

**Board of Zoning Appeals Procedure**  
**Douglas County Zoning and Codes Department**  
3755 E 25<sup>th</sup> Street  
Lawrence, KS 66046  
Telephone: 785.331.1343 Fax: 785.842.1201

The Douglas County Board of Zoning Appeals was established in accordance with the provisions and requirements of K.S.A 1973 Supplement 19-2962.

The Board of Zoning Appeals shall have the following powers:

- To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this resolution.
- To hear and decide special exceptions to the provisions of the Zoning Regulations in those instances where the Board is specifically authorized to grant such exceptions, and only under the terms of the Zoning Regulations. In no event shall exceptions to the provisions of the Zoning Regulations be granted where the use or exception contemplated is not specifically listed as an exception in the Zoning Regulation. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception when conditions of this exception, as established in the Zoning Regulations by the Board of County Commissioners, are not found to be present.
- To authorize upon appeal in specific cases such variance from the specific terms of this Resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Resolution will result in unnecessary hardship, provided that the spirit of the Resolution shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Zoning Regulations in such district. A request for a variance may be granted in such individual case, upon a finding by the Board that all of the following conditions have been met:
  - a. That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant;
  - b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
  - c. That the strict application of the provisions of this Resolution will constitute unnecessary hardships upon the property owner represented in the application;
  - d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and,
  - e. That granting the variance desired will not be opposed to the general spirit and intent of this Resolution.

# BOARD OF ZONING APPEALS VARIANCE APPLICATION INSTRUCTIONS

*If assistance is needed in filling out this application, contact the Zoning and Codes Department at 785.331.1343. Board of Zoning Appeals meetings are held the third (3rd) Monday of the month at 10:00 a.m. in the Douglas County Commissioners Meeting room (unless otherwise notified of changes in meeting location).*

*The attached application must be filled out completely and fees paid in full. The non-refundable application fee is \$100.00. A plat (or survey) must be submitted before a request can be placed on the Board of Zoning Appeals agenda. The following instructions are provided to aid in understanding the information needed and completion of the application form.*

## GENERAL INFORMATION:

Applicant: This is the person who will represent the property owner(s) at the public hearing. Fill in name, full address, and phone numbers.

Property Owner: This is the person that is listed with the tax assessor as the property owner. Fill in name, full address, and phone numbers.

## PROPERTY INFORMATION:

Property address: Give the address of the property.

Property directions: Give specific directions to the property. Begin with a major, heavily traveled road. Landmarks, directional language (north, south, etc.) and distances should be included.

Property conditions: Explain the landscaping and topography of the land. Examples: partially wooded and sloping from rear to front, or front no trees and flat, back wooded and rolling.

### Property Identification

Number (PIN): The parcel identification number can be found on the property tax notice or it can be obtained by calling the Zoning department at 785.331.1343 or the Appraisers department at 785.832.5133.

### Plat or recorded

survey of property: This can be obtained from the property owner or the Register of Deeds Office in the Douglas County Courthouse at 1100 Massachusetts Street, Lawrence, KS. Indicate, on the plat, the approximate location and distance of all structures and dwellings in relation to all property lines. If a plat does not exist, the deed that indicates property line distances (metes and bounds) will be accepted.

Lot area: In this space provide the size (area) of the lot. You may use either acres or square feet.

Zoning district: Fill in the Zoning Classification(s) that cover the property. This information can be obtained from the Zoning staff.

Use of property: Describe, in general terms, the current use of the property.

## BOARD OF ZONING APPEALS VARIANCE APPLICATION INSTRUCTIONS

*Answer the questions in this section carefully, and be specific (provide details) in your answers. If more space is needed, please attach a separate sheet of paper.*

### **APPLICATION INFORMATION:**

List the code citation (section) and explain in detail the specific variance being requested. (*Example: Section 12-318.2, Min. Depth of Lot, reduction from two hundred fifty feet (250) to XX feet. Give reason for why minimum property depth dimension cannot be met.*)

### **SUPPORTING DOCUMENTATION:**

Supporting documentation (such as photos, lists, petitions, building plans) may be submitted with the application. Please clearly label this information, numbering the items and provide a list of the numbered documents.

**VERIFICATION OF APPLICATION:** This section must be signed by the owners of record. If property is joint owned, all owners must sign the application or provide evidence that they have the authority to sign for all property owners. If the applicant is an authorized representative of the owner, an owner authorization form must be submitted with this completed application.

