



DEVELOPMENT SERVICES DEPARTMENT  
10 FIRST ST. NW  
MASON CITY, IOWA 50401  
641.421.3626

# VARIANCE

## APPLICATION PACKET

ZONING BOARD OF ADJUSTMENT APPROVAL REQUIRED

### GENERAL APPLICATION INSTRUCTIONS

Effective Date: July 1, 2010

#### APPLICATION:

Please complete and submit one (1) copy of **all required materials** included in this packet. Your application **will not** be placed on the Zoning Board of Adjustment's next agenda until a complete application is received.

This Application Packet includes:

- a. *Application Form* to be filled out and signed by applicant.
- b. *Supporting Information Form* to be filled out explaining application request.
- c. *Site Plan Checklist* to verify completion of the required Site Plan.

#### FILING DEADLINE:

The deadline to file an application for the Zoning Board of Adjustment is the 10<sup>th</sup> of each month. Your case will be heard at the following month's meeting. All required information and materials must be filed with the Development Services Department by the filing deadline. The filing fee is required at the time the application is submitted.

**FEE:** \$100.00.

#### MEETING TIME AND PLACE:

The Zoning Board of Adjustment meets on the first Tuesday of each month at 4:00 p.m. in the 2<sup>nd</sup> floor conference room at City Hall, 10 First Street NW. The meetings are open to the public.

#### NOTIFICATION:

The City will mail a notice to all property owners within 350' of the property for which a variance has been filed. This notification enables neighbors an opportunity to learn about your application request. Citizens will also be allowed to present information or

comment on the matter at the public meeting. In addition, a public notice will be published in the Globe Gazette and a public notice sign(s) will be posted by the City on the property.

**BURDEN OF PROOF:**

It is your responsibility to prove to the Zoning Board of Adjustment that a variance is necessary and that you meet the requirements to grant a variance. You must present evident to the Board that you cannot make reasonable use of your land without the variance. The fact that a variance would enhance the desirability of your land is not sufficient if you can comply with the ordinance without a variance. You must prove you meet the standards as set forth in Iowa Code. You may bring to the hearing any witnesses you wish to present evidence on your behalf about the property in question, any written statements from individuals with personal knowledge of the property and any documentation and/or photos regarding the property. Based on evidence presented at the meeting and information provided in this application, the Board will either approve or deny the variance request. If denied, the only recourse is to District Court.

## Variance

### Site Plan Checklist

***All of the information listed below must be included on the Site Plan. Failure to include any of this information will result in a delay in accepting your application. Use the checklist below to ensure that your Site Plan contains the required information. Attach the completed checklist to your site plan and submit it with your completed application.***

You must submit a Site Plan, drawn to scale, that clearly illustrates the requested Variance. The Site Plan must be a reproducible, black line drawing on a sheet of paper no larger than 11" x 17". White paper is preferred. The Site Plan must include, at a minimum, the following information:

- \_\_\_\_\_ Site Plan is drawn to scale.
- \_\_\_\_\_ Site Plan is draw in black line on paper no larger than 11' x 17'.
- \_\_\_\_\_ All property lines are shown, including dimensions.
- \_\_\_\_\_ All abutting streets and alleys are shown.
- \_\_\_\_\_ All existing and proposed buildings and structures are shown.
- \_\_\_\_\_ Dimensions of all existing and proposed buildings and structures are shown.
- \_\_\_\_\_ Distances between the existing buildings and structures and the property lines are shown.
- \_\_\_\_\_ Distances between existing buildings and structures are shown.
- \_\_\_\_\_ Required setbacks are shown (a Planner can provide the required setbacks).
- \_\_\_\_\_ Driveways and parking areas are shown, including dimensions.
- \_\_\_\_\_ Any other pertinent information is shown (e.g. significant change in topography, location and size of mature trees).

## Variance Application Form

***All information must be completed in order to process the application. If you have any questions, or need assistance completing the application, please contact the Development Services Department and a Planner will assist you.***

1. **Property Address:** \_\_\_\_\_
2. **Legal Description** (Use additional sheets if necessary. This information can be found on your tax invoice or property abstract)

3. **I (We) the undersigned, do hereby respectfully appeal to the Mason City Zoning Board of Adjustment to grant a Variance to the Zoning Ordinance to allow the issuance of a Zoning Permit to allow:**

4. **The Zoning Permit was refused because (refer to letter from the Zoning Administrator):**

5. **Property Owner:** \_\_\_\_\_

Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Telephone: \_\_\_\_\_  
(Home) (Business) (Fax)

6. **Applicant:** \_\_\_\_\_

Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Telephone: \_\_\_\_\_  
(Home) (Business) (Fax)

7. **Contact Person:** \_\_\_\_\_

Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Telephone: \_\_\_\_\_  
(Home) (Business) (Fax)

Email address: \_\_\_\_\_

8. Describe the topography of the property (slope, tree coverage, streams, etc.)

9. What utilities are available on the property?

10. What is the present use of the property? \_\_\_\_\_

11. What is the proposed use of the property? \_\_\_\_\_

12. When did you purchase the property? \_\_\_\_\_

**Appointment of Authorized Representative**

As the applicant, you may wish to allow someone to handle this matter on your behalf. If you would like to do this, complete the statement below and sign. The person you authorize to act on your behalf should be the same person listed as a contact person on page 1 of this application.

I, \_\_\_\_\_ hereby authorize \_\_\_\_\_ to act on my behalf in all matters pertaining to this variance application.

