

# City of Bryant, Arkansas

## BOARD OF ZONING ADJUSTMENT

### POWER AND DUTIES, PROCEDURES, FEES AND APPEALS

#### POWERS AND DUTIES

##### **1. ADMINISTRATIVE REVIEW**

To hear and decide appeals where it is alleged there is error in any decision made by the administrative official in the enforcement of the Zoning Ordinance.

##### **2. VARIANCES**

To authorize variances that will not be contrary to the public interest where, due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. A variance shall not be granted unless and until:

- A. The applicant can show that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
- B. The applicant can show that literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.
- C. The applicant can show that special conditions and circumstances do not result from the actions of the applicant.
- D. The applicant can show that granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district.
- E. No nonconforming or permitted use of lands, structures, or buildings in the same or other districts shall be considered grounds for the issuance of a variance.
- F. The reasons set forth in the application justify the granting of the variance.
- G. The variance is the minimum variance that will make possible the reasonable use of land, building, or structure.
- H. The granting of the variance will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards are a violation of the Zoning Ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible in the zoning district involved.

### 3. SPECIAL EXCEPTIONS

- A. The Board of Adjustment may permit the extension of a zoning district boundary where the boundary divides a lot held in a single ownership at the time of adoption of this ordinance.
- B. The Board of Adjustment may interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground differ with those shown on the Zoning District Map.

### PROCEDURES

1. All applications made to the Board of Zoning Adjustment shall be made in writing on appropriate forms.
2. Every application shall refer to the specific provision of the Zoning ordinance involved and shall exactly set forth (a) the interpretation that is claimed, (b) the use for which the permit is sought or (c) the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
3. Each application for a variance must include a scale drawing showing the requested variance along with all relevant information, including the exceptional condition or situation of the property that causes the exceptional practical difficulty or undue hardship for which relief is being sought.
4. All applications shall be submitted to the Planning Commission Secretary by 5:00 p.m. on Monday two (2) weeks prior to the Planning Commission meeting which is held the 2<sup>nd</sup> Monday of each month at 6:00 p.m.
5. The Board of Zoning Adjustment normally meets on the second Monday of each month (if the meeting is required) at 6:00 pm in the Court Room in City Hall at 210 S.W. 3<sup>rd</sup> Street. Each applicant is responsible for determining the exact time of the meeting by contacting the Planning Commission Secretary.
6. After required fees are paid the Planning Commission Secretary shall forward a public notice to be published in the Benton Courier at least once not less than fifteen (15) days prior to the date of the public hearing. The notice shall include the following information:
  - A. The location of the variance sought and an address. If an address is not available, a description that is clear to the average layperson will suffice.
  - B. A brief statement of the request.
  - C. The date, time, and location of the public hearing.
7. The applicant must notify by certified letter, all property owners within 300 feet of any boundary of the petitioner's property, of the intention to seek a variance. The applicant must state the date, time, and place of the public hearing, the reason you want a variance as well as the legal description of the property and a vicinity map in the certified letter.

A copy of the certified list of property owners, a copy of the letter sent to property owners on the certified list and the postmarked certified receipts and/or return receipts must be submitted to the Planning Commission Secretary **no later than 5 days prior to the public hearing.**

## FEES

A \$40.00 fee is required for lot and block descriptions and a \$125.00 fee for acreage or meets and bounds descriptions. The fee should be paid at City Administrative Offices during regular business hours.

## APPEALS FROM BOARD OF ADJUSTMENT

Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.

## NOTE

It should be noted that this is not an exhaustive guideline regarding the Board of Adjustment. Additional information is available in the Bryant Zoning Ordinance.

