

# Zoning Board of Adjustments Variance Information and Application Packet

*Revised: 04/29/05*



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## **PLEASE READ THIS PACKET BEFORE SUBMITTING APPLICATION!**

The Application for Zoning Board of Adjustment shall be filed with the City of Waxahachie Building and Development Department at 401 S. Rogers Street, Waxahachie, Texas 75165. Standard application forms furnished by the department shall be accompanied by the filing fee. Please make all checks payable to the "City of Waxahachie." Applications and all related information shall be submitted at the time of application. **All accompanying plats must be folded into no larger than 8 ½" x 11" with project information facing up.**

The Zoning Board of Adjustment shall hold a public hearing no later than 45 days after the date the application for action or an appeal is filed. Notice of public hearing will be provided to all property owners within 200 feet of the affected property ten (10) days prior to the public hearing date.

### Authority of the Board

1. The Board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought except in the instances of nonconforming uses and structures as allowed in section 9.6 of the Zoning Ordinance.
2. The Board shall have no power to grant or modify specific use permits (SUPs).
3. The Board shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission of the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.
4. The Board shall not grant a variance (except as stated in item 5 below) for any parcel of property or portion thereof upon which a site plan, preliminary plat, or final plat where required is pending on the agenda of the Planning and Zoning Commission and where applicable, by the City Council. All administrative remedies available to the applicant shall have



been exhausted prior to hearing by the Zoning Board of Adjustment.

5. If a proposed site does not conform to the zoning district standards and a variance has been requested, the Planning and Zoning Commission and/or the City Council may defer its actions until the Zoning Board of Adjustment has acted on the variance request.

## VARIANCES

In order to grant a variance from the zoning regulations, the Board of Adjustments must make written findings that an undue hardship exists, using the following criteria:

1. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;
2. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
3. That the relief sought will not injure the permitted use of adjacent conforming property; and
4. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.

A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship on another parcel of land.

The applicant bears the burden of proof in establishing the facts justifying a variance.

## APPEALS

1. A City officer's decision related to a permit application can be appealed to the Zoning Board of Adjustments within 15 days



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of the decision. The applicant must file with the Board and the officer against whom the appeal is taken.

2. The Board shall decide on the appeal within four (4) weeks after the placement on its agenda. If the Board fails to act on the appeal within this timeframe, the request shall be deemed automatically approved.
3. A concurring vote of four (4) members of the Board is required to reverse a decision of the City officer.
4. An applicant aggrieved by a decision of the Board of Adjustments may present their case to a court of record within ten (10) days after the decision of the Board is made.

# Application for Appeal to the Zoning Board of Adjustments



Case No.: \_\_\_\_\_  
Date Received: \_\_\_\_\_

Submission Checklist (for office use):

- Complete Application
- Fees (per fee schedule)
- Property Owners within 200 feet
- 15 copies of folded survey maps

(please type or print legibly in black ink)

**General Information:**

Current Owner: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Current Owner Address: \_\_\_\_\_  
 Applicant: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Applicant Address: \_\_\_\_\_

Request is made herewith to the Board of Adjustment for a determination on the following appeal which was denied by the Building Inspector on \_\_\_\_\_, 20 \_\_\_\_\_, for the reason indicated below.

It is requested that the Board:

- 1) \_\_\_\_\_ Make an interpretation of Section \_\_\_\_\_, Subsection \_\_\_\_\_, Item \_\_\_\_\_ of the Zoning Ordinance.
- 2) \_\_\_\_\_ Hear and decide an appeal that alleges error by an administrative official in the enforcement to the zoning ordinance.
- 3) \_\_\_\_\_ Make an interpretation of the district boundary line as it applies to the following location: \_\_\_\_\_.
- 4) \_\_\_\_\_ Grant a Variance to Section \_\_\_\_\_, Subsection \_\_\_\_\_, Item \_\_\_\_\_ of the Zoning Ordinance relating to \_\_\_\_\_
- 5) \_\_\_\_\_ Permit the extension-or rebuilding of a Non- Conforming use according to Section 7 of the Zoning Ordinance.

**Property Information:**

\_\_\_\_\_ Physical Address

Subdivision \_\_\_\_\_ Block \_\_\_\_\_ Lot(s) \_\_\_\_\_ Acres \_\_\_\_\_

\_\_\_\_\_ Legal Description of Property

Lot Size: \_\_\_\_\_ Current Use of Property \_\_\_\_\_



Current Zoning of Property: \_\_\_\_\_

**Zoning Information:**

Specific description of variance requested:

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

Reason for variance request:

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

List any special conditions or hardships (other than financial):

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

**I hereby certify that all the above information and related supporting documents being submitted herewith are true and accurate to the best of my knowledge.**

\_\_\_\_\_(Date)\_\_\_\_\_ (Signature of Applicant)\_\_\_\_\_

**Notarization:**

**BEFORE ME**, the undersigned, a Notary Public in and for \_\_\_\_\_ County and the State of Texas, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this, the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
**NOTARY PUBLIC**