

**BENZIE COUNTY BUILDING SAFETY and CODE
ENFORCEMENT DEPARTMENT**

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**APPLICATION REQUEST TO APPEAR BEFORE THE
BENZIE COUNTY CONSTRUCTION BOARD OF APPEALS**

OWNER

Name

Number Street Lot City/Village State Zip

ARCHITECT, CONTRACTOR OR OTHER AGENT:(if applicable)

Name

Number Street Lot City/Village State Zip

PROJECT LOCATION:

Number Street Lot City/Village/Township 10-_____
Property Number

REASONS FOR APPEAL:(check one or more)

- Enforcing agency refusal to grant application for permit.
- Disagree with enforcing agencies interpretation of the code.
- Request a specific variance from the code.
- Other(explain)_____

SPECIFIC VARIANCE FROM THE CODE:(complete if applicable)

Section (s)_____

Code: (check one) Building Electrical Mechanical Plumbing

Section 15 of Act 230, 1972, (as amended) allows the Board of Appeals the ability to, "grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

- a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of this state.
- b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable."

Please answer the following questions and attach additional sheets if necessary.

Describe the “exceptional practical difficulty” to the Applicant:

Describe what you intend to do, to provide equivalent performance to that required by the code:

Describe the specific conditions justifying the variance for this project:

SIGNATURE OF APPLICANT:

(Owner or Agent)

(date)

Your application will be processed promptly if you:

1. Complete all applicable sections
2. Sign and date the application
3. Provide (7) full sets of complete work drawings, documentation of the proposed work, the use and occupancy of all parts of the building/structure and such additional information as may be requested by the board.
4. Include the \$400.00 application fee payable to Benzie County.

BENZIE COUNTY CONSTRUCTION BOARD OF APPEALS MEMBERS

1. Jeff Louwsma – Building Contractor
2. Randy Olsen – Electrical Contractor
3. Rodney Moore – Plumbing/Mechanical Contractor
4. Caleb Luibrand – Architect
5. Richard C. Krupp – General Public Member

Section 112 of the Michigan Building Code & Section R112 of the Michigan Residential Code: Board of Appeals states: in sections 112.1 and R112.1 Means of appeal;

A person may appeal a decision of the enforcing agency to the board of appeals. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form of construction is proposed. The application shall be filed in accordance with section 14 of 1972PA 230, MCL 125.1514.

The following is from the Michigan State Construction Code Act 230, of 1972 as amended.

125.1514 Construction board of appeals; creation; appointment, qualifications and terms of members; appeal to board; hearing; decision; statement of reasons for decision; appeal to commission; copy of decision; additional powers or duties; procedures; conducting business at public meeting; notice; availability of certain writings to public.

Sec. 14.

(1) A construction board of appeals for each governmental subdivision enforcing the code shall be created consisting of not less than 3 nor more than 7 members, as determined by the governing body of the governmental subdivision. Unless otherwise provided by local law or ordinance, the members of the board of appeals shall be appointed for 2-year terms by the chief executive officer of a city, village or township and the chairperson of the county board of commissioners of a county. A member of the board of appeals shall be qualified by experience or training to perform the duties of members of the board of appeals. A person may serve on the board of appeals of more than 1 governmental subdivision. If an enforcing agency refuses to grant an application for a building permit, or if the enforcing agency makes any other decision pursuant or related to this act, or the code, an interested person, or the person's authorized agent, may appeal in writing to the board of appeals. The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after submission of the appeal. Failure by the board of appeals to hear an appeal and file a decision within the time limit is a denial of the appeal for purpose of authorizing the institution of an appeal to the commission. A copy of the decision and statement of the reason for the decision shall not be delivered or mailed, before filing, to the party taking the appeal.

(2) This act does not prevent a governmental subdivision from granting its board of appeals additional powers or duties not inconsistent with this act, or from establishing procedures to be followed by its board of appeals insofar as the procedures do not conflict with this act. Except as otherwise provided by this act, or by other laws or ordinances, board of appeals may by rules establish its own procedures.

(3) The business which the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Act No. 267 of the public Acts of 1976. Public notice time, date and place of the meeting shall be given in the manner required by Act. No. 267 of the Public Acts of 1976.

(4) A record of decisions made by the board of appeals, properly indexed and any other writing prepared, owned, used, in the possession of, or retained by the board of appeals in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

125.1515 Specific variance from code; requirements; breach of condition; permissible variance.

Sec. 15.

(1) After a public hearing a board of appeals may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

(a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of this state.

(b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(2) A board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than minimum variance from the code be granted than necessary to alleviate the exceptional, practical difficulty.