

# VARIANCE

## WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS INSTRUCTIONS FOR FILING AN APPLICATION

A Variance is a deviation from specific regulations that would not be contrary to the public interest when, due to special conditions or circumstances, the literal enforcement of specific regulations results in an unnecessary hardship. A Variance may be granted only when each of the following five conditions has been met:

- a. The variance requested arises from condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action of the property owner or the applicant.
- b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
- c. The strict application of the provisions of the applicable Code from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.
- d. The variance desired will not adversely affect the public health, safety morals, order, convenience, prosperity, general welfare, or the harmonious development of the community.
- e. Granting the variance desired will not be opposed to the general spirit and intent of the applicable Code.

A Variance cannot be granted if even one of the above conditions is not met. Variances are not for correcting mistakes that cause a property to come into non-compliance with a particular Code requirement. Variances are not for situations where complying with a particular Code requirement is inconvenient or more expensive.

1. All applicants desiring to submit a Variance application should consult with the Metropolitan Area Planning Department (MAPD) prior to submitting a formal application. The purpose of the consultation is to advise the applicant of the rights and responsibilities in submitting such an application.
2. A Variance application is referred to the Wichita-Sedgwick County Board of Zoning Appeals (BZA) for a public hearing. The BZA may approve, approve with conditions or modifications, or deny a Variance request. The BZA typically meets every other Thursday of each month in the 2<sup>nd</sup> Floor Conference Room at The Ronald Reagan Building, 271 W. 3<sup>rd</sup> Street. Refer to the BZA calendar for the exact schedule of hearing dates and to determine the application deadline by which a Variance application must be submitted to be heard on a specific date.
3. As soon as possible following the close of the public hearing, but in no event later than 40 days from the hearing date (unless the applicant consents to a longer time period), the BZA will make a decision on the Variance request. The BZA decision is the final local action on the Variance request. Any person, official, or governmental agency dissatisfied with the BZA decision may bring an action within 30 days in the District Court of Sedgwick County to determine the reasonableness of the BZA decision.
4. Variances may only be granted upon an affirmative vote of a majority of the Members of the BZA. Applicants are advised that failure to receive a majority affirmative votes will result in the denial of the Variance request.
5. Applicants are advised not to engage in *ex parte* communication with the Members of the BZA. All materials and communication prior to the public hearing shall be directed to the MAPD, who shall cause such to be entered into the official record on the Variance request.
6. The applicant shall submit a completed application form for a Variance request. The application form must be signed by all property owners or by the authorized agent(s) of such owner(s).

7. The applicant shall submit a written statement outlining in detail the manner in which the application meets the five conditions listed above, which are required for granting a variance. Applications will not be accepted without written justification of these five conditions.
8. The applicant shall submit an accurate site plan. The site plan shall be drawn to scale and show the location of property lines and buildings, parking areas, driveways and other improvements or facilities which necessitate the Variance. One (1) 8.5" x 11" or 11" x 17" copy of the site plan shall be submitted. If the applicant desires to submit a larger site plan, twelve (12) 24" x 36" folded copies and one (1) 11" x 17" copy of the site plan shall be submitted. Other plans, drawings or information which the MAPD deems necessary to enable proper consideration of the request may be required.
9. The applicant shall submit a current ownership list certified by a title company containing a legal description of the area in the application as well as the name of the owner, and shall include the names and current mailing addresses (with zip codes) of all property owners within 200 feet of the application area for a city application and all property owners within 1,000 of the application area for a county application.

The certified ownership list shall also be provided in an electronic format that is compatible with Microsoft Word. The electronic file shall be provided via E-mail ([MCrockett@wichita.gov](mailto:MCrockett@wichita.gov)) or on a CD. An application shall not be considered complete until the ownership list has been provided in the required electronic format.

