

**CITY OF HOLDREGE
APPLICATION FOR VARIANCE**

OWNER: _____ ADDRESS: _____

PROPERTY LOCATION: _____

DISTRICT: _____ Contact Person email or phone: _____

LOT: _____ BLOCK: _____ ADDITION: _____

REQUEST:

APPLICATION FEE: \$20.00

ATTACH DRAWING OF THE PROJECT AS IT WILL BE CONSTRUCTED ON THE LOT: (Site Plan)

Minimum size 8 1/2" x 11": The Site Plan should include *all buildings* on the lot, *the proposed structure, dimensions* from lot lines, adjacent streets, alleys and other buildings or structures as necessary.

The Board of Adjustment will hold a Public Hearing concerning this application **at 5:00 p.m. Tuesday,** _____ in the Council Chambers of City Hall located on the second floor of the Municipal Administration Building at 502 East Avenue.

Printed Name of Applicant

Phone Number

Signature of Applicant

Date Signed

BOARD OF ADJUSTMENT

DECISION _____

DATE _____

CONDITIONS _____

§ 11-804 VARIANCES.

(A) The Board of Zoning Adjustment may authorize variances from the requirements of this chapter where it can be shown that, owing to special and unusual circumstances relating to a specific piece of property, the literal interpretation of this chapter would cause an undue or unnecessary hardship; except that, no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located, except a variance may be granted for the alteration or extension of an existing structure, which is non-conforming as to use if it meets the requirements of subsections (B) and (D) below. In granting a variance, the Board of Zoning Adjustment may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this chapter.

(B) No variance shall be granted unless it can be shown that all of the following conditions are met:

- (1) The strict application of the ordinance would produce undue hardship;
- (2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- (3) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- (4) The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

(2005 Code, § 11-804)

§ 11-805 ACTION OF A VARIANCE.

No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

(2005 Code, § 11-805)

§ 11-806 PROCEDURE FOR REVIEW OF A VARIANCE.

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

(A) Written applications for the approval of the variances referred to in §§ 11-804 and 11-805 of this article shall be filed with the Board upon forms and in a manner prescribed by the Board. A fee as established by resolution of the City Council shall be paid to the Zoning Administrator, upon the filing of each application for variance, for the purpose of defraying costs of the proceedings described herein. A written receipt shall be issued to the person making such payment, and records thereof shall be kept in such manner as prescribed by law. Such applications, which appeal decisions by the enforcing officer, shall be made within 20 days of the date of such decision.

(B) The Board shall hold a public hearing on each application for a variance. Notice of the time and place of such hearing shall be given by publication thereof in a paper of general circulation in the city at least one time ten days prior to such hearing.

(C) The Board shall make its findings and determination in writing within 40 days from the date of filing the application and shall forthwith transmit a copy thereof to the applicant.

(D) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions, which shall be a public record.

(E) In approving applications for variances, the Board shall have authority to impose such conditions as it deems necessary to protect the best interest of the surrounding property or neighborhood.

(2005 Code, § 11-806)

Variance Guidelines

#1 – Before filing a variance – Do you need a variance or want a variance?

- Understand why you need a Variance.
- Determine if you can live within the Ordinance.
- Be sure you have a genuine “need,” and this is not just a convenience.
- Be prepared to be flexible if the variance is related to a certain size or distance.

#2 - Before filing a variance – Do your homework.

- Talk to the Building Department.
- Talk to your neighbors to determine if they have any issues with your request.
- Find out if similar variances have been granted and review those applications.
- Understand what the legal test is for board relief.

#3 – When you file your variance petition.

- Write legibly or type the application, being sure to complete all of the applicant’s items on the application.
- State specifically why you need the variance, what your hardship is and why the Ordinance, which caused your denial, unfairly affects you
- Attach all relevant documents to your application.
- Avoid submitting new documentation to the Board during the Hearing.
- If you cannot submit complex documentation before the hearing itself, the Board will postpone consideration until the next scheduled meeting.

#4 – After filing, but before the Hearing

- Board members may inspect the site before the Hearing.
- “Clean up” the property/site before inspection.
- Talk to your neighbors about your variance/get their support.
- If you get support from neighbors, have them make a brief, concise statement at the Hearing.

#5 – After filing, but before the Hearing

- If you expect opposition, examine the City Building file a day or two before the Hearing; any written opposition will be on file.
- Be prepared to deal with written objections at the Hearing.
- Consider modifying your variance request to meet objections.
- Keep in mind the Board may grant less of a variance request but not more.

#6 – At the Variance Hearing: Stop, Look and Listen

- Examine the agenda: If there are similar cases to yours, listen to how the Board responds to those cases
- Look around you – If you see your neighbors, try to find out if they are opposed and if so, why? Can you enlist their support because they didn't understand what you are trying to do?
- Listen to the Board; both their questions and discussion may be an attempt to steer you to a compromise. Try to avoid taking an all-or-nothing position.

#7 – During your variance presentation:

- Be concise and to the point; the Board has read your petition, examined your documents, and the building inspector will probably inspect the variance site.
- Please remember that courtesy and civility are more readily received than disrespect and negativity.
- Summarize your application to the Board, as they have read your application prior to the meeting.

#9 – If you are requesting a dimensional/property variance:

- Demonstrate why the hardship is unique to your situation.
- Communicate that the hardship was not self-created.
- Point out that the variance is the bare minimum needed to correct the problem.
- Suggest that the variance will not negatively impact any neighbor, nor will it alter the essential character of the land.

#10 – Variance granted – What else to do?

- Pull necessary permits
- Make sure you comply with the variance plan and any conditions the Board of Adjustments recommends.

Need v. Want

A need in a zoning variance application is defined by an "unnecessary hardship" or "practical difficulty" arising from unique physical conditions of the property (shape, topography, or location) that prevent compliance with zoning regulations. It must be a restriction on the land itself, not a personal inconvenience or a self-created issue.

Key Factors Constituting "Need" (Hardship)

- **Physical Uniqueness:** The property has a peculiar condition—such as a steep slope, unusual shape, or rock outcroppings—that does not generally exist on neighboring lots.
- **Inability to Develop:** Because of these unique conditions, strict adherence to zoning ordinances (like setbacks or height limits) makes it impossible to build or use the property reasonably.
- **Not Self-Created:** The hardship cannot be caused by the current owner's actions or choices (e.g., purchasing a lot with known restrictions and then asking for a variance).
- **Minimum Necessary:** The request must be the absolute minimum variance required to alleviate the hardship, not just to make the project more profitable or convenient.

Common Examples of Valid Needs

- **Setback Violations:** An oddly shaped lot leaves no reasonable building envelope that meets front, side, or rear setback requirements.
- **Topography Issues:** A steep, rocky slope prevents placing a home in a location that complies with height or placement restrictions.
- **Existing Conditions:** A new zoning ordinance makes an old structure, built legally at the time, now non-compliant.

What Generally Does NOT Constitute a Need

- A desire to build a larger garage or home for personal convenience.
- A financial loss, such as wanting to build in a way that maximizes profit.
- Circumstances that are common to the surrounding neighborhood.

In summary, the applicant must show that the land itself is "burdened" and that a variance is necessary for reasonable use, while also ensuring the exception does not harm public safety or the overall neighborhood character.