



BOARD OF ADJUSTMENT

Zoning Code Variance Request
Updated January 2019

PROPERTY DETAIL

Property Street Address: _____

Property Legal Description: Lot _____ Block _____ Abstract/Subdivision _____ Phase _____

Applicant Name: _____ Title: _____

Mailing Address: _____ City: _____ Zip: _____

Phone Number: _____ email: _____

ZONING CODE VARIANCE DETAIL

CITY ZONING CODE (S) APPEALING: § _____

State the variance being requested and the reason(s) you are requesting a variance. Please be as specific as possible: _____

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that all of the following conditions are met. State how your request meets these conditions. Please note, the stated hardship may not be financial or self-induced.

1. There are special circumstances or conditions affecting the land involved such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land: _____

2. The circumstances or conditions are not economic hardships created by the property owner: _____

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3. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant: _____

4. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area: _____

5. That the granting of the variance will not have an adverse effect on surrounding properties, preventing the use and enjoyment of other land within the area in accordance with the provisions of this chapter: _____

REQUIRED MATERIALS FOR SUBMITTAL WITH APPLICATION

<u>Applicant Initial Below</u>	<u>CHECKLIST</u>	<u>City Initial</u>
	Copy of Denial Letter from City Official (If Applicable)	
	Property Boundary Survey or Plot Plan	
	Drawing Illustrating the Requested Variance	
	Photographs of Structure / Property	
	Check or Cashier's Check made out to the City of Murphy for the appropriate fees: Non-Homestead \$300.00 / Homestead \$200.00	

APPLICANT AGREEMENT: (COMPLETE IF YOU ARE NOT THE PROPERTY OWNER)

I understand that filing this application does not constitute approval and incomplete applications will result in delays and possible denial. I further understand that the filing fee is non-refundable regardless of the action of the board.

Applicant Signature: _____ Date: _____

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____, known to me to be the person whose name is subscribed in the foregoing instrument and acknowledge to me that he executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

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GIVEN under my hand and seal of office, this _____ day of _____, AD, _____.

Notary Public in and for the State of Texas, County of _____

OWNER AGREEMENT:

Owner Signature: _____ Date: _____

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____, known to me to be the person whose name is subscribed in the foregoing instrument and acknowledge to me that he executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office, this _____ day of _____, AD, _____.

Notary Public in and for the State of Texas, County of _____

BOARD OF ADJUSTMENT ACTION

DATE: _____ ACTION: _____

Secretary of the Board (Attest)

Chairman

Date: _____

Date: _____

The Board of Adjustment is composed of seven appointed citizens (and four alternates) and has the power to hear and decide cases, which interpret provisions of the zoning ordinance. This board sits as a judicial body – a citizen court in zoning matters. Unlike the Planning and Zoning Commission, this board is not a recommending body. Its decisions are final, subject only to review by the courts. Members are considered to be officers of the City of Murphy. The Board of Adjustment meets only when necessary and when a BOA submittal is received.

The Board of Adjustment decides on applications for special exceptions of land use and authorizes variances of land use or development authorized under the zoning ordinance.

The board has three powers as specified in Section 211.009, Texas Local Government Code:

- To render an interpretation of the city zoning ordinance when someone alleges that there is error in any order, requirement, decision or determination made by a city official who administers the ordinance;
- To decide whether to approve or deny applications for a special exception to normal zoning rules when such use or development is specifically authorized in the zoning ordinance; and
- To authorize requests for variance from the zoning ordinance when it is not contrary to the public interest.

General

In actions before the Board of Adjustment, the burden of proof falls on the applicant, i.e.: (1) If a variance is requested, factual evidence must be presented to satisfy the Board that a hardship exists, which is not generally true of other properties in the area and which is not a self-created hardship. (The economic cost of compliance is not legally considered a hardship). (2) If the decision of an administrative official is appealed, evidence must be presented to satisfy the Board that an error exists in the official's decision. (3) If a special exception is requested, evidence must be presented to satisfy the Board that a special exception to terms of the ordinance is warranted due to the peculiar circumstances of the situation.

Special Information to be provided:

I. Request:

- Variance:** Briefly state the requirement as it now exists and what it will become if the variance is granted and reference the requirement in the Zoning Ordinance.
- Appeal of an Administrative Decision:** State the decision of official that is being appealed and what decision you believe should have been made. Reference the regulations on which the decision is based.
- Special Exception:** State the circumstances that warrant Board action.

II. Property Hardship: State the nature of the hardship that you feel justifies action by the Board of Adjustment.

III. Drawing: The applicant must provide a legible and reasonable drawing, to scale, illustrating that which is requested. For example, if a setback variance for an accessory building is being sought, then the drawing should indicate the proposed location of the accessory building, the distance from the accessory building to the main building, and property lines, etc.

Note: Most title companies require a survey to be conducted on property being bought or sold prior to closing on the sale. Drawing the proposal on a copy of this survey is an excellent way to illustrate the request.

SUBMISSION REQUIREMENTS

1. A site plan prepared according to the following requirements must be submitted with every application, or the application will not be accepted.
2. If you have a property survey it should be used as the basis for your site plan.
3. Site plans do not have to be professionally prepared. They must, however, be clearly drawn and legible. Straight lines must be drawn using a straight edge. Labels and dimensions must be neat and easy to read. Line width/darkness must be adequate for photocopying. Dimensions must be accurate and proportional.
4. The following information must be provided on the site plan:
 - Property address
 - Property boundaries and lot dimensions
 - Location and size of ALL structures (including fences) on the property, including those that are not the subject of the application
 - Dimensions of structures for which a variance is being requested
 - Distance from applicable property lines of all structures for which a setback variance is requested (distance for carports is measured from the post) and extent of roof overhang, if any
 - Primary building, roofing and foundation materials utilized for accessory structures and additions (including carports)

It is your responsibility to ensure that the information provided on your site plan is accurate.

5. **It is your responsibility to determine where your property lines are.** Please be advised that the property line is not always the same as the fence line, nor is it the same as the edge of the sidewalk, street or alley pavement. If you do not have a property survey you can generally locate front, rear and side property lines that are adjacent to a street or alley by taking one-half the width of the adjacent street or alley right-of-way and measuring that distance from the center of the street or alley toward your house. The subdivision plat (available at the Planning Department) will provide you with the width of the street or alley right-of-way (the width of the right-of-way is usually **not** the same as the width of the pavement). The front property line is usually (but not always) one foot in from the edge of the sidewalk closest to your house.

Photographs

You must provide photographs of the structure to be presented to the Board during the public hearing. The photographs must clearly show the structure, its location and the violation for which the variance is being sought. One (or more) photographs must provide a close-up view of the structure, and another must provide a view of the structure within the surrounding yard.

If you have questions please contact the Community Development Department at 972-468-4107.

Application Process

1. Applicant is to meet with the Director of Community Development and/or Building Official for a pre-application conference.
2. Application must be complete and submitted to the Community Development Department no later than 29 days prior to scheduling a meeting.
3. Fees must be submitted with the application in the form of Check or Cashier's check. The fee is non-refundable regardless of the board's decision or applicant's decision to withdraw request.
4. Public notice, providing the name and address of applicant and variance request information, is to be posted in the local newspaper not less than 15 days prior to the public hearing.
5. Public comment response form is to be mailed to all real property owners within a 500 foot radius of the subject property not less than 10 days prior to the public hearing.
6. The applicant is to appear at the public hearing before the board to state the case at hand once a meeting date has been established.