

DEXTER TOWNSHIP

PLANNING & ZONING DEPARTMENT



VARIANCE GUIDEBOOK

REVISED 04.14.2017

DEXTER TOWNSHIP - VARIANCE GUIDEBOOK

This booklet is a general guide to variances, the Zoning Board of Appeals, and the variance process to help you understand what to expect and answer questions you are likely to have.

This guide includes references to Michigan Compiled Law (*MCL*), which is shown as follows: MCL 125.3601(A). It also includes references to the Dexter Township Zoning Ordinance (*Zoning Ordinance*), which is shown as follows: §4.05(A).

As a convenience, web addresses and links have been included in this guide. Please be aware that these address and links may not work if the address or link has been changed.

Please contact Township Staff if you have any specific questions.

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➤ WHEN IS A VARIANCE NECESSARY?

A variance may be necessary when a property owner is unable to reasonably use or make improvements to a property due to unique physical characteristics of that property, making it unreasonable to comply with the Zoning Ordinance standards.

➤ WHAT IS A VARIANCE?

A variance is essentially an exemption from or permission to not meet a developmental standard of the Zoning Ordinance. A variance could be from setback, height, lot coverage, location, or any other developmental standard. Variances are heard by and may be granted by the Zoning Board of Appeals.

Dexter Township cannot hear requests for a variance from the use standards (using the property for a use that is not permitted). MCL125.3604(9), §4.20(E)

➤ WHO CAN APPLY FOR A VARIANCE?

Property owners or their agents, usually builders, may apply for variances. Proof of ownership or control of the property may be required.

➤ **WHAT IS THE ZONING BOARD OF APPEALS?**

The Zoning Board of Appeals is a 5-member body composed of Dexter Township residents, appointed by the Township Board. The Michigan Zoning Enabling Act, MCL 125.3601 et seq, and Article 4 of the Zoning Ordinance grants the Zoning Board of Appeals the power to grant developmental-standard variances, interpret the Zoning Ordinance, and hear appeals of administrative decisions.

➤ **WHAT DOES IT TAKE TO RECEIVE A VARIANCE?**

You must convince the Zoning Board of Appeals that your requested variance meets *all* of the decision criteria outlined in §4.30(C) of the Zoning Ordinance. At least 3 members of the Zoning Board of Appeals must vote to approve the variance request, even if there are fewer than 5 members present.

➤ **WHAT ARE THE DECISION CRITERIA?**

The following is a summary of the decision criteria that must be met in order to receive a variance, with some descriptions. The actual text can be found in §4.30(C) of the Zoning Ordinance. The Zoning Ordinance is available at the Township Hall or on the Township's website:

www.DexterTownship.org.

The Zoning Board of Appeals must find that all of the following decision criteria are true:

- The strict application of the terms of this Ordinance would constitute a practical difficulty.

A practical difficulty is “special or unique conditions that are peculiar to a lot that cause compliance with the standards of this [Zoning] Ordinance to deprive the property owner of substantial rights similar to those enjoyed by other lots in the same Zoning District. Economic, personal, or financial hardship alone does not constitute a practical difficulty. Additionally, inconvenience, aesthetic considerations, personal preferences, or neighbors’ opinions are not considered a practical difficulty.”

In general, a practical difficulty means that you cannot use your property in a reasonable manner, without a variance, because of some physical characteristic peculiar to your property.

You should be confident that it is not possible to change your plans a bit or locate the improvement in a different location where a variance would not be necessary.

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- The practical difficulty is due to some physical condition peculiar to the property involved.

Practical difficulties must relate to the property, not the applicant, including finances, health, or preferences.

There must be some physical condition, unusual shape, size, topography, etc, peculiar to the property that makes meeting the Zoning Ordinance standards unreasonable.

- The practical difficulty is not self-created.

The need for the variance cannot be because you built something that does not meet Zoning Ordinance standards or because you engaged in some other action that has resulted in a practical difficulty and made the variance necessary.

- The variance is a reasonable amount necessary to mitigate the practical difficulty.