Signatures of the Owner and the Applicant, if this is an authorized representative of the owner and not the owner, must be notarized.

## ADDITIONAL INFORMATION

**Unnecessary Hardship** – One (or more) of three conditions must exist to meet this criterion:

- Strict application of the Zoning Regulations, when viewing the property in its environment, makes application of these requirements so unreasonable, as to become an arbitrary and capricious interference with the basic right of property ownership; OR,
- Convincing proof exists that it is impossible to use the property for a conforming use: OR,
- Sufficient factors exist to constitute a hardship that would in effect deprive the property owner of their property without compensation.

*[Please provide supporting documentation for which category of unnecessary hardship you have selected.*

**Note:** *Mere financial loss or the loss of a potential financial advantage does not constitute an Unnecessary Hardship.]*

**Meeting Attendance** – The Board of Zoning Appeals has adopted a policy that they will not hold a public hearing on a request if the applicant, owner, or an authorized representative is not present at the meeting.

**Majority of a Quorum** – State law requires that a majority of a quorum of the members of the Board of Zoning Appeals be present for a public hearing to take place. This is three members of our five member Board. In the unlikely situation that only two members are available for a published meeting date, the hearing will be postponed until a majority of a quorum is present and you will be notified of the rescheduled date.

**Appeal of BZA Determination** – Any person who may have a substantial interest in any decision of the Board may appeal said decision to a court of competent jurisdiction, filing with the clerk of such court a petition in writing the reason for the appeal. State Statutes require such appeal to be filed with the Court within thirty (30) days after the Board has rendered a decision.

# BOARD OF ZONING APPEALS VARIANCE APPLICATION INSTRUCTIONS

## GENERAL INFORMATION

Property Owner(s) Name		
Mailing Address	City, ST	Zip Code
Daytime Phone	Cell Phone	Email
<i>* If property is in owned jointly, all owners must be identified on this form.</i>		

*[If Applicant is authorized agent of Property Owner, please fill out section below]*

Applicant/Authorized Agent Name		
Mailing Address	City, ST	Zip Code
Daytime Phone	Cell Phone	Email

Situs Address		
Directions to Situs Property		
Please list all improvements:		
PIN:	Plate No.	Zoning District
Lot Area (acreage)	Use of Property	

**TYPE OF REQUEST:** (please check the appropriate box)

- Appeal Administrative Determination**     
  **Variance Appeal**     
  **Special Exception**

### OFFICE USE ONLY

Amount Paid	\$	Receipt No.	BZA File No.
Accepted by Zoning Official			Date
Notice of Hearing Mailed			
Date of Hearing			
<input type="checkbox"/> The names and addresses of record owners of adjoining property within a 1,000 feet radius.			

**Section 12-325-5  
VARIANCE REQUEST**

**“12-323-2.03. A request for a variance may be granted in such individual case, upon a finding by the Board that the following five conditions have been met.”** Please describe briefly how each criterion has been met:

**a.** That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant;

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**b.** That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

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**c.** That the strict application of the provisions of this Resolution will constitute unnecessary hardships upon the property owner represented in the application;

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**d.** That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and,

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**e.** That granting the variance desired will not be opposed to the general spirit and intent of this Resolution.

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**Section 12-323-9**  
**APPEAL OF AN ADMINISTRATIVE DETERMINATION**

**“12-323-9. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the county or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning resolution. Such appeal shall be taken within a reasonable time as provided by the rules of the Board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore. The officer, from whom the appeal is taken, when notified by the Board or its agent, shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.**

**The Board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning resolution. In exercising the foregoing powers, the Board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the office from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.”**

To appeal the decision of an administrative official, please provide a written summary of the Administrative Official’s action that is being appealed to the Board, stating specific date(s) and action(s) that you are appealing and the reasons you are appealing this determination. The written summary should be submitted as an attachment to the application, when the application form and review fee are submitted.

