



## Variances - 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. 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.

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 Variance**

Contact or meet with the City Planner to discuss/review the proposed project and the hardship(s) that may or may not warrant its approval;

Obtain the appropriate **application** form (Parts I and II), **deadline/hearing** schedule and **fee schedule** from the City Planner or Executive Assistant;

Prepare a **written statement** describing the scope of the project, and submit it along with the application form and **four (4) copies of a current survey** (no more than one year old from date of submittal) with proposed variance superimposed. Survey must be on a minimum of **8-1/2 x 11 paper, survey to-scale**.

Supplemental drawings are not required but are encouraged to assist in depicting the nature of the proposed variance (site plan, floor plans, elevations, etc.). Four (4) sets of drawings may accompany the required survey. **11 x 17 paper (or larger) is acceptable**.

## **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.

## **Variance Expiration**

A variance shall expire if it is not implemented within one (1) year 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 eleventh (11<sup>th</sup>) 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)?

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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...")

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

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## 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

- ✓ 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.
- ✓ Four (4) copies of **to-scale** current survey (depicting proposed variance) and any other plans to be reviewed by the Board of Zoning Adjustment
- ✓ Fee as applicable: make checks payable to City of Mountain Brook

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

### ***Tyler Slaten***

*City Planner*

*56 Church Street*

*City of Mountain Brook*

*Mountain Brook, AL 35213*

*phone 205/802-3811*

*fax 205/879-6913*

*slatent@mtnbrook.org*

### ***Tammy Reid***

*Administrative Analyst*

*City of Mountain Brook*

*56 Church Street*

*Mountain Brook, AL 35213*

*phone 205/802-3810*

*fax 205/879-6913*

*reidt@mtnbrook.org*