

APPENDIX A

Checklist of Steps for Variances:

1. **Determine what zoning regulations apply to your property.** Consider those regulations impact development of the property—i.e., yard setbacks, limits on height and impervious cover, etc.
2. **Design what you want to build.**
3. **Determine if a variance is needed**—i.e., does your proposed design fit within what's allowed by the zoning regulations.
4. **If a variance is needed, consider altering the design to avoid the need for a variance.**
5. **Establish facts that support the legal requirements for a variance:**
 - a. Hardship”
 - b. “Reasonable Use”
 - c. “Area Character”

See pages 7-12 of the Guidebook for an explanation of these requirements.
6. **Develop evidence to support your variance request.** This should include drawings, pictures, and evidence that you contacted your neighbors, neighborhood association, and/or neighborhood plan contact team regarding your variance request. *The more significant the variance, the more detailed and comprehensive the evidence should be.*
7. **Fill-out the variance application and include your supporting evidence.** The application form is included in Appendix B and is available from city staff.
8. **Submit your variance application, with the required fee, and work with staff to schedule the hearing.** If your neighbors, neighborhood association, or neighborhood plan contact team are interested in the case, try to find a date that works with them.

APPENDIX B

Variance Application Forms

- √ **General Zoning Variance Application**
 - √ **Sign Variance Application**
- √ **Ledger for Documenting Variance Support**

**BOARD OF ADJUSTMENT/SIGN REVIEW BOARD
COMPLETENESS CHECKLIST**

APPLICATION WILL BE RETURNED TO YOU AND WILL NOT BE ADDED TO NEXT BOARD OF ADJUSTMENT AGENDA AND CHECK WILL NOT BE DEPOSITED UNTIL ALL OF THE FOLLOWING IS SUBMITTED CORRECTLY.
VARIANCES EXPIRE ONE YEAR AFTER APPROVAL DATE PER SECTION 25-1-217 UNLESS BOARD APPROVAL STATES OTHERWISE.

- _____ Application must be typed
- _____ Application must be signed and dated by owner and agent
- _____ Application must have ALL findings (parking portion only required when parking variance is needed) that are applicable fully filled out at time of submittal
- _____ Site plan or survey must be submitted, drawn to scale showing present and proposed construction along with existing structures on all adjacent lots
- _____ Sign Review Board cases must submit site plans showing sign location, elevations of proposed sign in addition to above requirements
- _____ **If property is located in Williamson County, then contact Williamson County Appraisal District for a list of the property owners names and addresses within a 500 foot radius.**
- _____ Check for application fee: \$403.52 Residential, \$715.52 Commercial
- _____ Please consider contacting your Neighborhood Assn. about your request.
- _____ Approval from Austin Energy, see info in box below

The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual and National Electric Safety Code. The Board of Adjustment considers variance to the Land Development Code, and a variance granted by the Board of Adjustment does not waive the requirements enforced by Austin Energy. If your request is for a reduction in setbacks or height limits, then you must receive approval from Austin Energy by contacting Eben Kellogg at (512)322-6050 or email eben.kellogg@austinenergy.com.

Please be advised that the Board only takes 16 new cases a month, therefore, first come, first served. Please be advised that a request for reconsideration must be filed within 7 days from the Board meeting.

A variance from the Building Code Board of Appeals may be required for variances from the Zoning Board of Adjustment (no Sign Review Board cases need to call). Please consult a code specialist in the Plan Review Division at 512-974-2580.

If you need assistance completing this application (general inquiries only) please contact Leane Heldenfels (leaneheldenfels@austintexas.gov), (512) 974-2202; 505 Barton Springs Road, 1st Floor, Development Assistance Center (One Texas Center).

CASE# _____
ROW# _____
TAX# _____

**CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE**

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: _____

LEGAL DESCRIPTION: Subdivision – _____

Lot(s) _____ Block _____ Outlot _____ Division _____

I/We _____ on behalf of myself/ourselves as authorized agent for
_____ affirm that on _____, _____,

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below and state what portion of the Land Development Code you are seeking a variance from)

___ ERECT ___ ATTACH ___ COMPLETE ___ REMODEL ___ MAINTAIN

in a _____ district.
(zoning district)

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

- (b) The hardship is not general to the area in which the property is located because:

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Mail Address _____

City, State & Zip _____

Printed _____ Phone _____ Date _____

OWNERS CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Mail Address _____

City, State & Zip _____

Printed _____ Phone _____ Date _____

GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

VARIANCE REQUIREMENTS:

General Requirements:

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the L and Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

SUBMITTAL REQUIREMENTS: (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- (1) A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) Check made payable to the City of Austin for the Board of Adjustment application fee.
- (4) Other Information – Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a black and white copied packet with all information that has been submitted on the Thursday prior to the meeting.
- (5) Austin Energy approval

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

REQUIRED FINDINGS: All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

Reasonable Use:

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

Hardship:

- a. Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested. (For example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.) A strictly financial or personal reason is not a valid hardship.
- b. Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

Area Character:

Application must demonstrate to the Board how the variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the zoning regulations of the zoning district in which the property is located.

