



File/Case Number:

**ZONING BOARD OF ADJUSTMENT APPLICATION**

**Date:** \_\_\_\_\_

**Type of Action Requested:**  Variance  Administrative Appeal  Other

**Address/location of Property:** \_\_\_\_\_

**Legal Description of Property** \_\_\_\_\_ **Number of Acres:** \_\_\_\_\_

**Existing Zoning:** \_\_\_\_\_

**Brief description of the reason(s) for this application, including the section of the Ordinance that is the subject of the variance or appeal:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Applicant's Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Applicant's Address:** \_\_\_\_\_

**Applicant's E-Mail** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**Property Owner's Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Property Owner's Address:** \_\_\_\_\_

**Property Owner's E-mail** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**This Application must include the following (check all that are included with this application):**

- A zoning board of adjustment application form signed by the applicant
- A site plan that accurately illustrates the nature of the variance or appeal
- A written narrative from the applicant outlining the reasons for the variance or appeal. The narrative for a variance must address the review criteria outlined in Section 10-6.3 of the Zoning Ordinance.

**SIGNATURE OF APPLICANT:**

**X**

*(Applicant)*

Application Fee \_\_\_\_\_ Receipt# \_\_\_\_\_ By \_\_\_\_\_ Date \_\_\_\_\_



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### Reasons for Variance Request

As part of the application process, the applicant **must** submit written narrative of the reason for the variance request which address the following:

- (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land such that the strict application of the provisions of this Zoning Ordinance to the proposed use would create an undue hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land.

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- (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

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- (3) The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner.

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- (4) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land.

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- (5) The request for a variance is not based exclusively on the applicant's desire for increased financial gain from the property, or to reduce an existing financial hardship

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- (6) Granting the variance application will not be detrimental to the public health, safety or welfare, or injurious to other property within the area.

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- (7) Granting the variance application will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Zoning Ordinance, or adversely affect the rights of owners or residents of surrounding property.

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- (8) The degree of variance requested is the minimum amount necessary to meet the needs of applicant and to satisfy the standards in this section.

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## ZONING BOARD OF ADJUSTMENT

### WHAT IS THE ZONING BOARD OF ADJUSTMENT?

The Zoning Board of Adjustment is a five member quasi-judicial Board appointed by the City Council whose primary responsibility is to hear and review requests for variances and appeals on matters related to the City of Greenville Zoning Ordinances. It is not a legislative body with the authority to amend ordinances or create new laws.

### WHAT IS A VARIANCE?

The Zoning Board of Adjustment may in specific cases authorize variances to the zoning regulations where the Board determines that: the literal interpretation and application of the zoning regulations would impose an *undue hardship* on the applicant; that the public convenience and welfare will be substantially served; and that the appropriate use of the neighboring property will not be substantially or permanently injured.

A variance may include the modification of the height, yard setbacks, area coverage and parking regulations as may be required to secure the appropriate development of a parcel of land which differs from other parcels in the same zoning district by being of such restricted area, shape, or slope, that it cannot be appropriately developed without such modifications.

### WHAT IS THE PROCESS FOR SUBMITTING AN APPLICATION TO THE ZONING BOARD OF ADJUSTMENT?

1. **MEET WITH STAFF:** Make arrangements to meet with the Community Development Department Staff to discuss the issues that are the subject of your variance or appeal, and to clarify issues related to the application requirements. Staff may also be able to recommend alternatives that would eliminate the need for an appeal or variance. Have a sketch or drawing available that illustrates the relevant site development issues.
2. **PREPARE APPLICATION MATERIALS:** A complete zoning board of adjustment application must include the following documents:
  - A zoning board of adjustment application form signed by the applicant
  - A site plan that accurately illustrates the nature of the variance or appeal
  - A written narrative from the applicant outlining the reasons for the variance or appeal. The narrative for a variance must address the review criteria outlined in Section 10-6.3 of the Zoning Ordinance.



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3. **SUBMIT APPLICATION:** Submit all the required application materials along with the application fee to the Community Development Office at 2315 Johnson Street.

***The Community Development Office Staff cannot accept an incomplete application.***



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## **HOW MUCH DOES AN APPLICATION TO THE ZONING BOARD OF ADJUSTMENT COST?**

The fee for a Zoning Board of Adjustment application is \$55. The fee is non-refundable even if the application is denied.

## **WHAT ARE THE DEADLINES FOR SUBMITTING AN APPLICATION TO THE ZONING BOARD OF ADJUSTMENT?**

The deadline for submitting an application is seventeen (17) days before the scheduled meeting of the Zoning Board of Adjustment.

