

## **VARIANCE REQUEST PROCEDURE**

Professional inquiries will be made to our attorney and our engineer to get their opinions at the compatibility of your plan to our zoning **AND OTHER AREAS THAT APPLY**. The costs of these inquiries will be passed on to you exactly as we receive them.

If you would like a copy of these reports please ASK. Sometimes these reports are not available until a day or two before your hearing.

The hearing will be held by the **ZONING BOARD OF APPEALS**.

Our attorney will be present to give legal guidance to help all in this process. **HIS FEES WILL BE PASSED ON TO YOU!!**

You may have your own attorney in attendance if you wish however, you still must pay for our attorney.

That Board either grants or denies your request. **ALL FEES MUST BE PAID BEFORE YOU BEGIN WORK ON YOUR PROJECT.**

**Frankenlust Township**  
**Zoning Board of Appeals**  
**VARIANCE APPLICATION**  
**\$550.00 Plus**

Dated Applied \_\_\_\_\_

Proposed Hearing Date \_\_\_\_\_

***This Application will not be accepted if incomplete. All required materials must be submitted at least 21 calendar days prior to the date of the Zoning Board of Appeals Mtg.***

**APPLICANT INFORMATION:**

(If different than owner)

Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

**OWNER INFORMATION:**

Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

**PROPERTY INFORMATION:**

Address or Location \_\_\_\_\_

Permanent Parcel # \_\_\_\_\_

Zone District (Current) \_\_\_\_\_

Property Size \_\_\_\_\_

Legal Description (Include on Reverse Side)

**REASON FOR REQUEST:** (If more space is needed, use other side.)

***Note: Include sketch and/or drawings and a detailed description of plan when applicable.***

**\* I/WE HAVE BEEN GIVEN THE PROCEDURE COVER SHEET AND AGREE TO PAY FOR ALL ADDITIONAL FEES SHOULD THEY BE NECESSARY. I/WE ALSO HEREBY ATTEST THAT THE INFORMATION ON THIS APPLICATION FORM IS, TO THE BEST OF MY/OUR KNOWLEDGE, TRUE AND ACCURATE.**

\_\_\_\_\_  
 (Applicant) (Owner)

\_\_\_\_\_  
 (Applicant) (Owner)

\_\_\_\_\_  
 DONNA L. REICHARD, CLERK

\_\_\_\_\_  
 Date Received Cash or Check #

**\*NOTE:** The above list consists of costs normally associated with developmental projects within Frankenlust Twp. This list is made available as a service to any potential developer to aid with the prediction of project costs. By no means is it intended to be all inclusive. There may be other expenses pertaining to a project that are specific to that particular site or development that are not listed. These costs may be increased without notice.  
 If granted no order of the ZBA regarding building erection, alteration, and use of a building or premises shall be valid for a period longer than six (6) months. See Sec. 23.07 Approval Periods in the Zoning Ord. Book for more specific details.

# FRANKENLUST TOWNSHIP

## *FEES Effective November 11, 2008*

Fire Dept. Incident Report – Per Report -----	\$ 20.00
Building Permit-----	Per Inspector
Electrical Permit-----	Per Inspector
Mechanical Permit-----	Per Inspector
Plumbing Permit-----	Per Inspector
Trash Bins-----	8.00
Assessor Card-----	3.00
Copies-----	Per Copy .25
Fax-----	Per Page 2.00
Tax Information-----	Per Parcel 1.00
Assessor Information-----	Per Parcel 3.00
Returned Checks-NSF-----	As Charged By The Bank
Minutes/Agenda-----	Walk-ins 3.00
Minutes/Agenda-----	Mail 5.00
Absentee Voter List-----	10.00
Absentee Voter List-Mailed-----	13.00
Absentee Voter Labels-----	15.00
Absentee Voter Labels-Mailed-----	20.00
Voter Registration List-----	35.00
Voter Registration List-Mailed-----	40.00
Ordinance Book (includes Zoning Book)-----	50.00
Ordinance Book (only)-----	25.00
Zoning Book (only)-----	25.00
Colored Maps-----	4.00
Master Plan-----	25.00
*Special Meeting-----	400.00
*Variance-Board of Appeals-----	550.00
*Site Plan Review-----	300.00
*Rezoning-----	375.00
*Special Exception Use-----	350.00
*Construction Board of Appeals-----	200.00

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A 1 ½% per month Finance Charge will be assessed on accounts not paid within 30 days. This is and ANNUAL PERCENTAGE RATE OF 18%.

