



Division of Housing and Economic Development
2120 Hord Ave. Jennings, MO 63136
Ph. 314-388-1164 // Fax. 314-867-6458
www.cityofjennings.org

Board of Adjustment Application for Zoning Variance

Date: _____

APPELLANT _____ Phone (____) _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

OWNER OF PROPERTY _____ Phone (____) _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

ADDRESS/LOCATION OF PROPERTY _____

Lot No. _____ Block No. _____ Zoning District _____ Type Bldg. _____

Depth of Front Yard _____ Side _____ Rear _____ Size of Lot _____

SPOT SURVEY MAY BE REQUIRED

I/We request a Variance from the Zoning Code for the following reason: (If more space is needed, attach a separate sheet to back of this page). **PLEASE EXPLAIN WHY YOU FEEL YOU NEED THIS VARIANCE.**

\$100.00 FEE IS REQUIRED UPON SUBMITTAL OF APPLICATION

Signature of Appellant _____

Signature of Owner _____

Filed this _____ day of _____ 20____. Received By: _____

PAID STAMP

ARTICLE 29. BOARD OF ADJUSTMENT

Section 29.1. Purpose statement:

It shall be the purpose of this article to provide a mechanism by which this appendix of the city's code may be modified or varied, in specific cases, in order that unwarranted hardship, which constitutes an unreasonable deprivation of use (as distinguished from the mere grant of privilege) may be avoided.

Section 29.2. Constitution of board:

The board of adjustment members shall consist of the following:

- (a) Five (5) members that shall hold no other office or position in the city government.

Section 29.3. Appointment:

The board of adjustment members shall be appointed by the mayor and approved by the city council. Vacancies on the board of adjustment shall be filled by the mayor with the approval of the city council for the unexpired term of the vacating member.

Section 29.4. Terms:

The term of office of the members of the board shall be for five (5) years.

Section 29.5. Compensation:

All members of the board shall serve without monetary compensation.

Section 29.6. Removal of members:

Any or all board members may be removed for just cause by the city council upon substantiated written charges and after a public hearing conducted by the city council.

Section 29.7. Officers:

The board shall elect its own chairperson and vice-chairperson who shall serve for one (1) or more terms of one (1) year each.

Section 29.8. Meeting and records:

Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in absence of the chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses. The board shall record all testimony, objections thereto, and rulings thereon, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record. The board of adjustment decision shall be in writing and shall include a finding of facts and conclusion.

The City of Jennings Code of Ordinances, including the zoning ordinance and zoning district map, and the city's comprehensive plan, which are or may hereafter be in force,

shall automatically be part of the evidence at each hearing of the board of adjustment to the extent applicable, without being specifically introduced at the hearing.

Section 29.9. Error by municipal officer:

The board of adjustment shall hear and decide appeals in which it is alleged there is an error in any order, requirement, decision or determination made by the director of public works or any administrative official of the city in the enforcement of the zoning ordinance, (that chapter of the Municipal Code which governs land use patterns and developments within the City of Jennings and/or the State of Missouri Enabling Act, Section 89.010 et seq. Revised Statutes of Missouri, as the same may be amended from time to time).

Section 29.10. Area variances:

An area or non-use variance (hereinafter referred to as an area variance) authorizes a deviation or departure from the literal requirements of the zoning ordinance regulations within a given zoning district, especially as the zoning ordinance regulations relate to setbacks. In passing upon appeals, the board of adjustment is authorized to grant an area variance only upon findings that;

- (a) There are practical difficulties or unnecessary hardships associated with the strict application of the zoning ordinance, due to exceptional or unique circumstances or conditions such that strict application would deprive the owner of the reasonable use of the property; and
- (b) Granting the variance requested would observe the spirit of the zoning ordinance and secure public safety and welfare; and
- (c) The deviation from strict application of the zoning ordinance authorized by the area variance would not constitute a change in the zoning district map, impair an adequate supply of light and air to adjacent property, increase congestion in public streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area, and would not in any other respect impair the public health, safety, comfort, morals and general welfare of the City of Jennings.

If an appeal for an area variance is granted, the board shall grant the minimum variance necessary to allow the applicant reasonable use of his land.

