

VARIANCES

A variance is a deviation from the zoning regulations as they apply to your property. A variance must not be contrary to the public interest and it must be necessary due to a special condition of the property or in cases where the zoning regulations would result in unnecessary hardships¹ to the property owner. There are five criteria that must all be met in order to be eligible for a variance. The Planning Commission, which acts as the Board of Zoning Appeals, determines variance applications.

Step 1: Submit Application

- Applicant will submit the application justifying the need for the variance as it relates to the five criteria stated in this guide.
- Application needs to include a sketch drawn to scale, showing all existing/proposed structures, property lines, parking spaces, points of ingress and egress, driveways, and other helpful information.

Step 2: Public Notification

- The City will issue letters to all property owners within 200 feet of the applicant's site address.
- The City will issue a public notice to be published in the City newspaper 21 days before the public hearing.

Step 3: Board of Zoning Appeals Public Hearing

- This application requires a public hearing, which means the public is invited to give the BZA/Planning Commission their opinion or concerns during the review of the application. At the end of the public hearing the BZA/Planning Commission will render their decision. Applicant will be sent a letter with the board's decision with any limitation imposed. The letter will include the date the applicant can proceed if no appeal has been filed with the Dickinson County Court.

Step 4: 30 Day Appeal Period Begins

- Upon issuance of a decision the applicant or member of the public has 30 days to submit an appeal.

Step 5: Final Notification

- If no appeal has been submitted after 30 days, notice will be sent to the Dickinson County Register of Deeds.

Variance Justification Requirements

Please type your responses to the questions belows. Handwritten responses will not be accepted. If you do not have access to Microsoft Word or another way to type your responses on paper, you may email them to kari@abilenecityhall.com.

The Board of Zoning Appeals must find that **all** of the following criteria for the granting of a variance are met by the application:

- a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant;
- b. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- c. That the strict application of the provisions of these zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;¹
- 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 these zoning regulations.

¹ The terms “Unnecessary Hardship” or “Undue Hardship” have generally been interpreted by the legal system to mean that all viable economic activity of the land will be taken away by the strict interpretation and application of the regulations, which results in a regulatory taking of property.