The variance should a reasonable deviation from the Zoning Ordinance standards to allow for reasonable use of the property.

You should make sure it is not possible to reasonably use the property with a smaller improvement or a different location that would require a lesser variance.

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- Approval of the variance will not be injurious to the public health, safety, and welfare.

The requested variance should not harm public health, safety, or welfare.

The core purpose of every zoning ordinance is to protect the public health, safety, and welfare. This can be interpreted in a number of ways; it could relate to fire hazard, traffic hazard, water supplies, orderly development, etc.

- Approval of the variance will not affect the use or value of the adjacent properties or the area in a substantially adverse manner.

The requested variance should not cause substantial harm to adjacent properties or the area.

It is likely that any variance approval, or any structure that does not require a variance, will have some type of negative impact on the adjacent properties or the area. Variances cannot be granted when that impact is considered to be substantial.

- Approval of the variance is consistent with the intent and purpose of this Ordinance.

The requested variance should be consistent with the purpose and intent of the Zoning Ordinance in general, to protect the public health, safety, and welfare, and with the intent and purpose of the standard from which the variance is being requested from. The intent and purpose is described in Article 1 of the Zoning Ordinance and is usually described in the first section of the individual articles of the Zoning Ordinance.

➤ **WHAT IS THE PROCESS FOR RECEIVING A VARIANCE?**

Before Signing Up:

Try to get a fresh perspective and see if there is any way you can make the improvement in a manner that does not require a variance or in a manner that requires fewer or lesser variances.

Talk with your neighbors about what you are planning to do. They will receive public notices, eventually, and it is usually better for them to hear about it from you instead of hearing about it from the Township.

Signing Up:

You must gather the necessary materials and submit them and a fee, established by the Township Board, to the Director of Planning and Zoning (*ask Township Staff for a Zoning Board of Appeals application*). Submission of incomplete and inaccurate information may delay your variance request to a later meeting date.

See “[Completing the Variance Application Form](#)” in this guidebook, pages 15-21.

Township Processing:

Once the Director of Planning and Zoning certifies that the application is complete, it will be placed on the next available agenda for the Zoning Board of Appeals. *Please note that the Zoning Board of Appeals is limited to 6 petitions per meeting.*

Township Staff will prepare legal notices to run in the newspaper of record (*The Sun Times News*), to post on the Township’s website, and to mail to all properties within 300 feet of the property in question.

Township Staff will prepare a staff report for distribution to the Zoning Board of Appeals. This report is also available on the Township's website or by email, on request, 7 to 10 days before the public hearing.

If additional information or clarification is necessary, you will be contacted.

Your Responsibilities:

A public notice sign, given to you when signing up, should be posted on the property at least 15 days before the public hearing date and should be visible from the road. You should stake, paint, or mark in some fashion the extent of the proposed structure and mark all lot corners and lot lines, for your property, within 100 feet of the proposed structure at least 15 days before the public hearing date.

Public Hearing:

At the public hearing, Township Staff will present a report detailing your requested variance. Zoning Board of Appeals members may ask questions of staff.

Then, you address the Zoning Board of Appeals concerning your project and requested variance and explain why you think your variance request meets all of the decision criteria. You may be asked questions by the Zoning Board of Appeals members.

Members of the public are then given the opportunity to address the Zoning Board of Appeals. Following the public hearing, you may address any concerns raised during the public hearing.

The Zoning Board of Appeals will deliberate and may have additional questions or request additional information. If information is not available, the Zoning Board of Appeals may postpone the request until a later meeting.

If you do not think your variance request will be approved based on deliberations, you may request the Zoning Board of Appeals postpone your variance to a later meeting so you may submit revised plans. See [“Is It Possible to Change My Variance Request”](#) in this guidebook, pages 24. You must request a postponement before the Zoning Board of Appeals begins reviewing the decision criteria. The Zoning Board of Appeals will not offer this option at the meeting; you have to request it.

The Zoning Board of Appeals will then vote on whether or not the requested variance meets the decision criteria and vote on the variance request.

