

Applications for variances or appeals to be considered by the Tallahassee-Leon County Board of Adjustment and Appeals (the “Board”) are processed by the Land Use and Environmental Services Division of the City of Tallahassee Growth Management Dept. for properties located inside the city limits. This handout is to acquaint applicants with the variance or appeal process and the requirements for filing an application.

The Board is an appointed citizen body consisting of seven members appointed to three-year terms each. Three of the members are appointed by the City Commission and three members are appointed by the County Commission. The seventh member is alternately appointed by the City and County Commission. Public hearings are held on the second Thursday of each month for the purpose of reviewing variance applications and hearing appeals.

PLEASE READ AND COMPLETE THE ATTACHED APPLICATION. BE SURE TO ANSWER ALL QUESTIONS CAREFULLY AS THE LAND USE ADMINISTRATOR RESERVES THE RIGHT TO REJECT ANY APPLICATION WHICH IS IMPROPERLY FILLED OUT OR INCOMPLETE. THE SIGNATURE OF THE PROPERTY OWNER OR PERSON WITH DOCUMENTED POWER OF ATTORNEY MUST SIGN THE APPLICATION FORM. ALSO, A COMPLETED OWNER’S AFFIDAVIT MUST BE ATTACHED TO THE APPLICATION FORM.

SUBMITTAL INFORMATION

Submittal: 1 original of the completed application package (including owner’s affidavit) should be submitted to the Growth Management Department, Land Use and Environmental Services Division. Color documents should also be submitted in electronic form in one of the following formats: .tif, .pdf, .jpeg, or .bmp. Once these items are received, a sign and sign affidavit form will be given to the applicant. The fee for the submittal will also be quoted, but will not be accepted until after the sign posting affidavit has been returned. The applicant is then responsible for posting the sign. To complete the application submittal requirements, the applicant will return with a completed sign posting affidavit, a picture of the posted sign, and the fee payment. This will constitute a substantially complete application. Please note that appeals are not required to complete the above mentioned sign posting process.

Deadline: The deadline for completing submittal requirements is the **Second Thursday of every month by 10:00 a.m. (YOUR HEARING WILL BE HELD ON THE SECOND THURSDAY OF THE FOLLOWING MONTH.)**

VARIANCES

A variance is defined in the City of Tallahassee Land Development Code (LDC) as a relaxation of the terms of the code or ordinance involved where such variance will not be contrary to the public interest, and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the LDC involved would result in an unnecessary or unique hardship.

Applicants are advised to focus their written and oral presentations on the issue of hardship that is caused by the uniqueness of the property itself, as this will be the primary issue upon which the Board will be basing its decision.

Types of LDC Variances

- (1) Chapter 10 (Zoning) - A variance is eligible to be heard by the Board of Adjustments and Appeals only for height, area or size of structure, or size of yards (setbacks) or open spaces. Use variances are prohibited. Variance applications to the Zoning Code must include a site plan depicting property dimensions, locations of and distances to the property lines of any structures, as well as any other relevant information.
- (2) Chapter 3 (Buildings and Building Regulations) - Any variance application to the Building Code must be first reviewed as to eligibility and provisions to be varied and be acknowledged as to the completeness and correctness of form by the Building Official or his designee before it can be accepted for processing.
- (3) Chapter 7 (Sign Code) - A sign off by the City Sign Inspector is not presently required. However, it is recommended that any questions concerning applications for variances to the City Sign Ordinance be directed to the City Sign Inspector prior to submittal.
- (4) Chapter 5 (Environmental Management) - The Board is NOT empowered to hear variance requests to the City of Tallahassee Environmental Management Ordinance. Any questions concerning potential variances should be directed to the Code Enforcement Board Office at 891-6500.

APPEALS

Whenever it is claimed that the true intent or meaning of any of the codes or ordinances (which are eligible to be heard by the Board) has been misconstrued or wrongly interpreted, the property owner or his duly authorized agent may appeal from the decision of the administrative officer of the code involved to the Board. Notice of the appeal shall be in writing and filed within thirty (30) days after the decision has been rendered by the responsible administrative officer under the code.