NOTE: Parking variances require additional findings to be made. The additional findings are listed on the application and must also be completed for submittal of the application.

Board of Adjustment Staff:

Leane Heldenfels, Board of Adjustment Liaison
(512) 974-2202, leane.heldenfels@austintexas.gov

Diana Ramirez, Board Secretary
(512) 974-2241, diana.ramirez@austintexas.gov

Fax (512) 974-2934

Planning and Development Review Department
One Texas Center
505 Barton Springs Road
Development Assistance Center/1st Floor

Mailing Address:
P. O. Box 1088
Austin, TX 78767-1088

CASE # _____

**CITY OF AUSTIN
APPLICATION TO SIGN REVIEW BOARD
SIGN VARIANCE**

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: TYPE AND COMPLETE ALL REQUESTED INFORMATION.

STREET ADDRESS: _____

LEGAL DESCRIPTION: Subdivision – _____

Lot(s) _____ Block _____ Outlot _____ Division _____

I/We _____ on behalf of myself/ourselves as authorized agent for
_____ affirm that on _____, 20__, hereby apply for a hearing before

the Sign Review Board for consideration:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

in a _____ zoning district and located within the _____
Sign District.

Please contact Eben Kellogg with the Electric Utility at (512)322-6050 and send him a scan of your request to eben.kellogg@austinenergy.com before filing your application with this office to discuss your request. The Electric Utility will recommend the board deny your request if it will result in an encroachment into an electric easement or an NESC violation.

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. In order to grant your requeste for a variance, the Board must first make one or more of the findings described under 1, 2, and 3 below; the Board must then make the finding described in item 4 below. If the Board cannot make the required findings, it cannot approve a sign variance.

Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings:

1. The variance is necessary because strict enforcement of the Article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography, because: _____

OR,

2. The granting of this variance will not have a substantially adverse impact upon neighboring properties, because: _____

OR,

3. The granting of this variance will not substantially conflict with the stated purposes of this sign ordinance, because: _____

AND,

4. Granting a variance would not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated, because: _____

APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Mail Address _____

City, State & Zip _____

Printed _____ Phone _____ Date _____

OWNERS CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Mail Address _____

City, State & Zip _____

Printed _____ Phone _____ Date _____

**ADDITIONAL INFORMATION TO BE SUBMITTED WITH COMPLETED APPLICATION:
(FAILURE TO SUBMIT ALL THE REQUIRED MATERIALS WILL RESULT IN NON-
ACCEPTANCE OF THE APPLICATION. BACKUP MATERIAL WILL BE ACCEPTED
UNTIL 9:00 A.M. THE MONDAY PRIOR TO THE MEETING. THERE WILL BE NO
EXCEPTIONS.)**

SITE PLAN: Must be drawn to scale, showing present and proposed construction
and locations of existing structures on adjacent lots.

All Sign Review Board cases must submit location and
elevation drawings, drawn to scale, in addition to the site
plan required.

APPLICATION FEES: Residential	\$403.52
All Other	\$715.52

Please be advised that the Board can only hear 16 new cases per month, therefore, applications
will be accepted on a first come, first served basis.

Please be advised that a request for reconsideration of any Board action must be filed within 10
days from the Board meeting/action.

If you need assistance completing this application (general inquires only) please contact:
Leane Heldenfels, (512)974-2202, lean.heldenfels@austintexas.gov
or Diana Ramirez, 974-2241, Diana.ramirez@austintexas.gov
505 Barton Springs Road, 1st floor, Development Assistance Center.

