

## **City of Ottawa Community Development Department**

101 S. Hickory, P. O. Box 60  
Ottawa, KS 66067  
(785) 229-3620 Fax (785) 229-3625  
[www.ottawaks.gov](http://www.ottawaks.gov)

### **Variations Procedures and Application**

The Board of Zoning Appeals shall have the power to hear and decide variance request where it is alleged the property owners feel that the strict application of the requirements of the zoning regulations would create an undue hardship upon them.

The board must base its decision on factual evidence and not the personal opinion of the applicant, neighbors, or others. The request for a variance should be based on a conflict between the restrictions on the development of the property due to its physical characteristics. A variance should be issued only to the specific restrictions on physical construction and not to the list of permissible land uses within a given zone.

The board shall have the power to authorize in specific cases a variance from the specific terms of the zoning regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

The applicant must show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of his or her property in the manner similar to that of other property in the zoning district where it is located.

Variations from these regulations may be granted only in the following instances:

1. To vary from the applicable lot area and width, height and yard regulations.
2. To vary from the applicable off-street parking and loading requirements.

In accordance with Section 25-10 a request for a variance may be granted by the Zoning Administrator for variations of 10% or less of the requirement. Requests for variations of greater than 10% of the requirement of the regulation may be granted, upon a finding of the board that all of the following conditions have been met. The board shall make a determination on each condition, and the finding shall be entered in the record.

#### **The procedure for requesting a hearing before the board shall be as follows:**

1. All applications to the board shall be in writing on forms provided by the Zoning Administrator. Applications shall be completed in their entirety and filed in the office of the Zoning Administrator with all supporting data.

2. The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five (5) conditions as set out in Section 25-301.c.
3. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the board in consideration of the application should be included. The Zoning Administrator may require any legal description submitted as part of an application to be certified by a registered surveyor.
4. An application filing fee of **\$100.00** shall accompany the application.
5. The Zoning Administrator shall determine whether the filed application is complete.
6. The Zoning Administrator will create the required ownership list of the names and addresses of the owners of all property located within two hundred (200) feet of the city limits and within one thousand (1,000) feet of the county boundaries of the property included in the application.
7. The board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official city newspaper at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest and each person on the ownership list fifteen (15) days prior to the hearing.

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**Variance Application Form**

**Fee: \$100.00**

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

List the setback requirement, what setback you are requesting and a brief description. \_\_\_\_\_

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1. Name of Applicant \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone # \_\_\_\_\_ Fax \_\_\_\_\_

2. Name of Authorized Agent (if applicable) \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone # \_\_\_\_\_ Fax \_\_\_\_\_

3. Relationship of Applicant to property is: Owner [ ] Tenant [ ] Lessee [ ] Other [ ]

4. Property Address \_\_\_\_\_

5. Legal Description \_\_\_\_\_

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6. Reason for request: \_\_\_\_\_

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7. Uniqueness

The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by action of the property owner or applicant.

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8. Adjacent Property

The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

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9. Hardship

The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

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10. Public Interest

The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

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11. Spirit and Intent

The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

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The Board of Zoning Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from in the application for a variance. In order to grant a variance, a majority of a quorum of the Board must vote for variance. The Boards determination, in writing, shall be sent to all affected parties.

12. The applicant/agent hereby declares that all information submitted is true to the best of his knowledge and that all information required for this request has been included and that the date of the Public Hearing has be conveyed to the applicant/agent.

PUBLIC HEARING DATE: \_\_\_\_\_

APPLICANT:

AUTHORIZED AGENT:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Attachment(s):      Yes    No

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OFFICE USE ONLY

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

Received by: \_\_\_\_\_

Fee paid: \_\_\_\_\_

Board action: \_\_\_\_\_

Date of action: \_\_\_\_\_