VARIANCE OF DEVELOPMENT STANDARD

Guide to Applying for a Variance from the Board of Adjustment

Background

Zoning regulations are intended to protect and serve the public good. To do so, they should be applied universally and consistently. Sometimes, however, because of atypical conditions unique to a particular property, carrying out the strict letter of a zoning regulation would not allow reasonable use of that property. To avoid unjust and unnecessary imposition of such extreme hardships on property owners, the Raymore Unified Development Code provides a relief from the standards in unique circumstances. The Code authorizes the Board of Adjustment to grant variances from zoning regulations.

Definition

A variance is a waiver from compliance with a specific provision of the zoning ordinance. It is a type of exemption to a zoning regulation that allows a property owner to be legally in compliance with the zoning regulations without complying with specific requirements of that regulation. Variances are granted to a particular property owner because of the practical difficulties or unnecessary hardship that would be imposed upon him/her by the strict application of that provision of the regulation. Zoning regulations that may be waived include yard size, building size, fence height, parking, and landscaping requirements.

Conditions

Submission of an application for a variance does not guarantee approval. The Board of Adjustment must find that the zoning regulation in question cases a hardship. A hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user. The applicant must show that the physical characteristics of their property, like shape or contour, actually prohibit the practical use of his/her property in the manner similar to that of other property in the zoning district where it is located. A variance may be appropriate if a property has unique physical conditions and the spirit and intent of the ordinance will be satisfied while varying from the regulations in the manner requested. The applicant must also show that the public health safety and welfare are not adversely affected by their request.

If these legal tests cannot be met, a variance should not be granted. A variance is not appropriate as a matter of convenience, or if it would grant special privileges to an individual property. Economic considerations alone do not constitute a hardship if a reasonable use for the property exists under the Unified Development Code.

Process

Applications for variances are reviewed by city staff and the Board of Adjustment. Any person considering seeking a zoning variance must first contact Development Services Department staff, who will explain the review process and provide the necessary forms, checklists, and deadlines.

To request a hearing, an application must be submitted to the Development Services Department prior to the filing deadline. The case will be scheduled for review at the next Board of Adjustment meeting. Staff will review the application for completeness and consistency with applicable plans and ordinances. Staff will contact the applicant if additions or revisions to the application are necessary. Staff prepares a report containing its findings and a recommendation of approval or denial.

In addition to review by City staff and officials, the application is subject to comment from the general public. A public hearing is required at the Board of Adjustment meeting where the application is presented.

Decision

The granting of variances in Raymore is the responsibility of the Board of Adjustment. The Board is made up of five members who are citizens and residents of the City of Raymore. The Board meets on the third Tuesday of each month, as needed.

In reviewing zoning variances, the Board of Adjustment acts much like a panel of judges. It holds a hearing to allow the staff, applicant, and other interested parties to present competent, substantial, and material factual evidence relating to the required conclusions. It then makes findings of fact supported by the presented evidence. Based on those findings, the Board decides whether or not it can reach each of the required conclusions. It may approve a variance request only after it reaches all of the required conclusions. The Board may approve an application subject to conditions reasonably necessary to allow it to reach the required conclusions.

The Board's decision is final as far as the City's process is concerned. The Mayor and City Council cannot overrule or alter the Board's decision. If anyone feels a variance was improperly granted or denied, including the Mayor and City Council, the Board's decision must be appealed to the Circuit Court of the County.

Timeline

- Pre-application review with City staff
- Complete application

30 Days Before BOA

Filing deadline:
- Submit a completed application (see application checklist)
- Pay filing fee

- Submit sketch plans and written statement

Staff review

At Least 15 Days Before BOA

City mails notices of the public hearing, posts a sign, and posts notice in a local newspaper

Second Tuesday of Every Month

Board of Adjustment/Public Hearing

VARIANCE FROM BOARD OF ADJUSTMENT
APPLICATION CHECKLIST

In order to request a hearing before the Board of Adjustment, a completed application must be received by the City of Raymore's Development Services Department before the monthly filing deadline. The filing deadline is typically thirty (30) days before the next Board meeting. Please contact the Development Services Department for dates.

A completed application for a variance must include the following:

- ☐ **A completed application form.** The application form is available in the Development Services Office located in Raymore City Hall or at www.raymore.com.
- ☐ **A filing fee of two hundred and eighty dollars ($280.00)** payable to the City of Raymore.
- ☐ **Ownership affidavit, copy of deed, or other proof of ownership OR ownership consent form.**
- ☐ **Two copies of a sketch,** drawn to scale, showing the lot or lots included in the application, the existing structures, and the proposed structures necessitating the variance requested. All appropriate dimensions and any other information that would be helpful to the Board in consideration of the application should be included.
- ☐ **A written statement justifying the variance requested**, indicating specifically the enforcement provision 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 eight conditions listed below.

    1. The variance requested arises from such 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 an action or actions of the property owner, applicant, or their agent, employee or contractor.
    2. The strict application of the provisions of the Unified Development Code of which the variance is requested will constitute an unnecessary hardship or practical difficulty upon the property owner represented in the application and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same district.
    3. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
    4. The granting of the variance will not result in advantages or special privileges to the applicant or property owner that this code denies to other land, structures or uses in the same district.
    5. Whether the requested variance is the minimum variance necessary to provide relief.
    6. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
    7. The granting of the variance desired will not be opposed to the relevant purposes and intents of this Unified Development Code.
    8. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this code and the individual hardships or practical difficulties that will be suffered if the variance request is denied.

VARIANCE FROM BOARD OF ADJUSTMENT
APPLICANT PROPOSED FINDINGS OF FACT

Case Number: _____

Please respond to how the variance request addresses the following conditions of approval.

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2. The strict application of the provisions of the Unified Development Code of which the variance is requested will constitute an unnecessary hardship or practical difficulty upon the property owner represented in the application and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same district.

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