**ARTICLE 23.00  
ZONING BOARD OF APPEALS**

**Sec. 23.01 BOARD ESTABLISHED.**

There is established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by 2006 P.A. 110, as amended, in such way that the objectives of this Ordinance are observed, public safety, morals, and general welfare assured, and substantial justice done.

**Sec. 23.02 BOARD MEMBERSHIP.**

- a. The Zoning Board of Appeals shall consist of the following five (5) members:
  - (1) The first member of the Zoning Board of Appeals shall be a member of the Township Planning Commission.
  - (2) The remaining four (4) members shall be selected from the electors of the Township; provided, however, that one of these may be a member of the Township Board, but he may not serve as Chairman of the Zoning Board of Appeals. The members selected shall be representatives of the population distribution and of the various interests present in the Township.
  - (3) An employee or contractor of the Township may not serve as a member or an employee of the Township Zoning Board of Appeals.
- b. The total amount the Zoning Board of Appeals members receive in any one (1) year as per diems, or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be appropriated annually in advance by the Township Board.
- c. The term of each member shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board where terms shall be limited to the time they are members of those bodies. When members are members first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
- d. The Zoning Board of Appeals shall not conduct business unless a majority of the members are present.
- e. Members of the Zoning Board of Appeals shall be removable by the Township Board for misfeasance, malfeasance, or nonfeasance of duty in office, upon written charges and after a public hearing. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute malfeasance in office.

### **Sec. 23.03 BOARD MEETINGS.**

All special meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and regular meetings at such times as the Township Board may determine. All meetings of the Zoning Board of Appeals shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings, and other official action, all of which shall be immediately filed in the office of the Township Clerk and shall be a public record.

### **Sec. 23.04 JURISDICTION AND APPEALS.**

- a. The Zoning Board of Appeals shall hear and decide questions that arise in the administration of this zoning ordinance, including the interpretation of the zoning map. The Zoning Board of Appeals shall also hear and decide on matters referred to it or upon which it is required to pass under this ordinance. It shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcement and of any provisions of this Ordinance. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative officials, or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to grant a variance in this Ordinance. An appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Township, County or State.
- b. An appeal shall be taken within a time as shall be prescribed by the Zoning Board of Appeals by general rules, by the filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals of a written notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit to the Board all the papers constituting the record upon which action appeal was taken.
- c. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the Zoning Board of Appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Circuit Court on application, on notice to the Building Inspector and on due cause shown.
- d. Following receipt of a written request concerning a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for a hearing of the request and give notice as provided in subsection e.
- e. Upon receipt of a written request seeking an interpretation of the zoning ordinance, an appeal of an administrative decision or a variance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person making the request not less than 15 days before the public hearing. In addition, if the request involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- f. At the hearing, a party may appear in person or by agent or attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

- g. If there are practical difficulties in the way of carrying out the strict letter of the zoning ordinance, the Zoning Board of Appeals may grant a nonuse variance in accordance with this subsection, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The Zoning Board of Appeals may impose conditions as is otherwise allowed under applicable law.
- h. The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance, or to any other nonuse-related standard in this ordinance.
- i. The authority to alter or change the Zoning Ordinance or zoning map is reserved to the Township Board, as is provided by law.

#### **Sec. 23.05 HEARING OPEN TO PUBLIC.**

The Zoning Board of Appeals shall make no decision in any specific case until after it conducts a public hearing following notice as provided in Section 23.04, above.