\_\_\_\_\_  
(Applicant)

Date: \_\_\_\_\_

### ***Applicant's Certification***

***By signing the application where indicated below, you certify that you have read and understand the statement below. You must submit original signatures. Faxed or photocopied signatures are not acceptable. If you have any questions, please contact a Planner in the Development Services Department for assistance.***

- Iowa Code allows the Zoning Board of Adjustment to grant a variance if, and only if, the Board members can make a finding that
  - the variance will not be contrary to the public interest,
  - a literal enforcement of the Ordinance will result in unnecessary hardship,
  - the variance will observe the spirit of the Ordinance, and
  - the variance will result in substantial justice.
- A variance will not be granted unless sufficient facts are presented in this application to justify the variance in light of the standards and to show that the granting of the variance relates to the intent and purposes of the Zoning Ordinance and the Comprehensive Plan. **It is your responsibility to present evidence to substantiate that the variance is in the public interest and is a result of a hardship.** To prove that a hardship exists, you must be able to show that the property cannot yield a reasonable return if used only for the purposes allowed by the regulations of the Zoning District. You will also need to show that strict enforcement of the ordinance will prevent the reasonable use of the property. Finally, you must demonstrate that, without the variance, the property has been deprived of all beneficial use. Claiming that your property will be more valuable, produce more profit, supply jobs or increase the tax base are not valid tests for the variance. You must also show that the need for the variance is due to unique circumstances that do not apply to other adjoining or neighboring property.
- If the Zoning Board of Adjustment grants the variance, you are in no way absolved from subsequently obtaining the necessary building permits or other permits from the City of Mason City or from other applicable agencies.

**I (We) certify that I (we) have been denied a Zoning Permit, that I (we) have submitted all the required information to apply for a variance, and that said information is factual.**

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Property Owner)

**(Note: No other signature may be substituted for the Property Owner's signature.)**

and: \_\_\_\_\_ Date: \_\_\_\_\_  
(Applicant)

and: \_\_\_\_\_ Date: \_\_\_\_\_  
(Applicant)

# Variance

## *Supporting Information*

***All information must be completed in order to process the application.***

Iowa Code (414.23) allows the Zoning Board of Adjustment to grant a variance if, and only if, the Board members can make a finding that not granting the variance will result in unnecessary hardship, will not be contrary to the public interest, will observe the spirit of the Ordinance, and shall result in substantial justice. To determine if these conditions are being met, the Board applies the five criteria listed below. In order to judge your application, you must address each of the standards below. Your application will not be considered complete without this information.

Please address each numbered item as completely as possible and return with your application. If you need assistance, please contact the Development Services Department and speak with a Planner. A copy of your responses will be forwarded to the Board members prior to the meeting. If necessary, please attach additional pages. You may also wish to include supporting documentation and/or photos to support your arguments.

- 1) ***The proposed Variance will not threaten neighborhood integrity, nor have a substantially adverse effect on the use or value of other properties in the area adjacent to the property included in the variance.*** (Discuss how the variance, if granted, will not alter the essential character of the neighborhood or locality. Demonstrate that the requested variation is compatible with and similar to other existing features in the area. You must prove to the Board that what you propose to do will not change the neighborhood or pose health or safety problems. This is usually the easiest test to meet.)

- 2) ***The proposed Variance will be in harmony with the general purpose and spirit of the Zoning Code.*** (The purpose of the Zoning Ordinance is to regulate the use of land and structures, minimize traffic congestion, protect the community from fire flood and other dangers, promote the health and general welfare, ensure there is adequate light and air, ensure the land is not overcrowded, protect the character and value of structures and neighborhoods, and ensure there are adequate public services such as water, sewer, schools and parks to serve the community. Discuss how your variance will meet, or not conflict with, these objectives.)

- 3) ***The property in question cannot yield a reasonable return if developed only as allowed in the zone where the property is located.*** (Demonstrate that, without the variance, your property has been deprived of all beneficial use. Claiming that your property will be more valuable, produce more profit, supply jobs or increase the tax base are not valid tests for the variance. For example, if you have a single, undeveloped lot only big enough to put a 10' X 20' house on, after setbacks are applied, you would be denied a reasonable return on that lot. However, "reasonable return" does NOT mean maximum financial return for you or as high a return as your personal financial circumstances would require in order to profit from developing the property. For example, the Board of Adjustment need not permit you to build as large a house as you might wish if a smaller house could be built without a variance. If you are making a financial argument that you cannot realize a reasonable return, you must provide documentation to support your argument.)



- 4) ***The owner's situation is unique or peculiar to the property in question, and the situation is not shared with other landowners in the area or due to general conditions in the neighborhood.***

*(Demonstrate that the physical circumstances that create the hardship are not shared by other properties in your neighborhood. Physical circumstances include things such as oddly shaped lots, small lots, and the presence of mature trees, flood plains, steep slopes or other natural features. Describe any irregularities in your lot or buildings that prevent you from building without a variance. In other words, describe what makes your property different from others in the area. The Board will be looking for proof from you that your property, not your personal circumstances, is somehow different from other property in the neighborhood.)*

- 5) ***The hardship is not of the landowner's or applicant's own making or that of a predecessor in title.***

*(Demonstrate that the hardship results from circumstances beyond your control, or beyond the control of previous property owners. For example, if a previous owner built your garage too close to your property line, this is not a hardship. However, if the City changed the zoning requirements for your area and your garage became non-conforming as a result, a hardship may exist. Be sure to address whether you made improvements in the past or altered the shape of the lot or building.)*

