



# Zoning Board Of Adjustment Application Information

## **Included in this Packet:**

Application & Checklist

Land Development & Permit eSystem Information

Zoning Ordinance Sections 46-100 & 46-101

(Variances & Special Exceptions)

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**Planning and Development Services Department  
City of Round Rock, Texas**

Updated: May 2012

# Zoning Board of Adjustments

This packet provides the information and application requirements for [Special Exception](#) and [Variance](#) requests. Both items are decided by the Zoning Board of Adjustment (ZBA) following a recommendation by staff and input from the public. For a Variance or Special Exception to be approved, at least four (4) members of the ZBA must vote in favor of the request. Below is a brief summary of these two processes:

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## **General Information**

### **Variance**

Variations can be requested for residential, commercial, office, or industrial developments. The variance process allows for deviations from any numerical standard included in the Zoning Ordinance. In general, to justify a variance the applicant must demonstrate that complying with a standard (i.e. setback) would result in a substantial hardship. Furthermore, the applicant must prove that the variance will not be detrimental to the public health, safety, and welfare and a special condition exists warranting its approval.

### **Special Exceptions**

Special Exceptions can be requested for specific land uses identified in the Zoning Ordinance. Each zoning district includes a list of permitted uses; uses permitted with conditions; and uses permitted by Special Exception. Prior to proceeding with a Special Exception case, a preliminary site plan must be favorably reviewed by the Planning and Development Services Department. During the ZBA's review of the application, the following items will be considered relative to the proposed use: compatibility with the surrounding area; potential negative impacts on adjacent properties and the environment; and consistency with the Zoning Ordinance and General Plan. Finally, the ZBA may impose conditions on the use including but not limited to increased setbacks; additional landscaping; limitations on hours of operation; and additional improvements such as fencing.

### **Pre-Submittal Meeting**

Prior to submitting a Variance or Special Exception application to Planning and Development Services, a pre-submittal meeting with staff is required. Please complete a [pre-submittal meeting request](#) and email or fax it to Kamie Fitzgerald ([kfitzgerald@roundrocktexas.gov](mailto:kfitzgerald@roundrocktexas.gov) or (512) 671-2751). If you have any questions regarding these processes or your situation, please do not hesitate to contact Brad Wiseman, Development Services Manager at (512) 341-3321 or [bwiseman@roundrocktexas.gov](mailto:bwiseman@roundrocktexas.gov).

### **Land Development and Permit eSystem**

The City of Round Rock has implemented a Land Development and Permit eSystem accessible by project applicants and/or their representatives. This on-line system will allow users to see the progress of development projects, access review comments, schedule inspections and more. The most efficient way to find what you are looking for is to search by [permit number](#), which will be given by the department you submit your application to. Click on this [link](#) and save it to your favorites in order for this site to be easily accessible in the future. You may also go to [www.roundrocktexas.gov](http://www.roundrocktexas.gov) and click on the Development/Permit Tracker listed under online services on the left side of the home page.



## Presubmittal Meeting Request Form

**Instructions:** Forward the completed form to Kamie Fitzgerald via fax (512) 671-2751 or email ([kfitzgerald@roundrocktexas.gov](mailto:kfitzgerald@roundrocktexas.gov)) to schedule a presubmittal meeting.

- 1) Requested meeting date:
  
- 2) **Choose one:**  
Legal Description, Address, or R# from Williamson County Appraisal District
  
- 3) Contact Name:
  
- 4) Contact Phone:
  
- 5) Contact Email:
  
- 6) Please explain your Variance or Special Exception Request:

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*The presubmittal meeting does not constitute a City review for the purposes of approval or permit issuance. Upon submittal of the appropriate applications comments are to be expected that were not discussed at the meeting. Nor shall the date of the meeting be construed as the submittal date for the application*



# ZONING BOARD OF ADJUSTMENT APPLICATION & CHECKLIST

DATE: \_\_\_\_\_

\_\_\_\_\_ By: \_\_\_\_\_  
(name of present owner) (name of agent)

ZONING CLASSIFICATION: \_\_\_\_\_

PROPERTY DESCRIPTION: Describe only the property to be rezoned using either metes and bounds or subdivision reference.

\_\_\_\_\_ acres out of the \_\_\_\_\_ Survey, Abstract # \_\_\_\_\_.