## **WHEN AND WHERE DOES THE ZONING BOARD OF ADJUSTMENT MEET?**

The Zoning Board of Adjustment usually meets on the 2<sup>nd</sup> Thursday of the month at 5:30 p.m. in the conference room of the Sam Reeves Alexander Municipal Annex Building located at 2315 Johnson Street. The Board may also meet on other dates as necessary. The normal meeting dates and times are subject to change due to holidays or other special events.

## **WHAT FACTORS ARE CONSIDERED BY THE ZONING BOARD OF ADJUSTMENT IN REVIEWING A VARIANCE APPLICATION?**

10-6.5 In deciding the variance application, the Board shall apply the following criteria:

- (A) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land such that the strict application of the provisions of this Zoning Ordinance to the proposed use would create an undue hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land;
- (B) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- (C) The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner;
- (D) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
- (E) The request for a variance is not based exclusively on the applicant's desire for increased financial gain from the property, or to reduce an existing financial hardship;
- (F) Granting the variance application will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
- (G) Granting the variance application will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Zoning Ordinance, or adversely affect the rights of owners or residents of surrounding property;
- (H) The degree of variance requested is the minimum amount necessary to meet the needs of applicant and to satisfy the standards in this section.



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Neither the nonconforming use of lands, structures or buildings in the same zoning district, nor the permitted use of lands, structures or buildings in other zoning districts shall be considered as grounds for the issuance of a variance

### **WHAT IS UNDUE HARDSHIP?**

The Board must find that the literal interpretation of the Ordinance would impose an undue hardship on the applicant. While the term “undue hardship” it is not specifically defined, the following arguments *do not* constitute undue hardship and may not be considered by the Board.

- Property that cannot be used for its “highest and best use”
- A financial hardship
- A self created hardship
- That the development objectives of the owner are frustrated

### **WHEN CAN THE ZONING BOARD OF ADJUSTMENT APPROVE A VARIANCE?**

The Board may approve a variance application upon finding that:

- All the requirements outlined in the ordinance for granting a variance have been met;
- The reasons outlined in the application justify the granting of a variance, and that the variance granted is the minimal variance that will make possible the reasonable use of the land, building, or structure; and
- The variance is in harmony with the general spirit and intent of the ordinance, and will not be injurious to the public welfare, or otherwise detrimental to the public welfare.

### **ADMINISTRATIVE APPEALS**

Any person aggrieved or any officer, department, or board of the municipality affected by an order, requirement, decision or determination made by an administrative official charged with enforcing the Zoning Ordinance may appeal the decision to the Zoning Board of Adjustment. The appeal must be filed within fifteen (15) days after the decision has been rendered by the city administrative official, by filing with the Community Development Office an application to the Zoning Board of Adjustment that specifies the grounds for appeal. The Community Development Office staff will place the appeal request on the agenda of the next meeting of the Board.

After hearing and reviewing the appeal, the Board may reverse or affirm, in whole or in part, or may modify the original order, requirement, decision, or determination rendered by the administrative official from whom the appeal was taken.





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The Board's responsibility relative to an appeal is to determine whether or not the specific requirements of the zoning ordinance have been properly applied and enforced. The Board does not have the authority to amend ordinances with which the Board, either individually or collectively, disagrees.

### **HOW IS AN APPLICATION TO THE ZONING BOARD OF ADJUSTMENT PROCESSED AND APPROVED?**

1. **PUBLIC NOTICE IN THE NEWS PAPER:** Upon receiving a complete application, City Staff is required by State law to publish notice in the newspaper that a public hearing will be held on the request. The notice is published at least ten (10) days before the meeting of the Board.
2. **NOTICE SENT TO ADJACENT PROPERTY OWNERS:** State law requires that Staff provide written notice to the owners of all property located within 200 feet of the property that is the subject of the request. This notice is mailed at least ten (10) days before the meeting of the Board. The property owners are given a response form on which they can indicate support or opposition to the request. All of the returned response forms are presented to the Board.
4. **CONSIDERATION AND VOTE BY THE BOARD:** The Zoning Board of Adjustment will hold a public hearing on each request and will provide opportunity for the public to speak in favor or opposition to the request. The applicant should be present to speak at the public hearing. After the close of the public hearing, the Commission will vote to either approve or deny the request. A supermajority vote of at least four (4) of the five (5) board members is required to approve any request submitted to the Board.

### **CAN THE DECISIONS OF THE ZONING BOARD OF ADJUSTMENT BE APPEALED?**

Decisions of the Zoning Board of Adjustment may only be appealed to a court with jurisdictional authority over such matters. A petition for court review must be presented to the court within ten (10) days after the decision of the Board. The Board may not rehear an administrative appeal or application previously denied with one (1) year following the denial, unless it finds that a substantial change in conditions or circumstances has occurred. Decisions of the Board may not be appealed to nor overturned by the City Council.