

ZBA REQUEST PROCEDURE

Applications to the Zoning Board of Appeals shall be made by filing at least eight (8) paper copies and two (2) digital copies in .PDF format of a complete and accurate application and associated materials.

NOTE: In addition to the non-refundable \$550.00 application review fee, a refundable escrow deposit shall be required at the time of application whenever the Township determines that a professional review or consultation is required by the:

- ♦ **Township Planner: \$500.00**
- ♦ **Township Engineer: \$750.00**
- ♦ **Township Attorney: \$1,000.00**

The cost to the Township for professional inquiries and reports regarding your application will be reimbursed to the Township as deductions from your refundable escrow deposit. The Township may require the escrow deposit to be replenished if the funds become depleted prior to the completion of the review process

If you would like a copy of these reports, please ASK. Sometimes these reports are not available until a day or two before the public meeting or hearing where your item will be on the agenda.

The hearing on your application will be held by the Zoning Board of Appeals, and the Township Attorney will be present to give legal guidance to the Board of Appeals. **HIS FEES WILL BE PASSED ON TO YOU!!** You may have your own attorney in attendance if you wish, but you still must reimburse the Township's cost for our attorney.

The Zoning Board of Appeals may approve, deny or approve a variance application subject to conditions. **ALL FEES MUST BE PAID BEFORE YOU BEGIN WORK ON YOUR PROJECT.**

Frankenlust Township
Zoning Board Of Appeals Application

- ☐ Variance \$550.00, plus the escrow deposit
☐ Appeal of Admin. Action \$550.00, plus the escrow deposit
☐ Other \$550.00, plus the escrow deposit

Dated Applied _____ **Proposed Hearing Date** _____

This Application will not be accepted if incomplete. Required materials should be submitted at least 30 calendar days prior to the next regular Planning Commission meeting date.

LEGAL OWNER:

APPLICANT: (If different than owner)

Name: _____

Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Email: _____

Email: _____

Address or Location: _____

Permanent Parcel #: _____

Zone District (Current): _____

Property Size: _____

Legal Description (If more space is needed, use reverse side): _____

REASON FOR THE REQUEST: Please attach a letter of explanation for the request and a summary of the facts and reasons why you believe it is consistent with the appropriate review criteria found in the Zoning Ordinance, along with plot plans, drawings, photos, and other documentation as applicable.

*** I/WE HAVE BEEN GIVEN THE PROCEDURE COVER SHEET AND AGREE TO PAY FOR ANY & ALL ADDITIONAL FEES THAT MAY ACCUMULATE OVER THE INITIAL DEPOSIT COST. I/WE ALSO HEREBY ATTEST THAT THE INFORMATION ON THIS APPLICATION FORM IS, TO THE BEST OF MY/OUR KNOWLEDGE, TRUE AND ACCURATE.**

Date Received:

(Legal Owner) *Printed Name*

(Legal Owner) *Signature*

Application Fee \$: _____

Application Check #: _____

(Applicant) *Printed Name*

Escrow Fee \$: _____

Escrow Check #: _____

(Applicant) *Signature*

DEE ANN LAPAN, CLERK

Note: The Township Board has established a fee schedule by resolution to defray fixed costs and expenses incurred by the Township to perform functions required under Zoning Ordinance No. 79. The provisions of Section 2.07 (Fees and Performance Guarantees) of the Zoning Ordinance shall apply to the use and disposition of non-refundable review fees and refundable escrow deposits required for this application. If granted, a Special Use Permit runs with the land unless rescinded by the Planning Commission. See Article 18.0 (Special Land Uses) in Zoning Ordinance No. 79 for more details.

Section 23.08 Variances.

The Zoning Board of Appeals (ZBA) 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, based upon the following standards:

A. Standards for Review.

The ZBA shall consider and make findings of fact regarding the following standards as part of the review of and action on any variance application:

1. **Practical difficulties.** Strict compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose.
2. **Substantial justice.** The variance will give substantial relief and justice to the applicant, consistent with justice to other property owners in the same district.
3. **Unique circumstances.** The need for the variance is due to unique circumstances peculiar to the land or structures involved, that are not applicable to other land or structures in the same district.
4. **Not self-created.** The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.
5. **More than an inconvenience.** The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience or an inability to attain a higher financial return.
6. **Preservation of property rights.** The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same zoning district.
7. **Public safety and welfare.** The requested variance can be granted in such fashion that the spirit of this Ordinance will be observed and public safety and welfare secured. In addition:
 - a. The granting of a variance will not increase the hazard of fire or otherwise endanger public safety.
 - b. The granting of a variance will not unreasonably diminish or impair the value of surrounding properties.
 - c. The granting of a variance will not alter the essential character of the area or surrounding properties.
 - d. The granting of a variance will not impair the adequate supply of light and air to any adjacent property.
8. **Minimum necessary action.** The reasons set forth in the application justify the granting of the variance, and the variance is the minimum necessary relief to allow reasonable use of the land, building, or structure. The granting of a lesser variance will not give substantial relief and justice to the applicant, consistent with justice to other property owners in the same district.

Section 23.07 Administrative Appeals.

Consideration of administrative appeals shall be subject to the following:

A. Standing to Appeal.

Appeals may be taken to the Zoning Board of Appeals (ZBA) by a person, firm or corporation aggrieved by the order, requirement, decision or determination; or by an officer, department, board, commission or bureau of the Township, county, state, or federal governments. Such appeals shall be filed within 30 calendar days of the order, requirement, decision or determination in question.

The appellant shall submit a description of the order, requirement, decision, or determination from which the appeal is made and the grounds of the appeal. The ZBA may require the appellant to submit additional information to clarify the appeal. The Township Clerk and Zoning Administrator shall transmit to the ZBA copies of all relevant papers constituting the record upon which the action appealed from was taken.

B. Stay of Action.

An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Administrator certifies to the ZBA after the notice is filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by a court of record upon application, upon notice to the Zoning Administrator from whom the appeal is taken, and upon due cause shown.

C. Determinations.

In hearing and deciding administrative appeals, ZBA review shall be based upon the record of the administrative decision being appealed. The ZBA shall not consider new information that was not presented to the administrative official or body charged with enforcement of this Ordinance. The ZBA shall reverse an administrative decision only upon determining that the order, requirement, decision or determination:

1. Constituted an abuse of discretion;
2. Was arbitrary or capricious;
3. Was based upon an erroneous finding of a material fact; or
4. Was based upon an erroneous interpretation of the Zoning Ordinance.

After making such a determination, the ZBA may, reverse or affirm wholly or in part; modify the order, requirement, decision or determination; or make such order, requirement, decision, or determination as ought to be made, and may issue or direct the issuance of a permit. To that end, the ZBA shall have all of the powers of the official(s) from whom the appeal is taken.