

ZONING VARIANCE AND EXCEPTIONS FREQUENTLY ASKED QUESTIONS (FAQs)



What is a zoning variance?

A zoning variance is a modification of the specific requirements of the zoning ordinance. The variance is granted for the purpose of assuring that no property, because of special circumstances, shall be deprived of privileges commonly enjoyed by other properties similarly zoned. Only in specific instances where the application of the strict letter of the regulations of the zoning code create practical difficulties or particular hardship for the applicant, shall a zoning variance be considered.

Who approves a zoning variance?

The Zoning Board of Appeals for the City of Platteville is responsible for hearing appeals and applications, and granting variances and exceptions to the provisions of the zoning ordinance. The variance will only be granted if it is found to be in harmony with the purpose and intent of the zoning ordinance. The ET Zoning Board of Appeals considers requests for properties that are located in the Extraterritorial Zoning Area of the City and Town of Platteville.

What types of variances will be considered?

The Zoning Board of Appeals shall have the following powers:

- (a) **Errors.** 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 body in the course of enforcing the zoning ordinance.
- (b) **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purpose of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done. Generally, variances are considered for changes to the requirements regarding lot size, building size, building setback or other dimensional/measurable restriction. Use variances may also be granted, but only under truly exceptional circumstances.
- (c) **Substitutions.** To consider substitution of a nonconforming use with a more restrictive nonconforming use.
- (d) **Temporary Use.** To hear and grant applications for temporary uses in any district, when such uses do not involve the erection of a substantial structure, are compatible with the neighboring uses and have been reviewed and recommended by the Plan Commission. The permit shall be temporary, revocable, subject to any conditions required by the Board, and shall be issued for not more than twelve (12) months.

What are the requirements or standards that must be met before a variance will be granted?

A variance from the provisions of the zoning ordinance shall not be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist, and so indicates in the minutes of its proceedings. It shall be the applicant's burden to prove that the following requirements are met:

- (a) **Unnecessary Hardship.** The first standard requires the applicant to show that a strict application of the dimensional standards in the Zoning Ordinance would lead to an unnecessary hardship. The Wisconsin State Supreme Court has determined that a hardship exists only when the applicant can show that the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Loss of profit or pecuniary hardship is not in and of itself grounds for a variance. Self-imposed hardship is not grounds for a variance. The hardship cannot be one that would have existed in absence of a zoning ordinance.
- (b) **Unique Situation.** The second standard requires the applicant to show that the hardship is due to some unique feature of the property, such as an odd shape or the presence of natural features. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the zoning ordinance should be changed.

- (c) **Public Interest.** The third standard requires the applicant to show that the variance, if granted, will not have a negative impact on the public interest. The applicant should prove that the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of the zoning ordinance or the public interest.

What is the approval process for a variance request?

Appeals may be made by any person aggrieved or by an officer, department, board, or commission of the City. Such appeals shall be filed with the Zoning Coordinator within thirty (30) days after the date of the decision or order of the Building Inspector or Zoning Administrator.

Applications for appeals and/or variances shall be made on a form furnished by the Zoning Administrator and shall be accompanied by the following:

- (a) Name and Addresses of the applicant, owner of the site, and all property owners of record within 100 feet of the property.
- (b) Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located.
- (c) Site Plan of the subject property showing all information necessary to establish the case for appeal or variance.
- (d) Additional Information as may be required by the Zoning Board of Appeals, Plan Commission, Director of Public Works, Building Inspector or Zoning Administrator.
- (e) Any other information which the applicant deems relevant in support of the application.
- (f) Application Fee

The Zoning Board of Appeals meets on the third Monday of the month at 7:00 p.m. in the Council Chambers of City Hall. The deadline for submitting an application is the Friday before the first Monday of the month. At the hearing, the appellant or applicant may appear in person or by agent.

The concurring vote of four (4) members of the Board shall be necessary to correct an error, grant a variance, or make an interpretation. Conditions may be placed upon any zoning or building permit ordered or authorized by this Board.

The Zoning Board of Appeals shall decide all appeals and applications within thirty (30) days of the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, the Chair of the Plan Commission, and the City Clerk. Approvals granted by the Board shall expire within six (6) months unless a building permit had been approved (if required) and substantial work has commenced pursuant to such approval.

Is there a process for appealing the decision of the Zoning Board of Appeals?

No appellant may resubmit the same or similar appeal in person or by agent for the same property within six (6) months after the decision by the Board.

Any person or persons aggrieved by any decisions of the Zoning Board of Appeals may appeal such decision to the Circuit Court of Grant County. All appeals must be filed with the court within thirty (30) days after receipt of a copy of the Board's decision by the applicant or appellant.