

Board of Adjustment Checklist

The following is required when submitting an Appeal to the Board of Adjustment

- Application
- Fee *(see below)*
- Site Plan
 - * New construction – requires detailed site plan
 - * Existing structure
 - Survey of property or aerial map
 - Site plan drawn to scale
 - * Church – Master plans are required to follow Development Plan guidelines.

FEES

Special Exceptions & Variances

New Residential	\$50
Existing Residential	\$25
Commercial, Office & Industrial	\$100
Churches (new & existing)	\$50
Mobile Home	\$50

All checks must be made payable to the City of Montgomery. Failure to do so will result in a delay of your application being accepted.

Any other questions or concerns you may have, please contact our office at 334.625.2722.

Received by: _____

Date: _____

Received in mail: _____

Date: _____

(Received by)

APPEAL TO THE BOARD OF ADJUSTMENT

CITY OF MONTGOMERY
Land Use Division
25 Washington Ave., 4th Floor (36104)
P.O. Box 1111 (36101-1111)
Phone: 334.625.2722 Fax: 334.625.2017

(OFFICE USE ONLY)

Date _____ File No _____
Fee Received _____

APPLICANT _____ **OWNER** _____

(Please give an address to send correspondence to)

Address _____ Address _____
City, State, Zip _____ City, State, Zip _____

City, State, Zip _____

Phone _____

Email _____

Type of Request: Variance*
 Special Exception
 Administrative Review

**Must complete Variance Request – Part II*

PROPERTY LOCATION: _____
(Street Address)

Zoning: _____ City Council District _____

REQUEST: _____

This appeal is scheduled to come before the **Board of Adjustment** on the _____ day of _____, 20____ at 5:00 p.m. in the Council Auditorium located in City Hall at 103 N. Perry St.. **The petitioner or representative must be present to present this item to avoid delay.**

This is an appeal to the **Board of Adjustment** for **Administrative Review, Special Exception or Variance** which shall be determined by the Board within the scope of the Zoning Ordinance as ought to be.

I further state that if this request is granted, I will proceed with construction in accordance with plans submitted and under the conditions as stated by the Board of Adjustment.

(Signature of Applicant)

BOARD OF ADJUSTMENT DECISION

APPROVED DENIED DELAYED

Conditions of Action: _____

(Executive Secretary, Board of Adjustment)

(Date)
Revised 9-2023

Variance Request

Physical Location: _____

Part II

A variance is a deviation from the terms of the Zoning Ordinance that apply to a particular property. Variances may be appropriate where strict application of the regulations would create a hardship on the owner, due to unusual circumstances such as parcel shape, size or topography.

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

Article III, Section 3 (c) requires you to demonstrate that a hardship exists by providing all of the following:

1. What special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district?

2. What literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance?

3. Does the special conditions and circumstances result from the actions of the applicant?

4. By granting the variance requested, will it grant to the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district?



VARIANCE AND HARDSHIP HANDOUT

What is a variance?

A variance is permission granted by the Board of Adjustment to waive or alter a requirement of the Zoning Ordinance. The Board of Adjustment can adjust the standards of the Zoning Ordinance where exceptional and extraordinary circumstances apply to a property. This exceptional and extraordinary circumstance is known as a hardship.

When could a variance be granted?

A variance is granted when a hardship associated with a property is preventing the property from meeting the requirements of the Zoning Ordinance.

Zoning regulations are intended to preserve and protect property uses and values, and to promote health and general welfare. Therefore, provisions of the Zoning Ordinance should be universally applied. However, sometimes there are extraordinary conditions at a particular property where, due to this peculiar circumstance, carrying out the strict letter of the Zoning Ordinance would prohibit the development of the property. A variance may be granted after an analysis of the particular conditions and circumstances of a specific property.

What is a hardship?

There are special conditions attached to the property that do not generally apply to other properties in the area. Special conditions can involve the parcel size, shape, or topography. There is a physical constraint which is unique to the property. Special circumstances are not interpreted to be something intangible, such as lack of knowledge of the code or misinformation at the time of purchase or construction. A hardship is a characteristic of the property, not the person.

A literal enforcement of the provisions of the Zoning Ordinance will result in an unnecessary hardship. For example, it must be demonstrated that a strict enforcement of the ordinance would prohibit the development of the property or no reasonable use of the property can be made. It is not sufficient that the requirement would make the property less profitable or marketable.

The variance request is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same zoning district. For example, it must be demonstrated to the Board that you are seeking a property right that is generally enjoyed by other property owners in the same zoning district, not some additional privilege not generally enjoyed by others in the area.

The spirit of the zoning ordinance is observed and substantial justice is done. For example, variances cannot be granted which would be contrary to the public interest or that would pose a threat to the public health and safety such as fire safety, structural stability, clearance, preservation of air, light or open space, and visual or aesthetic concerns.

What is not a hardship?

1. Economic hardships. For example, adding more units to a building than allowed can generate more income and make the project more economically feasible.
2. Conditions that are created as a result of action by the applicant or owner and not as a result of the land.

Can the Board attach any special conditions or stipulations to a variance?

In granting a variance, the Board may prescribe reasonable and appropriate conditions or stipulations which will assure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood.

What information will the Board consider in reviewing a variance request?

Applicants should present the Board with evidence sufficient for the Board to establish findings of fact on which a decision can be based. Evidence should relate only to the property, structure, or use proposed. Evidence concerning a person's health, age, family conditions, desires, or other personal needs are not sufficient on their own merits to justify granting of a variance.