Submitting additional materials, especially large volumes or complex technical materials, at the meeting should be avoided. The Zoning Board of Appeals may not have adequate time to review them, and your variance request will likely be postponed to a later meeting.

➤ **WHY IS THE DEADLINE SO EARLY?**

In order to protect the due process rights of all individuals who may be affected by a variance, the public meeting must be noticed before the meeting date to allow enough time for interested persons to make arrangements to attend the meeting. MCL 125.3103 and §3.07 of the Zoning Ordinance require that a notice of a public hearing be published in a newspaper of general circulation in the community and that letters be sent out to the interested properties at least 15 days before the public hearing.

Because our meetings are on a Tuesday and the newspaper publishes once a week, on Wednesday, our notices are usually published 20 days before the public hearing; the newspaper must receive the legal notice a week before publication.

➤ WILL MY VARIANCE BE APPROVED?

It is very difficult to predict what might happen. Unlike courts, the Zoning Board of Appeals is not precedential; if they approve something for one property, they are not required to approve it for another. This is because they look at each case individually and the conditions present for that specific property.

If you want to get a sense of Zoning Board of Appeals deliberations, you are highly encouraged to attend meetings before applying.

If you cannot attend, all of the meetings are streamed live and recorded for later viewing any time at: <http://new.livestream.com/DexterTownship>. The meetings are titled: “Zoning Board of Appeals” with the hearing date.

Agendas, staff reports, links to videos, and minutes from previous meetings can be found on the Zoning Board of Appeals page on the Township’s website: <http://DexterTownship.org/BoardCommission/ZoningBoardofAppeals.aspx>.

In general, you should have a solid answer as to why/how your requested variance meets all of the decision criteria, and you should not be able to imagine any reasonable alternative to the requested variance.

➤ **COMPLETING THE VARIANCE APPLICATION FORM**

It is your responsibility as the applicant to supply all of the necessary information. Township Staff may assist you but cannot complete it on your behalf. All of the section references are to the sections of the Variance Application Form. (*revised 10/22/2014*)

Section 1 - Applicant Information:

This section is related to the applicant, who may be the property owner or somebody submitting the application on the property owner's behalf.

Section 2 - Owner Information:

If the owner is the applicant, check the "Same as Applicant" box in §(1)(a), and leave the rest of this section blank. If the owner is not the applicant, complete this section. Make sure to use the owner's mailing address, which may be different from the address of the property where the variance is being requested.

Section 3 - Property Information:

This section is related to the property where the variance is being requested.

- §(3)a: You only need to include the street address; the city and zip code are not necessary.
- §(3)b: The tax/parcel identification number(s) will be included on tax bills; it should start with D-04. You can also find your tax/parcel id number on the Washtenaw County Online GIS or through the Township's website.
- §(3)c: The Zoning District will be available on a large map in the Township Hall. Updated maps are not yet posted on the Township's website, but the Zoning Map included in the Master Plan is generally accurate.
- §(3)d: Describe what's on the property now, for example: *"The property is vacant,"* or *"there is a 2-story house with an attached garage measuring roughly 30 feet wide by 40 feet deep."*

Section 4 - Application Checklist:

This section lists necessary and optional information to include in your application. Items a-e are required for all variance applications. Item f is necessary if your variance is related to a structure. Item g is necessary if your property is located within a sewer district.

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- §(4)b: The application fee will vary based on the number of variances requested as part of your application. The current fee schedule is available on the Township's website.
- §(4)c: Please consult with §6.03(A) or (B) of the Zoning Ordinance to make sure you have an appropriate site or plot plan. If the plan is legible and reproducible in letter size, legal size, or 11x17, you can submit 1 copy; if the plan is on a larger sheet of paper, you need to submit at least 8 copies. You are also welcome to submit a digital copy.
- §(4)d: A legal description should be included in your deed. It should also be available from the County Register of Deeds. If you are having difficulty finding the legal description for your property, please contact Township Staff as soon as possible.
- §(4)e: If you have a mortgage for your property, it's very likely that you were required to get a mortgage survey. If you cannot find the property corner markers or are requesting a significant variance, it is highly recommended that you arrange for a boundary survey. We recommend contacting surveyors well in advance, as it may take a while for them to conduct a survey. We also recommend they contact the Township to make sure they are familiar with what will be necessary to show.