Section 29.11. Use variances:

Use variances permit a use of property other than those enumerated as permitted uses in the zoning ordinance for the particular zoning district in which that property is located. The board of adjustment is authorized to grant use variances upon application or appeal in accordance with the State of Missouri Enabling Act, City of Jennings Code of Ordinances, the city's zoning ordinance and the procedures set forth herein only upon findings that:

- (a) The applicant will be deprived of all beneficial use of the property under any of the permitted uses in the zoning district in which the property is located, all beneficial use being lost only where the property is not suitable for any use permitted in the zoning ordinance for that zoning district; and
- (b) The applicant has sufficiently demonstrated unnecessary hardship by expert testimony and/or documentation and not mere conclusory or lay opinion that the property in question cannot yield a reasonable return if used only for a purpose or purposes permitted in the zoning district in which that property is located; and

- (c) The plight of the owner is due to exceptional or unique circumstances and not due to general conditions in the neighborhood; and
- (d) The use to be authorized by the variance would not alter the essential character of the neighborhood; and
- (e) The proposed use to be authorized by the use variance would not constitute a change in the zoning district map, impair an adequate supply of light and air to adjacent property, increase congestion in public streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area, and would not in any other respect impair the public health, safety, comfort, morals and general welfare of the city.

Section 29.12. Other variances and jurisdictions:

- (a) The board of adjustment may grant variances from parking, loading and unloading regulations of the zoning ordinance. Such variances may be granted where the character or use of the building or premises make unnecessary the full provision of parking or loading or unloading facilities, or when such regulations would impose an unreasonable hardship upon the use of the lot or tract of land.
- (b) The board of adjustment may permit the extension of a district where the boundary line of a district divides a lot of record in single ownership.
- (c) The board of adjustment may grant an extension of time for the reconstruction of a non-conforming structure which has been damaged by less than sixty (60) percent of its appraised value, as determined by the Office of the St. Louis County Assessor, by fire, explosion, flood, winds or other acts of God, or the public enemy, or by any other cause unrelated or unattributable to the owner.

In exercising the above mentioned powers and all other powers authorized by law, the board of adjustment may 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.

Section 29.13. Application requirements for appeal to the board of adjustment:

An application for an appeal to the board of adjustment shall be completed and filed with the director of public works. An appeal to the board of adjustment, on any matter over which the board of adjustment is specifically granted jurisdiction, may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Jennings affected by any rule, requirement, decision or determination. The appeal shall be filed within thirty (30) days of the order, requirement, decision or determination. The application must specify the grounds for appeal.

Section 29.14. Submission by applicant:

The applicant shall submit one (1) original and six (6) copies of the application and all required documentation to the director of public works. At the time that an appeal is filed, the applicant shall pay a fee as required by the fee schedule (Article 31 of this appendix). The fee shall be paid to the City of Jennings.

Section 29.15. Staff review:

Upon receipt of an appeal, the director of public works shall transmit to the board of adjustment all the documentation constituting the record upon which the appeal is taken.

Notice of public hearing shall be published at least fifteen (15) days prior to the hearing on each appeal in a newspaper of general circulation in the city. The board of adjustment shall also give due notice to the appellant and persons owning adjoining property of the subject of the appeal. Any interested party may appear at the board of adjustment hearing in person or by agent or attorney.

Section 29.16. Board of adjustment procedure:

An appeal to the board of adjustment stays all proceedings in furtherance of the order, requirement, decision or determination of the director of public works appealed from, unless the director of public works certifies to the board of adjustment, after the notice of appeal has been filed with him, that by reason of facts stated in the appeal, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed except by a restraining order by a court of competent jurisdiction.

The board of adjustment shall hear and decide appeals within a reasonable time period. The order, requirement, decision or determination of the board of adjustment shall be made a part of any permit to be issued due to a decision of the board of adjustment.

Applications for permits authorized by a decision of the board of adjustment, shall be submitted within one (1) year after the decision of the board of adjustment. If no application for a permit is submitted within the one-year period, the variance is automatically rescinded. Any variance granted by the board of adjustment, which does not require an application for a permit, is automatically rescinded after one (1) year from the date of the board of adjustment decision if no use of the variance is made within the one-year period.

Section 29.17. Vote:

The concurring vote of four (4) members of the board shall be necessary to reverse or modify any order, requirement, decision or determination of the director of public works, or to decide in favor of the applicant on any matter upon which it is required to pass under this appendix.

Section 29.18. Withdrawal:

An appeal may be withdrawn prior to the vote of the board of adjustment upon written notice from the applicant to the director of public works.

Section 29.19. Re-application:

In the event that the board of adjustment denies an application for variance, no request for hearing upon the same application shall be accepted for a period of at least six (6) months from date of denial by the board of adjustment.

Section 29.20. Appeals from a board of adjustment decision:

Any person or persons jointly or severally allegedly aggrieved by any decision of the board of adjustment, or any officer, department, board or bureau of the city, may present to the circuit court having jurisdiction in St. Louis County, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the board of adjustment.