#### **Sec. 23.06 POWERS OF THE ZONING BOARD OF APPEALS.**

The Zoning Board of Appeals is a body of limited powers.

- a. The purpose of the Zoning Board of Appeals is to hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by Township officials in the enforcement of this Ordinance, and to hear and decide variances where there are practical difficulties in the way of carrying out the strict letter of this Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured, and substantial justice done.
- b. The Zoning Board of Appeals, by majority vote of its membership, may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.
- c. The Zoning Board of Appeals shall have the authority to grant variances as may be in harmony with the general purpose and intent of this Ordinance, so that public health, safety and welfare are secured, and substantial justice is done, including the following:

- (1) Interpret the provisions of this Ordinance in a way to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying this Ordinance, where street layout actually on the ground varies from the street layout as shown on the map.

In case of any question as to location of boundary line between zoning districts, the Zoning Board of Appeals shall interpret the zoning map after recommendation from the Planning Commission.

- (2) Permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes, in any zoning district to a greater height or of a larger area than the district requirements and permit the location in any district of a public utility building or structure if the Zoning Board of Appeals shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.

- (3) Permit the modification of the off-street motor vehicle parking space or loading space requirements where, in the particular instance, modifications will be consistent with the purpose and intent of the requirements, after recommendation from the Planning Commission.
- (4) Permit modification of the height, lot area, yard setbacks, floor area and lot width regulations as may be necessary to secure an appropriate improvement of a lot which is of shape or size, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without modification, provided that modification of lot area regulations shall be permitted only in instances where the nature of the soil and drainage is such that there is sufficient area for safe water supply and sanitary disposal of waste (unless public water distribution and/or sanitary sewage facilities are provided). Whenever the Zoning Board of Appeals determines that the same are necessary in order to render a decision, it may require the appellant to submit a topographical survey or the results of percolation tests certified by a Professional Engineer or Registered Land Surveyor.
- (5) Permit the modification of site plan review requirements, as may be established by the Township Planning Commission where practical difficulty and unusual circumstances peculiar to the property in question.
- (6) Permit temporary enclosures and/or uses, not provided for elsewhere in this Zoning Ordinance, for periods not to exceed two (2) years in undeveloped sections of the Township and for periods not to exceed six (6) months in developed sections.
- (7) Permit, upon proper application, temporary enclosures and/or uses which are not otherwise permitted in any district which do not require the erection of any substantial capital improvement of a structural nature. The temporary permit shall initially be granted for a period not to exceed twelve (12) months, extensions being permissible after a public hearing for each extension.

The Zoning Board of Appeals, in granting permits for the above temporary uses, shall do so under the following conditions:

- (a) The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property where the temporary use is permitted.
- (b) The granting of the temporary use shall be in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
- (c) All setbacks, off-street parking, lighting, and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township shall be made at the discretion of the Zoning Board of Appeals.
- (d) In classifying uses as not requiring substantial capital improvement, the Zoning Board of Appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.
- (e) The use shall be in harmony with the general character of the district.

- (f) No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held. Further, the Zoning Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.
- (g) In consideration of all appeals for variances, The Zoning Board of Appeals shall review each case individually as to its applicability to each of the following standards so that the results:
  - (i) Will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and applicable regulations of the zoning district in which it is to be located.
  - (ii) Will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to intersections, adequacy of sight distances, location and access of off street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian-vehicle contacts in residential districts.
  - (iii) Will be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
  - (iv) Will be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
  - (v) Will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township.
  - (vi) Is necessary for the public convenience at that location; is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
  - (vii) Will not cause injury to the value of other property in the neighborhood in which it is to be located.

#### **Sec. 23.07 APPROVAL PERIODS.**

No order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within that period, and erection or alteration is started and proceeds to completion in accordance with the terms of the permit. No order of the Zoning Board of Appeals permitting a use of a building or premises shall be valid for a period longer than six (6) months unless the use is established within the period; provided, however, that the order shall continue in force and effect if a building permit for erection or alteration is started, and proceeds to completion in accordance with the permit.