

# *Athens Township Zoning Code*

## **Variances**

### **Section 12.01 Purpose**

A **Variance** is an administrative exception to zoning requirements that should be granted only when a property owner has a unique and unusual hardship created by the physical characteristics of the land if the ordinance is strictly and literally applied in their case.

The purpose of a variance is to provide limited relief from the requirements of the Zoning Code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Code. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Code may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. An extraordinary condition or situation is one that does not ordinarily exist elsewhere in the Zoning District.

### **Standards for Variance**

Variations from the regulations of the Athens Township Zoning Code shall not be granted unless the BZA makes specific findings of fact, based directly on the evidence presented to it, which support conclusions that the standards and conditions imposed in this Zoning Code, if applicable, have been met by the applicant:

- 1. Practical difficulty because of undue hardship—Because of exceptional or extraordinary conditions pertaining to a specific piece of property, as stated below, a literal enforcement of these regulations will result in practical difficulty or undue hardship that is unnecessary to the achievement of public purposes, such as a lot that;
  - Is exceptionally narrow
  - Is exceptionally shallow
  - Is exceptionally unusual in shape
  - Has exceptional topographical conditions, or
  - Is located immediately adjacent to a property that has an extraordinary condition or situation that makes it impossible or extremely impracticable to accomplish the project for which the variance is being sought.
  
- 2. Exceptional circumstances—There are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes or uses in the same zone.

3. Preservation of equal property rights—Literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zone and the same vicinity, while a granting of the requested variance will not confer on the applicant any special privilege that is denied to other properties in the same zone and the same vicinity.

4. Minimum variance—The variance granted is the minimum variance required to make possible the reasonable use of the property.

5. Absence of detriment—The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the Zoning Code or the public interest.

6. Not of a general nature—The condition or situation of the specific piece of property, or the intended use of said property, for which variance is sought, one or the other or in combination, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

### **Additional Conditions**

Those aggrieved by the finding of the BZA and subsequent action may appeal such decision to the Athens County Court of Common Pleas, as provided in *ORC §2506.01*. Such appeal petition shall be presented to the court within thirty (30) days after the day upon which written notification of the BZA's decision is mailed to the appellant.