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- §(4)f: If your variance involves a structure, a house, garage, shed, deck, fence, etc, you will need to include plans of that structure. They do not need to be the finished plans showing the location of every outlet, but the more polished the plans are, the easier it is for the Zoning Board of Appeals to review. If the building plans are legible and reproducible in letter size, legal size, or 11x17, you can submit 1 copy; if the plans are on a larger sheet of paper, you need to submit at least 8 copies. You are also welcome to submit a digital copy.
- §(4)g: If your property is within the Multi-Lakes Water and Sewer Authority or the Portage Base Lakes Area Water and Sewer Authority district, you will need to receive their approval of the plans before submitting your variance application. They will either write a letter for you or sign the plans directly.
- §(4)h: Section 7 of the Variance Application Form has a place for you to give answers to the decision criteria. If you cannot fit all of your answers there or would prefer to type them, feel free to include them as a separate attachment.
- §(4)i Letters of Support: Some applicants ask their neighbors to send letters of support or sign a petition. This is not necessary, but feel free to include it if you would like to.

- §(4)j Pictures: Some applicants include pictures with their application to better illustrate the conditions and what they want to do. They are not necessary, but feel free to include some if you would like to.
- §(4)k Other: It is impossible to predict everything that might be included in a variance application. If there is anything else that you want to include, describe it here.

Section 5 - Project Description:

Describe your project in your own words, for example: *“I want to build a deck in my lakefront yard that will be 2 feet above ground level and measure roughly 10 feet deep by 20 feet wide.”*

Section 6 - Variance Description:

This is the section where the variance or variances are listed. Column a is where you list the section of the Zoning Ordinance that you are requesting a variance from. Column b, “Requested,” is where you list what you are asking to do. Column c, “Required,” is what the standard says you are supposed to do. Column d is your opportunity to give a brief description of the variance you are requesting.

As an example, if you are asking to construct a house 30 feet from the front lot line along Dexter-Pinckney instead of the 80 feet that is required, you would enter “30 feet” in column b, “80 feet” in column c, and “reduced front-yard setback from Dexter-Pinckney” in column d.

Section 7 - Decision Criteria Answers:

This is your opportunity to state why you think your variance request meets the decision criteria. Zoning Board of Appeals members understand that you are (*probably*) not a land-use attorney, so do not worry about using fancy legal terms. You will also have the opportunity to share more information with the Zoning Board of Appeals at the public hearing. Please see “[What Are the Decision Criteria](#)” in this guidebook, pages 5-9, for descriptions of the decision criteria.

If you do not want to share these answers with the Zoning Board of Appeals, check the box in §(7)h. You will still need to convince the Zoning Board of Appeals that you meet the criteria.

Section 8 - Applicant Affidavit:

Review all of the statements in this section and make sure you understand them. If any of them are unclear, please ask Township Staff to explain them further.

The applicant(s) need to sign and date. When the applicants are also the property owner, all of the property owners must sign this section. If the applicant is a builder or architect, that person should sign this section.

Section 9 - Property Owner Affidavit:

This section only needs to be completed if the property owner is not the applicant. Please add your name(s) to the first blank space and the name of the person you are authorizing to be your agent in the second blank line. All property owners need to sign and date this section.

➤ CAN I CONTACT ZONING BOARD OF APPEALS MEMBERS?

No, contact outside of the public hearing, also known as ex-parte contact, is not allowed. The Zoning Board of Appeals, as a quasi-judicial body, is required to base their decisions on information from the official record and the public hearing. If a Zoning Board of Appeals member asks you some questions about the variance request while inspecting your property, you may provide technical answers about your variance request (*where is it going, how tall is it going to be, etc*), but you should refrain from advocating for your variance.

➤ WHAT IF MY VARIANCE IS GRANTED?

