
City of Washington

Board of Adjustment

GENERAL EXPLANATION OF VARIANCES

City of Washington Ordinance: Chapter 29

A variance is not a personal license to the property owner. It is a right that runs with the land.

A variance is a legal right granted to a property owner to use a piece property in a manner prohibited by the Zoning Code. It has been said that a variance is an "escape valve" from the literal terms of the ordinance, which, if strictly applied to a property owner, would deny all beneficial use of his land and thus amount to a confiscation.

Under Iowa law, the Board of Adjustment, which has power to grant variances, is an independent, quasi-judicial body. Simply this means that while the Board Members are appointed by the City Council, they are not subordinate to the Council. Their actions are reviewable only by the courts. After notices are mailed to respective owners of record of property adjoining or adjacent to the premises in question, the Board conducts a hearing with respect to each variance application. That hearing will normally be relatively informal, but the Board will hear testimony and review documentary evidence in a manner similar to a court of law. Any party may appear at such hearing in person or by agent or by attorney.

If you wish to apply for a variance from the Board of Adjustment you are required to complete the attached form and pay a **\$100 non-refundable application fee**. The City's Building Department assists the Board of Adjustment by reviewing variance applications and preparing a report, which is sent to the Board members shortly before the hearing. The primary purpose of that report is to provide background information to members of the Board, and to inform them generally of the nature of the request for a variance. In preparing this report, the Department will use information provided in the variance application provided by you. Applications with missing information will not be accepted. **However, applicants should be aware that under Iowa law, they, not the City, are responsible for demonstrating that they are entitled to the variance.**

The Board of Adjustment meets on the 4th Monday of each month at 5:15 p.m. Completed applications are to be turned in to the Building & Zoning Department **by 4 p.m. by the deadline listed below** or they will not be accepted.

VARIANCE APPLICATION

Appeal Address: _____

A. Reason for Variance Request: _____

B. A denied zoning permit application and plot plan must be attached to this application.
C. List all owners of property adjoining, adjacent to, or across the street from the property involved in this appeal (any property that shares or would share a property pin with the affected property)

<u>Name</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

D. Applicant's Justification: please respond specifically to each of the following questions - explain your answers - yes and no answer are not acceptable.

1. Will the proposed variance threaten the integrity of the neighborhood; substantially effect the use or value of other properties in the area adjacent to the property seeking this variance? _____

2. Will the variance you are seeking be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of those around this property? (Would you, yourself mind having this variance granted if you were one of the adjacent property owners?) _____

3. Could the specific proposed exception be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; will it or could it substantially reduce or impair property values in the neighborhood?

4. Will the approval of this variance hinder the normal and orderly progress and improvement of surrounding properties for uses already permitted in this zone?

5. Have all necessary utilities, access roads, drainage or other necessary facilities been provided to this property? Or are they already provided?

E. Unnecessary Hardship -

1. Explain why you cannot meet the specific requirements of the zoning code (i.e., exceptional narrowness, shallowness, or shape of the property seeking the variance).

2. Is the property's situation unique or peculiar to the property in question; or it is shared with other landowners in the area or is it due to the general conditions in the neighborhood?

3. Is the hardship of the property of the owner's own making or that of a predecessor in title?

NOTE: Conditions. In permitting a variance, the Board may impose appropriate conditions and safeguards, including but not limited to planting screens, fencing, construction commencement and completion dates, lighting, operational controls, improved traffic circulation, highway access restrictions, yards, parking requirements, the duration of a use or ownership, or any other requirement which the Board deems appropriate under the circumstances upon a finding that the conditions are necessary to fulfill the purpose and intent of this chapter.

Orders. Unless otherwise determined by the Board, all orders of the Board shall expire six (6) months from the date the written decision is filed with the City Clerk, unless the applicant shall have taken action within the six (6) month period to establish the use or construct the building permitted under the terms of the Board's decision, such as by obtaining a building permit and proceeding to completion in accordance with the terms of the permit. Upon written request, and for good cause shown, the Board may extend the expiration date of any order without further public hearing on the merits of the original appeal or application. (new section)

Petition of certiorari. Any person or persons jointly or severally aggrieved by any decision of the Board under the provisions of this chapter, or any taxpayer, or any officer, department, or board of the City may present to a court of record a petition duly verified setting forth that the decision is illegal in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the City Clerk.

Applicant Name: _____ Phone Number: _____

Applicant's Mailing Address: _____

Date: _____

Signature(s) of Applicant(s)

Date: _____

**Signature(s) of Property Owner(s)
If different from applicants** _____