IN ORDER TO BE ELIGIBLE TO FILE AN APPEAL, THE APPLICANT MUST FIRST OBTAIN A WRITTEN DECISION OR DETERMINATION FROM THE APPROPRIATE ADMINISTRATIVE OFFICER. THEN, WITHIN THIRTY (30) DAYS OF THE DECISION, THE APPLICANT MUST FILE A WRITTEN

APPEAL STATING THE REASONS HE FEELS THAT THE CODE HAS BEEN MISCONSTRUED OR WRONGLY INTERPRETED IN THE ADMINISTRATIVE OFFICIAL'S WRITTEN DECISION. COPIES OF BOTH THE ADMINISTRATIVE OFFICIAL'S WRITTEN DECISION AND THE APPLICANT'S REASONS FOR APPEALING THAT DECISION MUST ACCOMPANY THE APPLICATION.

PUBLIC NOTIFICATION

Notice of public hearing is published in the newspaper and a letter of notification is mailed by the Growth Management Department to all property owners within 200 feet of the request that explains the nature of the variance or appeal requested, the requirements under the affected code, as well as the time, date and location of the public hearing. Any interested party is invited to attend and may present testimony.

DECISION OF THE BOARD OF ADJUSTMENTS AND APPEALS

The following criteria is used by the Board of Adjustment and Appeals for approving a variance:

- (1) The variance will not be contrary to the public interest;
- (2) The intent of the regulation sought to be varied will be observed and substantial justice done by granting the variance;
- (3) Where, owing to conditions peculiar to the property, existing structures or buildings thereon, and not the result of the actions of the applicant, a strict and literal enforcement of the regulatory code involved would deprive the applicant of rights commonly enjoyed by and frequently occurring on other properties in the applicant's same zoning district under the terms of this Code, and would result in undue practical difficulty or hardship not shared by other property owners in the zoning district;
- (4) The owner's predicament feasibly cannot be obviated through any method other than the variance;
- (5) The applicant may not have created the practical difficulty or hardship;
- (6) The alleged practical difficulties or hardships which would result from failure to grant the variance extend to the inability to use the land in question for any reasonable legal use which is consistent with the surrounding properties and in conformity with the provisions of this Code and include substantially more than mere inconvenience and inability to obtain a higher financial return;
- (7) The variance shall not substantially interfere with or detrimentally affect the health, safety, or welfare of others whose property would be affected by allowance of the variance;
- (8) The variance shall not adversely affect the delivery of governmental services;
- (9) The variance shall not be in conflict with the comprehensive plan;
- (10) The variance shall not allow establishment or expansion of a nonconforming use;
- (11) A variance shall not be granted because of the presence of nonconformities in the zoning district or adjoining districts; and
- (12) No use variances are permitted.

During its monthly public hearing, the Board may receive testimony from City staff, applicants and other proponents, opponents, or any other interested party, after which the Board votes its decision. Upon approval or denial of the variance, a copy of the written order will be mailed to the applicant.

An approved variance is good for a period not to exceed twelve (12) months during which a permit must be obtained and construction started. If a permit incorporating the variance is not obtained and construction started within the twelve-month period, the approved variance is no longer effective. Every decision of the Board shall be final and is recorded in the Board's official minutes. Any person or party aggrieved by the Board's decision may seek remedy through the judicial system.

Should you have any questions about the variance or administrative appeal process, please contact us at 891-7001, option 3.

PROPERTY OWNER

Name: _____

Mailing Address: _____

City State Zip
Phone #: _____ Fax #: _____

E-Mail Address: _____

AGENT (If Applicable)

Name: _____

Mailing Address: _____

City State Zip
Phone #: _____ Fax #: _____

E-Mail Address: _____

DESCRIPTION OF PROPERTY:

Parcel Identification Number: _____

Street Address: _____

General Description: _____
_____**ZONING CLASSIFICATION:**

My property is zoned _____.

