section number from which variance is requested, and specify requested variance: _____

Identify the conditions of the property you believe create "practical difficulties" that prevent compliance with the ordinance requirement*: _____

*Attach additional sheets as necessary.

Applicant(s) Telephone Number(s):

Signature of Applicant(s):

*******FOR OFFICE USE ONLY*******

Application #: _____ Hearing date: _____ Form of appl. fee: _____

LOT DIAGRAM
(on this sheet, or attached site plan)

Applicant/Owner: _____

Property Address: _____

Property Tax ID Number: _____

- 1.) Draw lot lines, including any contiguous property under same ownership (show dimensions in feet)
- 2.) Label all abutting streets
- 3.) Show location/type of existing structures, and their uses
- 4.) Show location/type of proposed construction, and proposed uses
- 5.) Show dimensions of all existing and proposed structures
- 6.) Show distance from all sides of existing and proposed structures to property lines (in feet, with all measurements from roof overhang or other closest point of structure)
- 7.) Show location of existing well and septic system/sewer connection
- 8.) Draw lakes, streams, and wetlands on the property

Signature of Applicant: _____ Date: _____