(or)

\_\_\_\_\_ Subdivision; Lot \_\_\_\_\_, Block \_\_\_\_\_

(and/or)

\_\_\_\_\_  
Street Address (es) of the Property

Volume and Page of deed(s) which conveyed the property to the present owner:  
Volume \_\_\_\_\_, Page \_\_\_\_\_, \_\_\_\_\_ acres

Type of Ownership: \_\_\_\_\_ Sole Owner; \_\_\_\_\_ Community Property; \_\_\_\_\_ Partnership; \_\_\_\_\_ Corporation; \_\_\_\_\_ Trust.

\_\_\_\_\_  
OWNER'S SIGNATURE

\_\_\_\_\_  
AGENT'S SIGNATURE

\_\_\_\_\_  
(mailing address)

\_\_\_\_\_  
(mailing address)

\_\_\_\_\_  
(city, state, zip code)

\_\_\_\_\_  
(city, state, zip code)

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

If ownership is other than sole or community property, name the partners, principals, beneficiaries, etc. respectively:

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1) (name) (position) (address) (city, state, zip code)

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2) (name) (position) (address) (city, state, zip code)

Description of Variance or Special Exception:

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Checklist:

1. Application
2. Letter describing nature of variance or special exception
3. A list of the names and addresses of all property owners within 300 feet of the property
4. Survey and field notes, including acreage and name of survey, typed and entitled EXHIBIT "A" on 8 1/2" x 14" paper
5. Copy of deed to show proof of present ownership
6. One set of envelopes prepared for notifications for Zoning Board of Adjustment meetings. City of Round Rock envelopes can be picked up from the Development Services Office and should be addressed with the property owners names that are within 300 feet of the proposed subdivided property. (DO NOT SEAL THE ENVELOPES)
7. A map (to scale) indicating the property to be zoned with a line drawn around the property at 300' from the lot line, indicating the properties whose owners require notification
8. A check payable to the City of Round Rock for the filing fee.  
Filing Fee: \$500
9. Each application shall be accompanied by an abstractor's certificate, which shall state the names and addresses of all current owners and current lien-holders of the property described in the application. The abstractor's certificate shall be dated no sooner than ten (10) days prior to submission of the application. The application shall not be reviewed or approved until the receipt of the abstractor's certificate.

**Sec. 46-100. - Variance.**

(a)

*Purpose.* The zoning board of adjustment shall have jurisdiction to hear requests for a variance from the terms of this chapter. The ZBA shall be authorized to grant a variance from the terms hereof if, and only if, they find that the strict enforcement of this chapter would create a substantial hardship to the applicant, by virtue of unique special conditions not generally found within the city, and that the granting of the variance would preserve the spirit and intent of the chapter, and would serve the general interests of the public and the applicant. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that public health, safety, and welfare may be secured and substantial justice done.

(b)

*Approval process.*

(1)

*Review and report by zoning administrator.* Once the application is complete, the zoning administrator shall review the variance application, subject to the review criteria enumerated in subsection (c) of this section, and give a report to the zoning board of adjustment on the date of the scheduled public hearing.

(2)

*Action by the zoning board of adjustment.*

a.

*Notice.* The zoning board of adjustment shall mail notice in accordance with section 46-92(e).

b.

*Variance review and public hearing.*

1.

In conjunction with review of the variance application, subject to the criteria listed in subsection (c) of this section, the zoning board of adjustment shall hold a public hearing and shall make a written finding and give its approval, approval with modifications or conditions, or disapproval.

2.

It shall take a concurring vote of 75 percent of the members of the ZBA to approve or approve with modifications or corrections an application for a variance from this chapter.

(c)

*Criteria for approval of variances.*

(1)

*Required findings.* The zoning board of adjustment shall authorize a variance from the requirements of this chapter when an unnecessary hardship would result from the strict enforcement of this chapter. In granting a variance, the ZBA shall prescribe only conditions that it deems not prejudicial to the public interest. In making the required findings, the ZBA shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance shall be created, and the probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. No variance shall be granted unless the ZBA finds all of the following:

a.

*Extraordinary conditions.* There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this chapter will deprive the applicant of the reasonable use of their land. For example, a variance might be justified because of topographic or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.

b.

*Application of a substantial property right.* The variance is necessary for the preservation and application of a substantial property right of the applicant.

c.

*Substantial detriment.* The granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the city in administering this chapter.

d.

*Other property.* These conditions do not generally apply to other property in the vicinity.

e.

*Applicant's actions.* The conditions are not the result of the applicant's own actions.

f.

*General plan.* The granting of the variance would not substantially conflict with the general plan and the purposes of this chapter.

g.

*Utilization.* Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

(2)

*Insufficient findings.* The following types of possible findings do not constitute sufficient grounds for granting a variance:

a.

The property cannot be used for its highest and best use.

b.

There is a financial or economic hardship.

c.