## ***Checklist of Items for Board of Zoning Adjustment***

- ❑ ***Application for Variance - Filed with the Planning Commission Secretary no less than 14 days prior to the regular Planning Commission meeting.***
- ❑ ***Letter requesting Variance - A letter requesting the variance and why along with the Application filed with the Planning Commission Secretary no less than 14 days prior to the regular Planning Commission meeting.***
- ❑ ***Legal Description - A legible typed legal description of property in question along with a plat of the property and a vicinity map filed with the Planning Commission Secretary no less than 14 days prior to the regular Planning Commission meeting.***
- ❑ ***File with application - Scale drawing showing the requested variance along with all relevant information.***
- ❑ ***Certified Letters to All Owners within 300 Feet - After notification, the postmarked certified receipts and/or return receipts are filed with the Planning Commission Secretary.***
- ❑ ***Certified list of Property Owners within 300 Feet - A list including the names of property owners. Filed with the Planning Commission Secretary along with the certified receipts-returns.***

**CITY OF BRYANT  
BOARD OF ZONING ADJUSTMENT  
POWER RELATIVE TO VARIATIONS  
CHECKLIST**

At least one checkmark should appear under each of the items 1, 2, and 3 below in order for the Board of Zoning Adjustment to have the power to grant a variation. The board may not grant a variance in use.

1. Exceptional Condition of a Specific Piece of Property

\_\_\_\_\_ Narrowness

\_\_\_\_\_ Shallowness

\_\_\_\_\_ Shape

\_\_\_\_\_ Topographical Conditions

\_\_\_\_\_ Other Extraordinary or Exceptional Situation or Condition

2. Frequency of Occurrence of Exceptional Condition

\_\_\_\_\_ Not Generally Prevalent in the Area

3. Result of a Strict Application of the Zoning Ordinance

\_\_\_\_\_ Peculiar and Exceptional Practical Difficulty to the Owner of the Property

\_\_\_\_\_ Exceptional and Undue Hardship on the Owner of the Property

# NOTICE OF PUBLIC HEARING

A public hearing will be held on Monday, \_\_\_\_\_ at 6:00 P.M.

at the Bryant City Office Complex, 210 Southwest 3<sup>rd</sup> Street, City of Bryant , Saline

County, for the purpose of public comment on a variance request at the site of

\_\_\_\_\_ (address).

\_\_\_\_\_, Chairman  
Board of Zoning Adjustment  
City of Bryant

This notice is to be run in the legal notices section of the Benton Courier  
no less than 15 days prior to the public hearing.

**City of Bryant, Arkansas  
BOARD OF ZONING ADJUSTMENT  
APPLICATION FOR VARIANCE**

**APPLICANT**

**NAME:** \_\_\_\_\_

**SPOUSE NAME:** \_\_\_\_\_

**PROJECT LOCATION**

**PROPERTY ADDRESS:**

\_\_\_\_\_

**LEGAL DESCRIPTION:**

\_\_\_\_\_

\_\_\_\_\_

**DESCRIPTION OF VARIANCE BEING SOUGHT (attach any necessary drawings):**

\_\_\_\_\_

**PROPOSED USE:**

\_\_\_\_\_

**Existing Zoning Classification:** \_\_\_\_\_

**Requested Change:** \_\_\_\_\_

**Plat of Property is Attached:** \_\_\_\_\_

**Vicinity map of property is attached:** \_\_\_\_\_

The undersigned designates the following process agent or attorney to represent the applicant at all hearings: \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Applicant's Spouse Signature

\_\_\_\_\_  
Applicant's address

\_\_\_\_\_  
Applicant's Phone

Sample Letter

DATE

NAME  
ADDRESS  
PHONE #

RE: Variance Request

The property located at \_\_\_\_\_ is being considered for a variance to \_\_\_\_\_.  
The property is zoned \_\_\_\_\_. The property is more particularly described as follows:

### Property Legal Description

A petition has been filed with the Board of Adjustment for this variance. As a part of this process, a public hearing will be held \_\_\_\_\_ at 6:00 p.m. in the Bryant City Office Complex at 210 S. W. 3<sup>rd</sup> Street, Bryant, Arkansas, 72022. Public comments will be accepted at that time regarding this variance.

Since you own property within 300 feet of the tract in consideration, you have been mailed this letter via certified mail as required by city ordinance. I am also enclosing a vicinity map for your use.

Should you have any questions regarding this matter you may contact Dave Green, Planning & Community Development Director, at the City of Bryant at 501-943-0309, or myself at \_\_\_\_\_.

Thank you for your consideration in this matter.

Sincerely,