Several things need to take place following approval of your variance before you can begin work on your project.

First, the Township will prepare a declaration outlining the variance approval and any conditions of the approval. Staff will need to know the marital status of the property owner and the name of the wife if the property deed is in the name of the husband.

Once the declaration has been signed by the Township, you will need to sign it with a notary and record it with the Washtenaw County Register of Deeds. Keep the receipt for the recording and bring it with you for the next step.

Next, you must apply for a Zoning Permit. (*Neighboring property owners who object to the granting of a variance have up to 30 days to file an appeal with the courts, so it is recommended to wait after that period to apply for a Zoning Permit if there was strong opposition at the meeting.*) You will need to bring 3 additional sets of plans with any revisions required by the Zoning Board of Appeals, a complete Zoning Permit Application, and the appropriate fee. In most cases, a Building Permit is also required. (*Contact the Chelsea Area Building Authority for details: 734.475.4420.*)

➤ **CONDITIONS OF APPROVAL**

The Zoning Board of Appeals may attach conditions to variance approvals. These conditions must be satisfied in order for the variance to be continued. Failure to meet the conditions voids the variance approval and could mean removal and/or fines of the improvements.

➤ **HOW LONG IS MY VARIANCE GOOD FOR?**

An approved variance is valid for 1 year from the date of the final decision. You need to apply for a Zoning Permit within that time. It is possible to request a single extension of up to 1 year; you will need to submit an application and fee, adopted by the Township Board, and meet certain criteria. See §4.30(H) of the Zoning Ordinance for further details.

➤ **WHAT IF MY VARIANCE IS DENIED?**

You have several options available:

- 1) Not pursue the improvements you wanted to make;
- 2) Revise your plans so that no variance is necessary;
- 3) Revise your plans to substantially address the reasons why it was denied by the Zoning Board of Appeals and apply again, as soon as the next day;

- 4) Reapply with the exact same plans 1 year after the denial is final; or
- 5) Appeal the denial to the Circuit Court. (*Filing is time sensitive.*)

➤ **IS IT POSSIBLE TO CHANGE MY VARIANCE REQUEST?**

It is possible to change a variance request both before and after approval.

At the meeting, you may feel that your request will not meet all of the decision criteria. You may request the Zoning Board of Appeals postpone your variance request to a later meeting before the Zoning Board of Appeals begins review of the decision criteria. If the Zoning Board of Appeals votes for a postponement, you can submit revised plans. This requires submission of an additional fee, established by the Township Board.

You can change the plans following approval if the revised plans: 1) are consistent with or less than what was approved and 2) do not contradict any conditions placed on the approval.

➤ **WHAT IF I DO NOT LIKE A VARIANCE MY NEIGHBOR RECEIVED?**

Affected parties may appeal the decision to the Circuit Court. (*Filing is time sensitive.*)

➤ **WILL I GET MY MONEY BACK IF DENIED?**

No. The fee covers costs incurred by the Township for processing and reviewing your application: publishing and mailing notices, holding a public hearing, and staff time.

➤ **TIPS FOR A SUCCESSFUL VARIANCE PETITION**

Before Filing Your Application:

Understand why your Zoning Permit was denied.

Determine if it is possible to live within the Zoning Ordinance standards for your project.

Determine if you really need a variance or just want one.

Work with Township Staff before the filing deadline to make sure your application is complete.

Talk with your neighbors. Let them know what you want to do. Listen to their concerns and adjust your plans if possible.

Understand the decision criteria the Zoning Board of Appeals uses when reviewing variance requests.

When Filing Your Application:

Write neatly and legibly on your application.

State specifically and clearly what you are requesting, why you need the variance, and how you feel you meet the decision criteria.

Submit all the necessary materials. Avoid submitting new materials, especially complex or extensive materials at the public hearing; doing so is likely to result in the Zoning Board of Appeals postponing your request to a later meeting.

Bring a check book or cash for the filing fee. The Township does not accept credit or debit cards, at this time.