**Section 12-323**  
**SPECIAL USE EXCEPTIONS**

**“12-323-3. In order to provide for adjustment in the relative locations of uses and buildings of the same or of different classifications, to promote the usefulness of ...” the Zoning Regulations, the “... interpretation, application, and adjustment, and ... the necessary elasticity to its efficient operation, special use exceptions are permitted....”** Only the specific uses enumerated in the Zoning Regulations as matters the Board of Zoning Appeals can consider as special exceptions are eligible for this determination. The Board of Zoning Appeals can approve a special exception request if, it finds**“... that in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property....”**

SPECIAL USE EXCEPTIONS			
<input type="checkbox"/> 12-323-3.01 2-FAMILY DWELLING	<input type="checkbox"/> 12-323-3.02 NON-CONFOR. COMM. USE	<input type="checkbox"/> 12-323-3.03 LAND USE COMM. NON-CONFORM	<input type="checkbox"/> 12-323-3.04 EXTEND NON- CONFORM. USE IN BLDG
<input type="checkbox"/> 12-323-3.05 EXPANDS NON-CONFORM. LAND USE	<input type="checkbox"/> 12-323-3.06 ONE PARCEL W/ TWO ZONINGS	<input type="checkbox"/> 12-323-3.07 4-CAR GARAGE IN RESID. ZONING	<input type="checkbox"/> 12-323-3.08 SETBACK GREENHOUSE/NURSERY
<input type="checkbox"/> 12-323-3.09 TV & RADIO TOWER/ STATION	<input type="checkbox"/> 12-323-3.10 2-YEAR TEMP. & COND. PERMITS	<input type="checkbox"/> 12-323-3.11 TEMP. MOBILE HOME –A-1,R-1,I-1	<input type="checkbox"/> 12-323-3.12 CONVERT PRE-1966 BLDG TO HOUSING
<input type="checkbox"/> 12-323-3.13 OFF- PREMISE PARKING AREAS	<input type="checkbox"/> 12-323-3.14 WAIVE PARKING /LOADING REQ'MT	<input type="checkbox"/> 12-323-3.15 SIGN EXCEPTION IN I-1	<input type="checkbox"/> 12-323-3.16 ADDITIONS/ STRUCTURAL CHANGES CUPs
<input type="checkbox"/> 12-323-3.17 USE CLASS DETERMINATION	<input type="checkbox"/> 12-323-3.18 REQUIRED ACTION ON I-3 USES		

SPECIAL YARD AND HEIGHT EXCEPTIONS			
<input type="checkbox"/> 12-323-4.01 ADJ. NON- CONFORM REQ'D YARD	<input type="checkbox"/> 12-323-4.02 CORNER YARD EXCEPTION	<input type="checkbox"/> 12-323-4.03 NON- CONFORMING REAR YARD	<input type="checkbox"/> 12-323-4.04 FRONT YARD IRREGULAR DEPTHS

**VERIFICATION OF APPLICATION INFORMATION**

I (WE), the Undersigned, the lawful owner(s) in fee simple absolute of the real property described in this application, and do hereby certify that all the information presented in this application and/or supplemental information with this application is accurate to the best of MY (OUR) knowledge.

\_\_\_\_\_  
Property owner [Print Name]

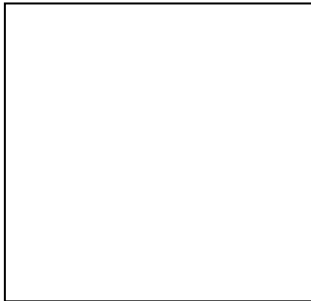
\_\_\_\_\_  
2<sup>ND</sup> Property owner [Print Name]

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property owner [Signature]

\_\_\_\_\_  
2<sup>ND</sup> Property owner [Signature]

\_\_\_\_\_  
Date



SEAL

STATE OF KANSAS  
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

by \_\_\_\_\_ AND \_\_\_\_\_.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

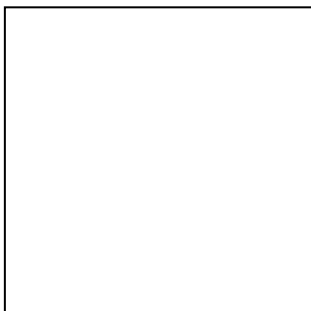
I, the Undersigned, an authorized representative of the lawful owner(s) in fee simple absolute of the real property described in this application, do hereby certify that all the information presented in this application and/or supplemental information with this application is accurate to the best of MY knowledge.

\_\_\_\_\_  
Authorized Agent [Print Name]

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Agent [Signature]

\_\_\_\_\_  
Date



SEAL

STATE OF KANSAS  
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

by \_\_\_\_\_ AND \_\_\_\_\_.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

\* The owner's signature is required unless an executed Owner Authorization form accompanies this application.