

PLEASE READ THIS BEFORE PROCEEDING FURTHER

Please be advised that before applying for a variance, you MUST demonstrate a valid reason to the Board of Zoning and Building Appeals as to why you should be granted a variance from the City's Zoning Ordinances.

The Board of Zoning and Building Appeals may only grant a variance if you can demonstrate one or more of the following:

- 1. Hardship (unnecessary or uncontrollable)**
- 2. Practical Difficulty (exception circumstance) and,**
- 3. Objective (not contrary to purpose of, or intent of Zoning)**

Please see the "Standards for Granting Variances" (copy attached) for a detailed explanation of the meaning of these terms. If you have any questions about this application or the meeting process, please call 356-4403.

Walter V. Maynard
Building Commissioner

1153.06 STANDARDS FOR GRANTING VARIANCES.

The Board of Zoning and Building Appeals shall have the power to vary the application of any provisions of this Zoning Code in terms of the following standards so that public health, safety, morals, and general welfare may be safeguarded and substantial justice done:

- a) Where the literal application of the provisions of the Zoning Code would result in unnecessary hardships. Hardships which are unavoidable if the purpose and intent of the Zoning Code are to be realized, such as a theoretical loss or limiting possibilities of economic advantage, are general hardships, not unnecessary hardships. Likewise, an unnecessary hardship cannot be based on conditions created by the owner. It must be found that there are peculiar and special hardships applicable to the property involved which are separate and distinct from any general hardship prevailing in the use district; or
- b) Where unusual or exceptional circumstances or conditions (practical difficulty) inhere in and apply only to the property involved or sought to be built upon or used, and do not apply to other property within the same use district. The mere fact that the owner of one parcel might apply prior to the owners of the other parcels in the same area would not give the owner a right to a variance and thus grant a special privilege to an individual, when such variance would be necessarily denied to others. It must be found, on the other hand, that there are unusual or exceptional circumstances or conditions (practical difficulty) justifying a variance on one lot, such as topographical or geological conditions, and that a variance would be justified on any lot where the same circumstances prevail; **and**
- c) Where granting of a variance will not be injurious to the property or improvements to the neighborhood in which the property is located or be detrimental to the public welfare. The mere existence of an unnecessary hardship or of an unusual or exceptional circumstance or condition (practical difficulty) is not ipso facto a basis for granting a variance. The existence of such hardships or of unusual or exceptional circumstance or conditions (practical difficulty) must be balanced against the present conditions and extent to which such a variance would interfere with the proper development and rights of nearby property; **and**
- d) The granting of a variance will not be contrary to the purpose, intent and objectives of the Zoning Code and the Plan of the City. A variance merely permits that which is contemplated in the Zoning Code, and particularly in this chapter, for unnecessary hardships and for unusual or exceptional circumstances or conditions (practical difficulty). On the other hand, that which was not contemplated in the Zoning Code, and particularly this chapter, although deemed desirable, shall be effected by ordinance amendments or Zone Map changes.

1153.07 LAPSE OF VARIANCES.

A variance once granted shall not be withdrawn or changed unless there is a change of circumstances, or of, after the expiration of one year, no substantial construction is done in accordance with the plans for which such variance was granted. Should the latter be the case, the variance shall be deemed null and void, and all regulations governing such premises in question.

BOARD OF ZONING & BUILDING APPEALS

MEETING DATES: Second Monday of Each Month, Except the Month of August.

MEETING TIME: 7:00 P.M. – Council Chambers, 3rd Floor Of City Hall

APPLICATION FEE: \$75.00 (plus plan review fee if applicable)

FILING DEADLINE: Three Weeks Prior to Scheduled Meeting, By Noon

AN APPLICATION TO APPEAR BEFORE THE BOARD OF ZONING & BUILDING APPEALS SHALL BE ACCOMPANIED BY THE FOLLOWING:

1. Proof the applicant is authorized to act on behalf of the property owner.
2. Twelve (12) sets of drawings consisting of the following:
 - a. A site plan drawn to scale, showing the location by dimension of the existing and proposed building, the dimension of the lot, driveways, walks, parking areas and adjoining lots.
 - b. Elevation drawings showing all elevations necessary to completely describe the exterior of the building, including floor-to-floor dimensions. Plans should fully describe all materials, colors, and architectural ornaments.
 - c. Floor plans sufficiently dimensioned and to scale. All relevant spaces and sizes must be identified by code appellation and clearly define the situation in question.
3. Any other information as may be requested by the Board of Zoning & Building Appeals and the Building Commissioner.

IMPORTANT READ THIS NOTICE BEFORE COMPLETING APPLICATION

These forms are an application only. You will not be approved for the docket until the application is reviewed by the Building Department. If all items are **complete**, you will be notified that you are scheduled to appear before the Commission. If any items are **missing** or **incomplete**, you will be notified as to what shall be (re)-submitted. Due to the time involved in re-submittals and scheduling, you shall not be able to appear until the next scheduled meeting after the meeting you originally applied for, if the application is not **complete** by the filing deadline.

All changes in exterior materials must have samples of the specific materials submitted when you appear at the meeting. The samples must be of a sufficient size that will show texture, form and color or any other architectural feature that may be considered by the Commission.

APPLICATION FOR VARIANCE/APPEALS

BOARD OF ZONING and BUILDING APPEALS CITY OF FAIRVIEW PARK

Variance/Appeal Requested by: Owner () Authorized Agent Representative/Tenant (*)

Owner of Property: _____ Phone: _____

Address: _____

Representative/Tenant: _____ Phone: _____

Address: _____

Parcel Number of Subject Property: _____

Address of Parcel: _____

Section of Code for which variance is required: _____

Which criteria should Board use to consider variance? _____

(See 1153.06 of code, page 93)

a. Lot Configuration: _____

c. Use: _____

b. Topography: _____

d. Substitution on non-conforming use: _____

RATIONALE:

To grant a **VARIANCE**, the Board must find (Section 1153.06) "...That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties or classes of use in the same zoning district."

To grant an **APPEAL** (Section 1153.02): The application for an appeal by any person directly affected by a decision of the Code Official or other Administrative Official relating to enforcement, interpretation, or administration of the Building or Zoning Codes.

(Use back for additional comments)

The Board must hold a public hearing on the variance/appeal and the Board must notify all property owners within 200 feet of the boundaries of the tract or lot under appeal at least 7 days before the meeting.

Sign: _____

Date: _____

*Attach signed authorization

