

CITY OF ESCANABA

BOARD OF APPEALS APPLICATION

All information must be completed in full before this application will be processed and scheduled for a Board of Appeals hearing.

PROPERTY OWNER(S):

Name(s): _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____
E-Mail Address: _____

AGENT: (If not Property Owner)

If the Property Owner(s) will have an agent serve on his or her behalf, the owner(s) must complete the attached Letter of Authorization.

Name(s): _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____
E-Mail Address: _____

SUBJECT PROPERTY:

Street Address: _____
Subdivision Name: _____ Lot Number(s): _____
Property Identification Number(s): _____
Zoning District(s): _____

FEE:

The application fee is \$250.00. Make checks payable to the City of Escanaba.

CHECK ALL THAT APPLY:

- To appeal an order, requirement, decision or determination of the Zoning Administrator when an error is alleged. You must attach a copy of the written determination of the Zoning Administrator that you are appealing. An appeal must be filed no later than thirty (30) days after the determination was rendered by the Zoning Administrator. The appeal must be filed with the Zoning Administrator.

- To request a variance. Identify the type and amount of variance(s) below. Example: Five foot (5') reduction of the twenty-five (25') rear yard setback (use additional paper, if necessary). Please state below:

DESCRIBE THE REASON(S) FOR REQUESTING A VARIANCE FROM ZONING ORDINANCE REQUIREMENTS:

DESCRIBE WHY THIS PROBLEM IS NOT SELF-CREATED:

DESCRIBE ANY NEGATIVE IMPACT TO THE ADJACENT PARCEL(S) THAT MAY RESULT FROM GRANTING OF THIS VARIANCE:

DOES THE PROPERTY POSSESS UNIQUE CHARACTERISTICS (NOT COMMON TO THE GENERAL AREA):

By signing below I certify that the information contained in this application is true and correct to the best of my knowledge and belief at the time of the application. I acknowledge that I understand and have complied with all of the submittal requirements and procedures, and that this application is a complete applicable submittal. I further understand that an incomplete application submittal may cause my application to be deferred to the next posted deadline meeting date.

Signature _____ Date _____

INSTRUCTIONS:

1. Have your completed Application turned into the Zoning Administrator’s Office located at 410 Ludington Street, 2nd Floor by the first Tuesday of the month with the \$250.00 fee paid.
2. Clearly state in your request exactly what you are asking the Board for (e.g. time extension, use variance, set-back variance, over-turnment, etc.)
3. If you are requesting a time extension from the Board, have a completion date in mind.
4. When you appear before the Board of Appeals, have all evidence and documentation concerning your appeal with you (e.g. any drawings or plans of any proposed change. If requesting a variance from yard set-back requirements, submit a plot plan indicating all set-backs).
5. Keep in contact with the Community Development and Planning Department so you can minimize any possible oversights or errors.
6. The complete appeal process will consist of an administrative review and an appearance before the Board of Appeals. All neighbors within 400 feet of your property will be notified of the public hearing and may appear before the Board to voice any objections, support, or to further inquire.

BOARD OF APPEALS INFORMATION

YOUR RIGHT TO APPEAL: Any person affected by a decision of the Administrator may request and shall be granted a hearing on the matter before the Board of Appeals, provided that a written request for such hearing is filed with the City Clerk, setting forth the name, address and telephone number of the petitioner and brief statement of the reasons for requesting such hearing and the \$250.00 fee paid. If the petitioner or his/her representative does not appear for the hearing, the provisions of the Zoning Code shall be enforced. Any owner aggrieved by any final decision or order of the Board of Appeals may appeal the decision or order to the 47th Circuit Court within twenty-eight (28) days from the date of the decision.

FEES: In accordance with Section XIII. Board of Appeals, Paragraph (22), the City Council has adopted a \$250.00 fee to be charged to applicants for appeals to the Board of Appeals. At the time the Application for Appeal is filed, the fee must be paid to the City Treasurer's Office of the City of Escanaba.

MEETING DATE/AGENDA: The Board of Appeals meets at the Call of the Chair. The order of business of each meeting is contained on an agenda prepared by City Administration. Agenda items must be submitted in a timely fashion or fifteen business days prior to the meeting date so that information can be verified, notifications can be made to property owners within 400 feet of the appealed property, and so that Board of Appeals Members can receive meeting information by the Friday prior to the Tuesday meeting.

NON-USE VARIANCES (DIMENSIONAL VARIANCE): A non-use variance, also known as a dimensional variance, is a modification of the literal provisions of the Zoning Ordinance which is authorized by the Board of Appeals when strict enforcement of the Ordinance would cause *practical difficulties* for the property owner due to circumstances *unique* to the property.

Uniqueness typically refers to sites-parcels which are odd in shape, small size, possess areas of wetlands or other water bodies, contain natural features like bedrock or threaten or endangered plant species, and the like.

Common regulations subject to non-use variance requests include:

1. Front, side, or rear yard setbacks.
2. Height requirements.
3. Parking requirements.
4. Lot coverage or bulk restrictions.
5. Landscaping or buffering restrictions.

STANDARDS/TESTS: The Michigan Courts have applied standards for variances that require the applicant to demonstrate a *practical difficulty* unique to the property (and not the applicant) exists in order for a variance to be granted. The following are the four standards (tests) that the applicant must be able to demonstrate:

- a. Is the current setback requirement unreasonable restrictive? Does it prevent the applicant from using their property as zoned?
- b. If the variance is granted, would the Board of Appeals be granting the applicant a privilege not made available to others? Is a variance of less size more appropriate? Will neighboring properties be negatively impacted?
- c. Does the property possess unique characteristics (not common to the general area)?
- d. Is the need for variance self-created.

When considering non-use variance requests, the Board of Appeals will ensure that the spirit of the Ordinance is observed, public safety secured, and substantial justice done.

If you feel your situation warrants a request for variance, you will be required to complete a Board of Appeals Application Form and pay the \$250.00 filing fee. No guarantees of any kind, implied or otherwise, will be made with respect to your request for variance. If your case is not presented using the four (4) fore mentioned standards, it is likely your request for variance will be disapproved.

LETTER OF AUTHORIZATION TO REQUEST AN APPEAL BEFORE THE BOARD OF APPEALS

PURPOSE: All applications for an appeal must be submitted to the City of Escanaba for review and approved prior to the scheduling before the Board of Appeals. Each application must include all data necessary to show that the requirements of the appeal are met. The purpose of this form is to authorize an outside party to request an appeal on behalf of the Property Owner. By authorizing this letter, the Property Owner fully understands complete compliance is the ultimate responsibility of the Property Owner.

DATE: _____

To Whom It May Concern:

I, _____, as the owner or agent for the property listed as
_____, Escanaba, MI 49829,

do authorize _____ or their authorized agent, to obtain an
appeal before the Board of Appeals for the above referenced property on my behalf.

Owner or Agent Signature

Date

E-Mail Address

Telephone Number

Sworn and subscribed to before me this _____ day of _____, 20____ and being
personally known to me as _____.

Notary Public

My commission expires: _____,
for Delta County, MI.

Notary Stamp