Be aware of meeting deadlines and sign up as early as possible. See “[Schedule of Meetings/Deadlines](#)” in this guidebook, page 31. If you wait to the last minute, the next month’s agenda may already be full or you may not have time to address incomplete or inaccurate materials.

After Filing but Before the Hearing:

Make sure the sign is posted and visible at least 15 days before the hearing date.

Make sure the proposed structure and your lot corners and lot lines within 100 feet of the proposed structure are marked using stakes, paint, or some other method at least 15 days before the hearing date.

Be prepared for Township Staff and Zoning Board of Appeals members visiting the property; clean up your property.

Contact the Township or visit the Township's website for a copy of the staff report 7-10 days before the hearing date.

Ask your neighbors to come to the meeting or submit letters of support.

At the Hearing:

Arrive early and be ready to present your case.

Listen to earlier cases and how the Zoning Board of Appeals responds.

Listen to the Zoning Board of Appeals and answer their questions as best you can. Both their questions and discussion are important and informative of their concerns.

During Your Presentation:

Be concise and to the point. The Zoning Board of Appeals has reviewed your variance application, examined the materials you submitted, and inspected your property.

Remember that courtesy and civility are expected. The chairperson may have unruly individuals removed from the meeting.

You may speak yourself or have your builder or an attorney speak for you. If you are comfortable, it is usually best for you to speak and have your builder available to answer technical questions.

Demonstrate why the practical difficulty is unique to your property.

Demonstrate how your requested variance is the minimum necessary.

Demonstrate how your requested variance meets all of the other variance decision criteria.

Be honest. Misleading or false answers or inaccurate information may result in revocation of an approved variance.

➤ **RESOURCES**

Dexter Township Zoning Ordinance:

<http://dextertownship.org/Portals/46/docs/DexterTownshipZoningOrdinance.pdf>

Zoning Board of Appeals Staff Reports, Videos, & Minutes:

<http://dextertownship.org/BoardCommission/ZoningBoardofAppeals.aspx>

Variance Application Form:

<http://dextertownship.org/Services/Forms.aspx>

Multi-Lakes Water and Sewer Authority:

734 426.9797

<http://www.mlwsa.org/>

Portage Base Lakes Area Water and Sewer Authority:

810 231.5600

http://www.hamburg.mi.us/portage_base_lakes_sewer_authority/index.html

Washtenaw County Online GIS:

http://www.ewashtenaw.org/government/departments/gis/MapWashtenaw_Main.htm

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Washtenaw County Register of Deeds:

734 222.6710

http://www.ewashtenaw.org/government/clerk_register/cr_clkdeeds.html

Chelsea Area Construction Agency:

734 475.4420

<http://www.chelseaaconstructionagency.org/>

Dexter Township Offices: (8:30-4:30, M-F)

734 426.3767

DexterTownship.org

Dexter Township Director of Planning and Zoning:

734 426.3767

DPZ@DexterTownship.org

Annual Report: (including a list of previous variances)

<http://dextertownship.org/BoardCommission/PlanningCommission/AnnualReports.aspx>

➤ **SCHEDULE OF MEETINGS/DEADLINES**

All meetings are held at the Dexter Township Hall, 6880 Dexter-Pinckney, Dexter, MI, 48130. Meetings are held, as necessary, on the first Tuesday of the month at 6:00 pm, unless otherwise noted. ***Completed applications must be received by 12:00 noon on the deadline date.***

<u>Meeting Dates</u>		<u>Deadline Dates</u>
June 6, 2017	-	April 28, 2017
July 6, 2017	-	May 26, 2017
August 1, 2017	-	June 30, 2017
September 5, 2017	-	July 28, 2017
October 3, 2017	-	August 25, 2017
November 7, 2017	-	September 29, 2017
December 5, 2017	-	October 27, 2017
January 2, 2018	-	November 22, 2017
February 6, 2018	-	December 28, 2017
March 6, 2018	-	January 26, 2018

** The 2017/2018 Dexter Township Meeting Schedule has not been adopted at this time. The dates shown on above page are likely meeting dates, based on past years, and are subject to change.*

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