



Application Guidelines

Overview

All applicants must meet with Planning and Development Services Department staff before applying to discuss and review their case. Meeting with staff ensures applicants are taking the appropriate steps to address their property concerns and allows staff to guide applicants throughout the process. After meeting with staff, the attached application must be completed and submitted with all documents by the corresponding application deadline (please see page 2). Additional materials, such as pictures or letters of support, may be submitted with the application to assist the Board of Adjustment in making a decision.

Prior to the Board of Adjustment meeting, all applications will be advertised in a newspaper of general circulation in accordance with state law.

At the Board of Adjustment meeting, your application will be considered and either be approved, approved conditionally, denied, or tabled. For an application to be approved or approved conditionally, it must receive 4 affirmative votes; if only 4 board members are present, the applicant can ask the Board to reschedule their hearing. However, there is no guarantee of a favorable result when all 5 members are present. Board of Adjustment meetings are open to the public and it is highly recommended that the applicant or their representative attend in order to speak for their application.

The following summaries are designed to provide the applicant with general information regarding variances, special exceptions, and appeals and should not be considered legal advice. If the applicant has any questions, or does not understand this application, they are advised to seek help from a qualified attorney or land use planning expert.

Zoning Variance

A zoning variance request is used to deviate from current zoning requirements, such as encroach on a yard or to exempt a property from constructing a sidewalk. To receive a variance, the applicant's property must have special characteristics that make it difficult to comply with a particular regulation without giving up a privilege enjoyed by similar properties in the area. The applicant must be able to provide proof of a hardship that is unique to the property and not common in the area. Such hardship cannot be self-created or cannot be financial in nature. A hardship cannot be personal, but may be based on unique physical features of the property for which the variance is sought. Granting a variance would not change the character of the applicant's neighborhood, impair the use of an adjacent property, or lessen the purpose of the regulations.

Special Exceptions

Section 348-66.-Special Exceptions of the Zoning Ordinance clearly states the 7 situations where a special exception may be granted. These 7 special exceptions are listed on the back of the application. Additionally, the Board of Adjustments must also find that the public convenience and welfare will not be substantially or permanently injured. Unlike a variance, special exceptions do not need to prove a hardship.

Appeals

Applicants may appeal a decision made by a city department's interpretation of the Zoning Ordinance. While a variance or special exception grants relief from the strict application of a zoning ordinance, an appeal allows the applicant to challenge how city staff interprets and applies particular zoning regulations.

**Board of Adjustment
2019 Schedule**

Meeting Month	Meeting Date	Application Deadline
January	01/02/2019	12/07/2018
February	02/06/2019	01/04/2019
March	03/06/2019	02/08/2019
April	04/03/2019	03/08/2019
May	05/01/2019	04/05/2019
June	06/05/2019	05/03/2019
July	07/03/2019	06/07/2019
August	08/07/2019	07/08/2019
September	09/04/2019	08/09/2019
October	10/02/2019	09/06/2019
November	11/06/2019	10/04/2019
December	12/04/2019	11/08/2019

**** Meeting dates and deadlines are subject to change****



Board of Adjustment Application

This application must be complete and legible. The applicant, or authorized representative, is requested to attend the Board of Adjustment meeting to explain the appeal, variance, or special exception request.

PROPERTY OWNER(S) INFORMATION

Name: _____ Phone Number: _____

Address: _____

City: _____ State: _____ Zip Code: _____

AUTHORIZED REPRESENTATIVE INFORMATION

Name: _____ Phone Number: _____

Address: _____

City: _____ State: _____ Zip Code: _____

PROJECT INFORMATION

Subdivision: _____ Lot: _____ Block: _____

Physical Address: _____ Tax/Geo ID: _____

Use District: _____ Area District: _____ Overlay District: _____

Provide a brief description of your request: _____

REQUIRED DOCUMENTATION TO BE SUBMITTED WITH APPLICATION

- A. \$250 fee per appeal, variance, or special exception
- B. 2 survey maps no smaller than 11x17, sealed by a professional land surveyor (Hard Copy and PDF)
- C. 2 site plans no smaller than 11x17 (hard copy and PDF)
- D. Notarized letter of authorization from owner (for representatives)
- E. Deed of property
- F. Copy of owner(s) and representative IDs
- G. Copy of Certificate of Formation or similar official documents (if applicable)
- H. A letter fully explaining request
- I. All supplemental material to be presented to Board Members (pictures, letters of support, etc.)

OWNER(S) & REPRESENTATIVE CERTIFICATION

Any variance, special exception, or appeal application will not be considered and presented to the Board of Adjustment until all required documents and fees have been submitted.

Property Owner's Signature: _____ Date: _____

Representative's Signature: _____ Date: _____

Variance

The Board of Adjustment may grant a variance when all of the following are met:

1. There must be a hardship which the grant of the variance will relieve.
2. The hardship must be one which relates to the identical property.
3. The hardship must have characteristics of uniqueness, be oppressive, and not common to other property.
4. The hardship must be one which is not only financial and must be one which has not been caused by the landowner.
5. The granting of the variance must be shown to be not contrary to the public interest.
6. The granting of the variance will be in accordance with the spirit of the zoning ordinance and amount to doing substantial justice.

Special Exception

When in its judgment the public convenience and welfare will not be substantially or permanently injured, the Board of Adjustment may, in a specific case, authorize special exceptions to Chapter 348—Zoning.

1. The location of a state or municipal building, aviation field, public utility plant, riding academy, commercial greenhouse, athletic field, commercial radio transmitting station, or philanthropic institution in any use district.
2. The reconstruction of a building occupied by a nonconforming use or the extension of a nonconforming use of a building upon the lot occupied by such use or building of the time of the passage of the ordinance from which this chapter derives.
3. The extension of a building to use into a more restricted district immediately adjacent thereto, but not more than 50 feet beyond the boundary line of the district in which such building or use is authorized.
4. In any district, such modification of the requirements of this chapter as the Board of Adjustment may deem necessary to secure an appropriate development of a lot where adjacent to such lot on two or more sides there are buildings that do not conform to this chapter.
5. In a Dwelling or Dwelling/retail use district, a Medium Commercial use of a lot adjoining a Medium Industrial use district, or an Apartment use of a lot adjoining a Medium Retail, General Retail, Light Commercial, Medium Commercial, or Light Industrial use district, so that there will be stepping down from the more restricted to the less restricted use.
6. Such modification of the yard, lot area or lot width regulations as may be necessary to secure an appropriate improvement of a lot where such lot was separately owned at the time of the passage of the ordinance from which this chapter derives and where such lot is of such size that it cannot be improved without such modification.
7. In a Dwelling or Dwelling/retail use district, any use permitted in an Apartment use district; provided, however, that this special exception shall apply only to areas that are within a perpendicular distance of 100 feet from the sideline of a lot located in a Professional Office, Light Retail, Medium Retail, General Retail, Light Commercial, Medium Commercial, or Light Industrial use district.

Appeal

The Board of Adjustment may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of Chapter 348—Zoning or an ordinance adopted under said Chapter.

FOR OFFICE USE ONLY

Code: 615 BFEE

Fee Amount: \$250

File #: 2019 - _____ - _____

Staff: _____ Date: _____