



Variations - Board of Zoning Adjustment General Information

General Information

A variance is a deviation from the terms of the Zoning Regulations that apply to a particular property. Variations 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.

Review by the Board of Zoning Adjustment is necessary to ensure that a variance does not create adverse impacts on the surrounding neighborhood. Examples of a variance include deviation from building setbacks and height limits.

Findings for Approval

The Board may not grant a variance unless it finds that all of the following factors exist. The Variance Application includes a section that must be filled in by the applicant, which addresses the following findings with respect to the proposed project.

- ✓ That special circumstances or conditions applying to the building or land in question are peculiar to such building or land and do not apply, generally, to other buildings or land in the vicinity;
- ✓ That the condition from which relief is sought did not result from action by the applicant;
- ✓ That the authorizing of the variance will not impair an adequate supply of light and air to adjacent property, will not increase noise or the danger of fire, or otherwise imperil the public safety or unreasonably increase the congestion in public streets or the risk of flooding or water damage, or unreasonably diminish or impair established property values within the surrounding areas; and will not in any other respect, impair the health, safety, comfort, morals or general welfare of the inhabitants of the city;
- ✓ That the requested variance will be in harmony with the purpose and intent of the Zoning Regulations.

Applying for a hearing by the Board of Zoning Adjustment

Contact the City Planner listed at the bottom of the submission checklist to discuss/review the characteristics of the proposed project. A phone call or an email will often suffice, but you may request an appointment to meet via zoom or in person. It is recommended that this conversation and initial project review take place before an application is submitted; in some types of applications it is required by city ordinance that a pre-application conference takes place within a specific time frame prior to making an application.

View the online Board of Zoning Adjustment application form (Parts I and II) and deadline/hearing schedule by visiting: mtnbrook.org - boards and commissions – board of zoning adjustment - bza application or deadline/hearing schedule.

Public Notice

All variances require a public hearing by the Board of Zoning Adjustment in order to provide any interested party a lawful opportunity to give testimony in support or opposition to the project.

In addition to the above-noted submission materials, the **applicant must provide a Jefferson County certified list of the names and mailing address for all property owners of parcels adjacent to the subject parcel (including across the street)**; may be obtained from either the Tax Assessor's Office of Jefferson County (located in the Jefferson County Courthouse, 716 Richard Arrington Jr. Blvd., or by a title company). **Zip codes must be included in the list.** Notice of public hearing will be sent via certified mail by the City to adjacent property owners as noted above.

*** Do not obtain this mailing list from any on-line source; if obtained from the JC courthouse then it must be obtained in person, as the Tax Assessor will stamp a hard copy of the mailing list as "certified."*

Variance Expiration

A variance shall expire if it is not implemented within six (6) months of the day it is granted by the Board. The Board may, for good cause presented to it, extend the time for implementation of the variance for a period of an additional six (6) months, provided that the request for extension is presented to the Board in the fifth (5th) month from the initial granting of such.

Appeal

Any party aggrieved by any final judgment of the Board may, within fifteen (15) days of the decision, appeal the decision to the Jefferson County Circuit Court, or to a court of like jurisdiction, by filing with the Board a written notice of appeal specifying the judgment or decision from which the appeal is taken. In such case, the Board shall cause a transcript of the proceeding in the case to be certified to the court to which the appeal is taken, and the case in such court shall be tried de novo.



Variance Application - Part I

Project Data

Address of Subject Property _____

Zoning Classification _____

Name of Property Owner(s) _____

Phone Number _____ Email _____

Name of Surveyor _____

Phone Number _____ Email _____

Name of Architect (if applicable) _____

Phone Number _____ Email _____

Property owner or representative agent must be present at hearing

Please **fill in only applicable** project information (relating directly to the variance request(s):

	Zoning Code Requirement	Existing Development	Proposed Development
Lot Area (sf)			
Lot Width (ft)			
Front Setback (ft) <i>primary</i>			
Front Setback (ft) <i>secondary</i>			
Right Side Setback			
Left Side Setback			
Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Rear Setback (ft)			
Lot Coverage (%)			
Building Height (ft)			
Other			
Other			



Variance Application Part II

Required Findings (Sec. 129-455 of the Zoning Ordinance)

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 Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?



Variance Application

Required Boundary Survey

Boundary surveys shall be **to-scale** and fully dimensioned and show the following information for the subject property:

- North arrow
 - Scale of plan
 - Existing property lines
 - Location of existing and proposed structures, additions, utilities, driveways and walkways
 - Any structures to be relocated or demolished
 - Existing and proposed setbacks
 - Locations, names, dimensions and description of all existing and proposed right-of-way lines, dedications and easements
 - Information block indicating name and contact number of licensed and registered surveyor who prepared the survey
 - Date of survey
- Surveys must be current (not be more than one year old from date of variance submittal)



Variance Application

Submission Checklist

All Board of Zoning Adjustment applications and related material described below shall be submitted via email in pdf format to the Administrative Analyst (copy City Planner) at the email addresses below. **No paper copies of application materials shall be accepted for placement on a Board of Zoning Adjustment agenda.**

- ✓ Parts I and II of the Variance Application, completed
- ✓ Written statement describing scope of project, dated and signed by property owner or representative
- ✓ Jefferson County Certified list of the names and mailing address of adjacent property owners (derived from Jefferson County Tax Assessor or title company) which shall include those across public right-of-way, easements, creeks, etc.
- ✓ **To-scale** current survey (depicting proposed variance) and any other plans to be reviewed by the Board of Zoning Adjustment
- ✓ Fee as applicable (\$100): make checks payable to City of Mountain Brook

For further information, or to schedule a pre-application conference, contact:

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