APPLICATION TYPE:

- ZCV (Chapter 10 – Zoning Variance)
- BCV (Chapter 3 - Building Variance)
- SOV (Chapter 7 - Sign Code Variance)
- OTV (Other Type of Variance)

- ZCA (Chapter 10 - Zoning Appeal)
- BCA (Chapter 3 - Building Appeal)
- SOA (Chapter 7 - Sign Appeal)
- OTA (Other Type of Appeal)

AFFECTED ORDINANCE:

CODE SECTION(S): _____

which requires: _____

EXPLANATION OF REQUEST:

REDUCE/INCREASE REQUIREMENT TO: _____

I have made this request in order to: _____

HARDSHIP STATEMENT:

IN SEEKING THIS VARIANCE, I CONTEND THAT THE FOLLOWING HARDSHIP WOULD RESULT IF THE ORDINANCE PROVISIONS WERE STRICTLY ENFORCED AND MY REQUEST WAS DENIED:

CRITERIA USED BY BOARD OF ADJUSTMENT AND AP PEALS FOR APPROVING A VARIANCE:

- (1) The variance will not be contrary to the public interest;
- (2) The intent of the regulation sought to be varied will be observed and substantial justice done by granting the variance;
- (3) Where, owing to conditions peculiar to the property, existing structures or buildings thereon, and not the result of the actions of the applicant, a strict and literal enforcement of the regulatory code involved would deprive the applicant of rights commonly enjoyed by and frequently occurring on other properties in the applicant's same zoning district under the terms of this Code, and would result in undue practical difficulty or hardship not shared by other property owners in the zoning district;
- (4) The owner's predicament feasibly cannot be obviated through any method other than the variance;
- (5) The applicant may not have created the practical difficulty or hardship;
- (6) The alleged practical difficulties or hardships which would result from failure to grant the variance extend to the inability to use the land in question for any reasonable legal use which is consistent with the surrounding properties and in conformity with the provisions of this Code and include substantially more than mere inconvenience and inability to obtain a higher financial return;
- (7) The variance shall not substantially interfere with or detrimentally affect the health, safety, or welfare of others whose property would be affected by allowance of the variance;

- (8) The variance shall not adversely affect the delivery of governmental services;
- (9) The variance shall not be in conflict with the comprehensive plan;
- (10) The variance shall not allow establishment or expansion of a nonconforming use;
- (11) A variance shall not be granted because of the presence of nonconformities in the zoning district or adjoining districts; and
- (12) No use variances are permitted.

OWNER'S SIGNATURE:

I hereby certify that I am the owner of property involved in the above described variance request and that the information set forth is true and correct.

BY: _____
Signature of Property Owner

PRINT NAME: _____

Project Name: _____ Parcel ID #: _____

*For an application to be eligible for review 1 original of the following materials must be provided:*APPLICANT

- _____ 1. This completed checklist.
- _____ 2. Completed Application for variance.
- _____ 3. Completed Owner's Affidavit.
- _____ 4. Legal description and boundary survey of the parcel which is **signed and sealed** by a Florida Registered Land Surveyor.
- _____ 5. Location map
- _____ 6. Applicable Fees.
- _____ 7. Color documents should also be submitted in electronic form in one of the following formats: .tif, .pdf, .jpeg; or .bmp.
- _____ 8. A site plan shall be drawn to an appropriate engineer's scale showing:
 - _____ a. Scale used;
 - _____ b. Use, size, location, and height of all existing buildings and other structures;
 - _____ c. Use, size, location, and height of all proposed buildings and other structures;
 - _____ d. Adjacent properties with their zoning and current land use ;
- _____ 9. Statistical information, if applicable, including:
 - _____ a. Total acreage of the property;
 - _____ b. Existing and proposed maximum building coverage expressed as a percentage of the total property area;
 - _____ c. Existing and proposed pervious and impervious surface area ratio;
 - _____ d. Existing and proposed principle use and ancillary use ratio;
 - _____ e. Existing and proposed density/intensity for the property.
- _____ 10. For sign variances:
 - _____ a. Dimensioned drawings/renderings of the sign;
 - _____ b. Building elevations, if applicable;
- _____ 11. Pictures of the site and the area of the variance request.
- _____ 12. A narrative describing the hardship.
- _____ 13. Additional relevant information which is deemed to be appropriate by the City to ensure consideration of all relevant issues.

NOTE: All of the items listed above must be submitted at the time of application. Failure to provide one of the items listed above may result in the rejection of the variance application.