**NOTE: ALL VARIANCES EXPIRE 1 YEAR (12 MONTHS) FROM DATE OF
APPROVAL BY BOARD AS STATED IN SECTION 25-1-217 OF THE LAND
DEVELOPMENT CODE UNLESS BOARD DECISION STATES OTHERWISE.**



I, _____, am applying for a variance from the Board of Adjustment regarding Section _____ of the Land Development Code. The variance would allow me the ability to _____

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name <small>(Printed)</small>	Address	Signature

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature

APPENDIX C

Special Exception Application

The city does not currently have a separate application form for special exceptions. Please use the variance form, in Appendix B, and simply handwrite "Special Exception" at the top.

APPENDIX D

Appeal Form

**CITY OF AUSTIN APPLICATION TO BOARD
OF ADJUSTMENT INTERPRETATIONS
PART I: APPLICANT'S STATEMENT
(Please type)**

STREET ADDRESS: _____

LEGAL DESCRIPTION: Subdivision –

Lot (s) _____ Block _____ Outlot _____ Division _____

ZONING DISTRICT: _____

I/WE _____ on behalf of myself/ourselves as
authorized

Agent for _____ affirm that on _____

Day of _____, 20____, hereby apply for an interpretation hearing before the Board of
Adjustment.

Planning and Development Review Department interpretation is: _____

I feel the correct interpretation is:

NOTE: The board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable findings statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that: _____

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because: _____

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that: _____

APPLICANT/AGGRIEVED PARTY CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Printed _____

Mailing Address _____

City, State & Zip _____ Phone _____

OWNER'S CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Printed _____

Mailing Address _____

City, State & Zip _____ Phone _____

APPENDIX E

Guide to City Zoning Regulations

Following is a list of the most common types of zoning regulations for which the Board considers variances. Applicants need not become experts in zoning, but it's helpful to understand in general what the regulations require and the purpose they serve.

- **City Code Chapter 25-2, Subchapter C (*Principal Use & Development Regulations*).**

This part of the code contains site development regulations for each the City's base zoning districts. These regulations address all the standard aspects of land development, including but not limited to:

- the maximum height of structures
- the minimum "setback" required between a structure and a property line or environmental feature
- the minimum lot area required for a site to be developable
- the maximum amount of "impervious cover" or "building coverage" allowed on a lot.

On the whole, these regulations seek to establish appropriate density levels within particular zoning districts and foster compatible development patterns based on the overall purpose of the zoning district. The regulations are available at:

https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_CUSDERE

- **City Code Chapter 25-2, Subchapter F (*Residential Design & Compatibility Standards*).**

These regulations, frequently referred to as the "McMansion Ordinance," seek to ensure that the scale of residential development in central Austin neighborhoods is reasonably proportionate to lot size and generally compatible with historic development patterns.

The regulations are available at:

https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_FREDECOST

- **City Code Section 25-2-963 (*Modification & Maintenance of Noncomplying Structures*).**

This code section limits the extent to which a legally existing structure can be expanded or altered if that structure doesn't meet current city regulations. The regulation is available at:

https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_CUSDERE_ART8NOST_S25-2-963MOMANOST

- **City Code Chapter 25-2, Subchapter E (*Design Standards and Mixed Use*).**

These regulations seek to encourage and facilitate an active, interconnected, and walkable urban environment that allows a greater mix of land uses within a designated area than would be permitted under more traditional zoning regulations. As such, the regulations address things like the placement of buildings near streets, the location of parking facilities, and internal circulation.

The regulations are available at:

https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_EDESTMIUS

APPENDIX F

Meeting Format

1. *Variance/Special Exceptions:*

- Board chair calls the applicant, who must identify him or herself by name and state whether he or she is the landowner or landowner's agent. **Applicant has a total of five (5) minutes to speak.**
- Individuals may then testify in support of the variance. The total amount of testimony in support may not exceed five (5) minutes.
- Individuals may then testify in opposition to the variance. The total amount of testimony in opposition may not exceed five (5) minutes.
- Applicant has three minutes rebuttal.

2. *Administrative Appeals:*

- Report from City staff, limited to ten (10) minutes.
- A presentation by the appealing party, limited to ten (10) minutes.
- A presentation by the permit applicant, limited to ten (10) minutes. (Note: This only applies if the appeal relates to a specific permit, and the appealing party is an interested party other than the permit applicant).
- Comments by citizens in support of or opposition to the appeal, limited to three (3) minutes.
- Rebuttal by the appealing party, limited to three (3) minutes.

3. *General Rules for Variances & Appeals:*

- The chair may, at his or her discretion, extend the time limits listed above. However, citizens should be as concise as possible and not assume that they will be given additional time.
- Testimony should be directed to the Board, not to other parties.
- Be respectful and courteous, even if you disagree with statements made about your case.