



Building & Planning  
3338 Coolidge Hwy  
Berkley, MI 48072  
248-658-3320  
Fax: 248-658-3301  
[www.berkleymich.org](http://www.berkleymich.org)

# CITY OF BERKLEY, MICHIGAN

## WHAT YOU SHOULD KNOW BEFORE APPLYING FOR A VARIANCE

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- State and local laws require that the city notify the newspaper and all neighbors within 300 feet of your property that you intend to request a variance
  - Variances are divided into use (undue hardship) and nonuse (practical difficulty) variances. Both types of variances require that the applicant prove that s/he can't use or build on his/her property in a lawful way because the property is very different from the neighbors and that granting the variance will not cause problem for the neighborhood. *The burden of proof is on an applicant to provide an undue hardship or practical difficulty.*
    - **Undue Hardship Example:** You bought a historic home that is located in an area zoned for industrial uses; however City Code says that residential uses are not permitted in the industrial district. You want to live in the house and refurbish it. Refurbishing a historic home would benefit the neighborhood. It is a unique resource. The house was built before the ordinance was written.
    - **Practical Difficulty Example:** A house was built in 1930, 2 feet from the lot line. City Code says that 5 feet is now required. The lot next door is vacant. City Code also says that homes must be 15 feet apart. It would benefit the neighborhood and the city to have a new house built on that vacant lot that is contextual. The house was built before the ordinance was written.
  - All of the information you provide is duplicated and given to all ZBA members
  - ZBA members review the information and visually inspect each property prior to the meeting
  - The ZBA cannot consider financial hardship in its decision
  - State and local law set forth the standards that must be met in order to grant a variance
  - The application you complete has the standards or tests the ZBA is obligated to consider
  - The ZBA can hear cases regarding the sign ordinance and the zoning ordinance

- The State of Michigan Zoning Enabling Act establishes how the Berkley ZBA must operate
- The burden of proof is on an applicant to provide an undue hardship or practical difficulty
- Fees charged when applying for a variance cover the cost of processing your application. Fees are not refundable if a variance is not granted.
- The ZBA's decision can only be appealed to Oakland County Circuit Court
- The ZBA is a board composed of 7 residents. Board members are unpaid and are appointed by the City Council.

\*If you are interested in serving on the ZBA, applications are received by the City Clerk