



Citizens Guide to Variances

Board of Adjustment

City of Gun Barrel City

This guide discusses the purpose, application requirements, review criteria, and process for a variance.

What is a variance?

A variance is a deviation from the City's development regulations. A variance can be requested when a proposed residential project does not comply with zoning regulations of the City's Code of Ordinances. If a building permit does not comply with regulations, the homeowner may either revise the project to bring it into compliance or apply for a variance for review by the Board of Adjustment (BOA).

Who reviews a variance?

Staff will review the application and serve as the case manager. The BOA, a citizen board that is appointed by the City Council, reviews all variance requests in a public hearing and renders a decision. The BOA is granted authority by the Gun Barrel City Charter and in accordance with Texas State Law.

What is the process for a variance?

Step ONE: Pre-application Meeting

- Meet with Staff to discuss the variance request. Bring a drawing of the site with the proposed project design. The discussion will include the applicable zoning regulations and the nature of the request.

Step TWO: Alternative Design

- Explore design alternatives with Staff. In the evaluation of alternative designs, applicants should consider the variance review criteria established in the International Zoning Code as adopted and the Gun Barrel City Revised Code of Ordinances.
- If the alternative design process does not yield a plan that conforms to regulations, the property owner will have the choice to proceed with the variance application.

Step THREE: Submit Application

- Requires a hard copy of the following information:
 - o Complete application form
 - o \$100 application fee
 - o Proof of ownership / Land Survey
 - o Letter of description and justification
 - o Alternative design
 - o Site plan
 - o Elevation drawings and floor plans (if applicable)
 - o Neighborhood input is encouraged. Letters of support on behalf of neighboring properties are appropriate.
- The hearing will be scheduled once the application is reviewed and deemed complete (generally 30 days after the application is submitted).

Step FOUR: Noticing Requirements - Mailed Notice

- Mailed Notice - Staff must mail a notice of the public hearing to property owners who lie within 200 feet of the subject property.
- Publication – Staff will publicize the public hearing to the local paper and on their website.
- The agenda will be posted at least 72 hours before the meeting outside City Hall.

Step FIVE: Public Hearing and BOA Decision

- Staff will submit the case to the BOA. This includes the findings based on the review criteria established in the International Zoning Code as adopted and the Gun Barrel City Revised Code of Ordinances and a recommendation to approve or deny the request(s).
- The applicant or representative are given an opportunity to present. Visual aids are preferred. BOA members will ask the applicant questions about the proposal.
- Public hearings are open for comment. Neighbors and the general public are encouraged to attend.
- The BOA will deliberate and render a decision at the public hearing.

What are the criteria for a variance?

The International Zoning Code as adopted establishes criteria for reviewing a variance (IZC 107.7.3). The applicant is responsible for demonstrating that the variance meets the review criteria.

Staff will make findings on the criteria and a recommendation to approve or deny the request(s) based on the findings. The BOA will apply the same criteria to approve or deny an application.

The variance request(s) must meet ALL of the criteria listed.

1. Limitations on the use of the property due to physical, topographical and geological features.
2. The grant of the variance will not grant any special privilege to the property owner.
3. The applicant can demonstrate that without a variance there can be no reasonable use of the property.
4. The grant of the variance is not based solely on economic reasons.
5. The necessity for the variance was not created by the property owner.
6. The variance requested is the minimum variance necessary to allow reasonable use of the property.
7. The grant of the variance will not be injurious to the public health, safety or welfare.
8. The property subject to the variance request possesses one or more unique characteristics generally not applicable to similarly situated properties.

What are the possible outcomes of a variance hearing?

Approval: If the variance request(s) is approved, the applicant/homeowner may apply for building permit(s). The applicant will have one year in which to complete the modifications subject to the variance or a modified time period as approved by the BOA. The applicant may request an extension.

Denial: If the variance request is denied, the improvements cannot proceed. The applicant cannot apply for another variance that is substantially similar for a period of one year.

Withdrawal: The applicant can withdraw the application at the hearing if it is evident that the Board cannot support the request in its current configuration. Should the applicant proceed with a different design, then a new application is required.

CRITERIA / VARIANCE

Criteria for variances: Applicants should understand that variances are exceptions to the uniform provisions and application of the zoning Ordinance, and are to be granted only in extraordinary circumstances. The Board exercises the power to grant variances sparingly, with great caution, and only in exceptional instances. Applicants should understand that the Board cannot amend or set aside the zoning Ordinance under the guise of a variance. By law, the Board may grant a variance only if the evidence submitted in a specific case supports a finding that a special condition or conditions exist to the degree that a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship, and that granting such variance will be contrary neither to the public interest nor the spirit and intent of the Ordinance.

Listed below are factors which the Board may consider in determining whether to grant a variance. Applicants should expect to present evidence addressing these factors and to answer questions the Board members may have regarding them.

1. **Limitations of Property:** Limitations on the use of the property due to physical, topographical and geological features.

2. **No special privilege:** Granting the Variance shall not result in a special advantage or benefit beyond what is available to others – subject to the same provisions.

3. **No other remedy:** There is no mean, other than the requested Variance by which the hardship can be avoided or remedied while still allowing a reasonable use of the property.

Note: The Board of Adjustments meets on the 1st Thursday of the month at 2:00 p.m. There are occasional exceptions to the schedule. Once scheduled, this meeting date and time will be e-mailed to you.

4. **Not exclusively for financial gain:** The purpose of the Variance is not based exclusively upon a desire to increase financial gain from the property.

5. **Hardship not self-created:** The previously described unique condition existed at the time of the enactment of the provisions of this Ordinance and has not been created by the current property owner.

6. **Minimum Variance necessary:** The variance requested is the minimum variance necessary to allow reasonable use of the property.

7. **Not detrimental:** Granting the Variance will not be detrimental to the public welfare or to the enjoyment, use, or development of property in the vicinity; nor will it substantially diminish or impair property values in the vicinity.

8. **Unique characteristics:** The subject property is unique or unusual as compared to other properties subject to the same provisions. Conditions peculiar to and inherent in the property in question and which relate to or arise out of the property rather than the personal situation of the current owner of the property; and which amount to more than a mere inconvenience to the owner.

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As owner and applicant, I hereby request approval of the above described request as provided for by the International Zoning Code adopted by the City of Gun Barrel City.

Owner's Signature: _____

Printed Name: _____

Date: _____

(If different from above)

Applicant/Agent's Signature: _____

Printed Name: _____

Date: _____

Office Use Only:

Fee Paid:

Date Rcvd:

Applicant given variance guide:

City of Gun Barrel City, Texas

1716 W. Main Street * 903-887-1087 * Fax 903-887-6666 * www.gunbarrelcity.net

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