10. All application materials and the filing fee are submitted at the MAPD, which is located on the 2<sup>nd</sup> floor of The Ronald Reagan Building, 271 W. 3rd Street and is open from 8 a.m. to 5 p.m. Monday thru Friday, excluding holidays. Applications should be submitted no later than 4 p.m. to allow time for application review and processing prior to the close of business. Incomplete applications will not be accepted. Refer to the BZA calendar of public hearing dates to determine the application deadline by which a Variance application must be submitted to be heard on a specific date. Questions regarding the application process may be directed to the MAPD at (316) 268-4421.
11. In accordance with the Sign Policy adopted by the Board of Zoning Appeals, the applicant shall be responsible for posting zoning adjustment signs on the application site for at least 13 days immediately prior to the scheduled public hearing of the application request. Signs shall be purchased from the MAPD when the application is filed. The fee for each sign is \$3, and one sign is required for each street frontage.
12. The applicant shall submit the required filing fee as follows:

<u>City Fees:</u>	
Residential Use	\$440 + \$33/Zoning Lot + sign fee
Additional variance on same lot	\$125
Non-Residential Use	\$635 + \$33/Zoning Lot + sign fee
Additional variance on same lot	\$190
Modified Site Plan Review	\$100 + sign fee
Time Extension for BZA Conditions	\$65 + sign fee

County Fees:

Residential Use	\$380 + \$28/Zoning Lot + sign fee
Additional variance on same lot	\$110
Non-Residential Use	\$550 + \$28/Zoning Lot + sign fee
Additional variance on same lot	\$165
Modified Site Plan Review	\$85 + sign fee
Time Extension for BZA Conditions	\$55 + sign fee

All checks should be payable to the “City of Wichita”, which acts as agent for the MAPD.

- Request for a deferral of the hearing of any Variance shall be submitted to the MAPD at least 7 days prior to the scheduled hearing date. To cover the cost of preparing and mailing new notices, persons requesting a deferral will be charged a fee as follows:

Deferral	(\$125 City)	(\$110 County)
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## **VARIANCE**

### **CHECKLIST OF REQUIRED APPLICATION MATERIALS**

- Application form
- Statement regarding five conditions required for granting a variance
- Site plan
- Certified ownership list (original document and electronic copy)
- Filing fee

Note: When applying, please have yourself or your representative present during the processing of the application in case planners have questions or to correct possible errors on the application.



6. The names of the owners of all property included in this application MUST be listed as applicants. Contract purchasers, lessees or others directly associated with the property may also be listed if they desire to be advised of the proceedings. (Use a separate sheet for additional applicants if needed.)

A. APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

AGENT \_\_\_\_\_ PHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

B. APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

AGENT \_\_\_\_\_ PHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

C. APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

AGENT \_\_\_\_\_ PHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ZIP CODE \_\_\_\_\_

7. We acknowledge receipt of the instruction sheet explaining the method of submitting this application. We realize that this application cannot be processed unless it is completely filled in; is accompanied by a current abstractor's certificate as required in the instruction sheet; and is accompanied by the appropriate fee. We further certify that the foregoing information is true and correct to the best of our knowledge. We authorize unannounced inspections of the subject property by City and/or County staff for the purpose of collecting information to review and analyze this request. We acknowledge that the MAPC, Governing Body, or Board of Zoning Appeals shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.

_____	By	_____
Applicant's Signature		Authorized Agent (If Any)
_____	By	_____
Applicant's Signature		Authorized Agent (If Any)
_____	By	_____
Applicant's Signature		Authorized Agent (If Any)

The Petition must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this application.

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**FOR OFFICE USE ONLY**

Map \_\_\_\_\_ Zoning (N) \_\_\_\_\_ (S) \_\_\_\_\_ (E) \_\_\_\_\_ (W) \_\_\_\_\_ MAPC/BZA \_\_\_\_\_ Township \_\_\_\_\_  
 Council/Commission District \_\_\_\_\_ DAB \_\_\_\_\_ Sm. City PC \_\_\_\_\_  
 NA/HOA \_\_\_\_\_  
 Date \_\_\_\_\_ Fee \_\_\_\_\_ Received By \_\_\_\_\_

**Required Documents:**

Ownership List     BZA Justification     Legal Description     Vacation Petition     Site Plan     Signs