

## VARIANCE PROCEDURES

1. Discuss the proposal with City Planning staff member(s).
2. The staff member will supply you with an application form that must be completed in duplicate and signed by the owner(s) or owner's attorney of the subject property. The staff member will assign a specific date the application must be returned to the City Office which allows for ample time to comply with the requirements by City Code for proper publication and notification of property owner's notices. This is usually approximately sixteen (16) days prior to a regular or called meeting of the Board of Adjustment which is held on the third Thursday of the month at 12:00 Noon.
3. A fee of **\$230.00** for a new application (non-refundable) is required to process the application. A site plan, drawn to scale, which shows the boundaries of the property involved in the request, and existing and/or proposed buildings, and other supportive documents or descriptive data helpful to better understand the request is required with the application. If necessary, submit one map and/or drawing with the application (maximum size 11 x 17) to further support your request.
4. All persons which are the recorded title owners of land within three hundred (300) feet of any point along the perimeter of the land shall be notified in writing of request for a variance. The letter of notification shall be mailed to recipients no later than ten (10) days prior to the Planning Commission's public hearing. Adjacent land owners shall have ten days from the date of notification to notify the City Administrator of any protests which they may have concerning the application. A certified list must be prepared, by the applicant, of the names and addresses of those persons who own property within a 300' radius of the subject property. This list may be obtained by contacting the County Surveyor's Office for the names of the property owners and then the County Assessor's Office for the addresses. This list **must** accompany the application or no action will be taken on your request.
5. The City will post a "Variance Action Pending" sign on the front yard of the property under consideration for a variance at least ten (10) days prior to the public hearings of the Planning Commission and City Council.
6. See below State Statute governing when and for what reasons a variance can be granted.
7. You will be provided with a copy of the agenda for the Board of Adjustment meeting at which your request will be considered. It is recommended that the applicant or a representative attend the Board of Adjustment meeting to answer any questions. Without someone being there to speak on your behalf, your request may be deferred to the next meeting. The Board of Adjustment will make the official decision.

Filing Date \_\_\_\_\_

Receipt Number \_\_\_\_\_

**APPLICATION FOR VARIANCE**

1. \_\_\_\_\_  
Applicant's Name      Mailing Address      Telephone
2. \_\_\_\_\_  
Agent's Name      Mailing Address      Telephone
3. \_\_\_\_\_  
Owner's Name      Mailing Address      Telephone
4. \_\_\_\_\_  
Address and Legal Description of Location - Subject Property
5. \_\_\_\_\_  
Describe the requested Variance
6. \_\_\_\_\_  
State briefly your reasons and hardship for request (Use Back if Necessary)

\_\_\_\_\_  
Signature of Bldg. Inspector      Date

\_\_\_\_\_  
Signature of Owner(s)      Date

**DO NOT WRITE BELOW THIS LINE**

**BOARD OF ADJUSTMENT HEARING ACTION**

1. Carried _____ to _____	Roll	Yes	No
2. Not Carried _____ to _____	1. _____	_____	_____
Date of Notice _____	2. _____	_____	_____
Date of Public Hearing _____	3. _____	_____	_____
Date Approved _____	4. _____	_____	_____
Date Not Approved _____	5. _____	_____	_____
Recommendation _____	6. _____	_____	_____

I hereby certify that the persons listed below are the record title owners of the property within 300 feet of my property.

**19-910. BOARD OF ADJUSTMENT; POWERS; ENUMERATED; JURISDICTION ON APPEAL; VARIANCE; WHEN PERMITTED.** The board of adjustment shall, subject to such appropriate conditions and safeguards as may be established by the legislative body, have only the following powers: (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; (2) to hear and decide, in accordance with the provisions of any zoning regulations, requests for interpretation of any map; and (3) where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section and section 19-901, 19-903 to 19-904.01 and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution. No such variance shall be authorized by the board unless it finds that:(a) The strict application of the zoning regulation would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations. In exercising the above-mentioned powers such board may, in conformity with the provisions of section 19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

## **ARTICLE 13. CITY BOARD OF ZONING ADJUSTMENT**

### **SECTION 1301 CREATION, TERMS, MEETING, AND RULES**

All requirements of Chapter 2-3 of the Blair City Code shall be satisfied.

## **SECTION 1302 ADDITIONAL REQUIREMENTS**

In addition to the immediately above, the following shall be included as requirements, administrative duties and conditions of the City Board of Zoning Adjustments.

1302.01 **REQUIREMENT FOR WRITTEN APPLICATION AND CONDITIONS:** A variance from the terms of this Ordinance shall not be granted by the City Board of Zoning Adjustment unless and until a written application for a variance is submitted demonstrating 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 district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land, structures, or buildings in the same district.

1302.02 **EFFECT OF NON-CONFORMANCE:** No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

1302.03 **PUBLIC HEARING AND FINDINGS OF THE BOARD:** The City Board of Adjustment shall hear and determine appeals from or other matters referred to it regarding the application of this Ordinance. The Board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official City newspaper at least ten (10) days prior to the date fixed for the hearing. A copy of said notice shall be mailed to the applicant, all owners of land within 300 feet of the property in question and to the City Board of Adjustment. Any party may appear in person or by agent or by attorney; the City Board of Adjustment shall make findings that the requirements of this section have been met by the application for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board shall further make a finding that the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

1302.04 **CONDITIONS IMPOSED:** In granting any variance, the City Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the Variance is granted is punishable under SECTION 1702 of this Ordinance.

1302.05 **USE VARIANCES:** Under no circumstances shall the City Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this

Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

1302.06 APPLICATION REQUIREMENTS: An application for a variance shall be in writing and made upon forms supplied by the City for such purpose. The application shall be accompanied by a scale drawing of the area for which the variance is requested, together with the dimension thereof, lot or boundary locations the location of all existing and proposed improvements or structures. Said fee shall be set and determined from time to time as deemed necessary by the Mayor and City Council by resolution, and shall be appended to the Municipal Code as part of an appendix for permit, license, and application fees.

Written notices shall be mailed to all owners of land within three hundred (300) feet of the property. Such land owners shall have ten days from the date of notification to notify the City Administrator of any protests which they may have concerning the application.

A "Variance Action Pending" sign will be posted on the front yard of the property under consideration for a variance at least ten (10) days prior to the public hearings of the Planning Commission and City Council.