

## City of St. Marys Zoning Hearing Board Application Procedure

An applicant applying to the Zoning Hearing Board must fill out this application and *all other required information* for the Board to review an “Appeal”, a “Special Exception”, or a “Variance” application. **It is the applicant’s responsibility to submit one completed application form and zoning permit application, and two (2) copies of the application supplemental information, i.e. site plan, photographs and any other relevant documents or the application may be rejected for incompleteness. The submittal date of the complete application will determine the meeting date the case will be heard.**

Submit the following:

1. Zoning Permit and attached application form, completely filled out, including signature(s) of property owner(s) and applicant.
2. A site plan of the property, drawn to scale, showing actual dimensions, distances to property lines, and all existing and proposed structures, improvements, etc.
3. Photograph(s) of the location of the requested application. (Please bear in mind that the City cannot copy color photographs, so more than 2 copies would be helpful.)
4. A check for \$400.00 made payable to the City of St. Marys, which covers the cost of the hearing and the legal advertising.
5. If appropriate for your application, please furnish front, side, and rear elevations of the proposed structure or any proposed addition(s), along with a floor plan.

### IMPORTANT APPLICATION REQUIREMENTS / INFORMATION

1. A representative must be at the meeting to represent the application and be able to act on the owner’s behalf if the owner is not present and have the authority to accept conditions that the Board may impose.
2. A deed or signed sales agreement for the subject property must be entered into the record as evidence. These documents may be included with the application packet submittal.
3. The hearing will be advertised in a local paper of general circulation.
4. A notice will be posted on the subject property by the Zoning Officer at least seven (7) days before the hearing date. The notice must remain undisturbed on the property until removed by City officials. Any issues with the posting should be brought to the attention of the City Zoning Officer.
5. Copies of the decision are available to the applicant or any other party to the hearing upon written request.

## Specific Instructions for Special Exceptions

A use permitted via special exception approval is one envisioned by the ordinance as permitted if the express standards and criteria established by the ordinance are satisfied and the use is not injurious to the public interest. The specific criteria for special exceptions can be found in Part 4 of the Zoning Ordinance. The applicant must present evidence and/or testimony showing compliance with all criteria listed for that specific use. The proposal also cannot be detrimental to the health, safety, or welfare of the public. The applicant bears the burden of proof of compliance with the specific requirements of the Ordinance; while the Board or any objectors must prove that the proposal is detrimental to the public. An application that is not in compliance with all the criteria as indicated in the Ordinance will be rejected.

## Specific Instructions for Dimensional Variances

A variance is a solution to applying the general terms of the zoning ordinance to specific parcels of land, sometimes with unusual dimensions or under uncommon circumstances. The approval of a variance is only justifiable if a specific characteristic of the property makes compliance with the Ordinance impossible. This is commonly referred to as a hardship and this must be specific to the subject property and not a characteristic that applies to many properties in the area. A hardship cannot be self-created and only in extraordinary circumstances can financial costs be considered as a hardship.

## Specific Instructions for Use Variances

A use variance requests permission to use property in a manner prohibited by the Zoning Ordinance and requires that a hardship be proven for approval. In the case of a use variance the applicant must prove that the property cannot be developed in accordance with any permitted use or special exception allowed under the zoning district it is located in. The approval of a variance is only justifiable if a specific characteristic of the property makes compliance with the Ordinance impossible. This is commonly referred to as a hardship and this must be specific to the subject property and not a characteristic that applies to many properties in the area. A use variance will only be approved if there is no possibility that the property can be developed in strict conformity with the Zoning Ordinance and the variance is necessary to enable reasonable use of the property. Reasonable use of the property does not necessarily mean the use with the highest return or most financial gain and less potential financial gain does not constitute a hardship.

## Specific Instructions for Appeals

This process is less well-defined within the ordinance and is treated more like a judicial proceeding. The appellant can submit evidence to support their position or only present evidence at the public hearing. The other party to the case is the City; and the City Zoning Officer and possibly the City Solicitor will attend the hearing to present the City's position on the interpretation of the ordinance provision.

## City of St. Marys Zoning Hearing Board Application

Pursuant to the City of St. Marys Official Zoning Ordinance of 2005, the undersigned hereby submits attached information and requests a hearing before the St. Marys Zoning Hearing Board for the following purpose(s):

*(Please circle request(s))*      **APPEAL**      **SPECIAL EXCEPTION**      **VARIANCE**

**Property Address:** \_\_\_\_\_

Explanation of Application and Justification (Attach additional if needed):

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The zoning hearing board may grant a variance if all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood of district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property cannot be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property.
3. That such unnecessary hardship was not created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

I have read and understood the above requirements.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## City of St. Marys Zoning Hearing Board Supplemental Information Guidance

Applications for “Special Exceptions” shall provide documentation as to compliance with the categorical definition of the use type and that each specific requirement contained in the ordinance shall be met. Applications for “Variances” of the Zoning Ordinance shall not be granted unless the application for the variance demonstrates that the provisions of the Code inflict “unnecessary hardship” upon the applicant.

In determining “unnecessary hardship”, the applicant should provide answers to the following questions that the Zoning Hearing Board shall consider when deciding:

1. The property in question (will / will not) yield a reasonable return and there (can / cannot) be a beneficial use of the property without the variance.
2. List any special circumstances peculiar to the property / lot that are not common with adjoining lots or other lots in the neighborhood or area (i.e. irregular lot shape, size, narrowness, steepness, shallowness).
3. Will the variance, if approved, negatively impact public services (mail, water, sewer, public safety, infrastructure maintenance)?
4. Did the applicant purchase the property with knowledge of the Zoning Code? (Yes/No)
5. Explain how the proposal cannot be achieved by any other means other than a variance.
6. The circumstances leading to this request was not caused by the applicant, it was caused by.
7. Would the variance approval alter the essential character of the neighborhood? (Why /Why Not?)
8. Would the application negatively affect adjoining properties? (Why or Why Not?)
9. Is the variance request the absolute minimum amount needed to make reasonable use of the property or structure(s)?