There is a self-created hardship by the property owner or his agent.

d.

The development objectives of the property owner are or shall be frustrated.

(3)

*Limitations.* The zoning board of adjustment may not grant a variance when the effect of which would be any of the following:

a.

To allow the establishment of a use not otherwise permitted in the applicable zoning district.

b.

To increase the density of a use above that permitted by the applicable district.

c.

To expand a nonconforming land use.

d.

To change the zoning district boundaries shown on the official zoning map.

(4)

*Profitability not to be considered.* The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.

(d)

*Appeal.* Appeals of the zoning board of adjustment's decision must be made within ten days to the district court, county court, or county court at law in accordance with V.T.C.A., Local Government Code.

(Code 1995, § 11.308)

### **Sec. 46-101. - Special exceptions.**

(a)

*Applicability.*

(1)

Special exceptions include uses that are generally compatible with the other uses permitted in a zoning district, but require individual review of their location, design, configuration, density and intensity of use or structures, and may require the imposition of conditions in order to ensure the appropriateness of the use at a particular location.

(2)

Uses that may be considered for special exception are identified in the permitted uses section of each individual district within this chapter.

(3)

An application for a special exception may not be made unless the use is identified as one that may be considered for special exceptions in the relevant district, as listed in the permitted uses section of each individual district within this chapter.

(b)

*Requirement for concurrent site plan submittal.*

(1)

Application for a special exception must occur in conjunction with the submittal of a site plan. The zoning board of adjustment may not render a decision on the special exception application until after the site plan has been favorably reviewed by the development review committee.

(2)

Any modification to an approved site plan that was filed in conjunction with a special exception shall cause the special exception to become void, regardless of its current status, including already obtained approval by the ZBA. Such special exceptions must be resubmitted to the ZBA for consideration using the modified site plan. If the modified site plan requires development review committee approval, no decision may be rendered on the special exception until after the site plan has been favorably reviewed by the DRG.

(c)

*Approval process.*

(1)

*Review and report by zoning administrator.* Once the application is complete, the zoning administrator shall review the proposed development in light of the general plan, subject to the criteria enumerated in subsection (d) of this section, and give a report to the zoning board of adjustment on the date of the scheduled public hearing.

(2)

*Zoning board of adjustment (ZBA) action.*

a.

*Notice.* The zoning board of adjustment shall mail notice in accordance with section 46-92(e).

b.

*Public hearing.*

1.

In conjunction with review of the special exception application, subject to the criteria enumerated in subsection (d) of this section, the zoning board of adjustment shall hold a public hearing and approve, approve with modifications or conditions, or disapprove the special exception application.

2.

It shall take a concurring vote of 75 percent of the members of the ZBA to approve or approve with modifications or corrections a special exception application.

c.

*Recordation of action.* One copy of an approved special exception permit shall be given to the owner of the property, and one copy shall be filed in the office of the zoning administrator.

(d)

*Special exception review criteria.* The zoning board of adjustment may approve an application for a special exception where it reasonably determines that there shall be no significant negative impact upon residents of surrounding property or upon the general public. The ZBA shall consider the following criteria in its review:

(1)

*Consistent with zoning ordinance.* The proposed exception shall be specifically listed as permitted by special exception in the zoning district under consideration. The proposed exception shall meet the purpose and intent of this chapter and the use shall meet all the minimum standards established in this chapter for this type of use.

(2)

*Consistent with general plan.* The proposed exception shall be consistent with the development policies and goals and objectives as embodied in the general plan.

(3)

*Compatible with surrounding area.* The required site plan shall ensure compatibility with existing land uses in the surrounding area. The proposed use shall not be detrimental to the health, welfare, and safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property.

(4)

*Harmonious with character and scale of surrounding area.* The proposed site plan, circulation plan, and schematic architectural, signage, and landscaping designs shall be harmonious with the character of the surrounding area.

(5)

*Impacts minimized.* The likely impact on public infrastructure such as roads, parking facilities, water and wastewater systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately service the proposed use shall be minimized without negatively impacting existing uses in the area and in the city.

(6)

*Effect on natural environment.* The potential creation of noise, glare, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts shall be minimized.

(e)

*Additional conditions.* The zoning board of adjustment may impose additional reasonable restrictions or conditions to carry out the spirit and intent of this chapter and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, additional landscaping, and additional improvements such as curbing, sidewalks and screening.

(f)

*Appeal.* Appeals of the zoning board of adjustment's decision must be made within ten days to the district court, county court, or county court at law in accordance with V.T.C.A., Local Government Code.

(Code 1995, § 11.309)