



Zoning Variance Application

Pottawattamie County
Planning & Development Department

1. **WHAT IS A VARIANCE?** A variance is a relaxation of the terms of the Zoning Ordinance where such variance shall not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance, would result in unnecessary and undue hardship. As used in this Ordinance a variance is authorized for height, area, and size of structures or size of yards and open spaces; establishment of a use otherwise prohibited shall not be allowed by a variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district or because of conditions created by the landowner.
2. You will be notified when you make an application for a zoning permit on whether or not a variance would be required to accomplish the improvements proposed in the permit.
3. An application for a zoning variance shall be forwarded to the Office of Planning and Development, as follows:
 - A. An application form, as provided by the Office, completed by the applicant.
 - B. A site plan showing the existing and proposed improvements to the property.
 - C. A \$140.00 filing fee, which is non-refundable.
 - D. Other pertinent data as may be requested by the Office of Planning and Development.
4. Once an application has been properly filed with the Office it will be placed on the agenda for the next regularly scheduled meeting of the Zoning Board of Adjustment. The deadline for filing an application is generally one month before the scheduled meeting. The Board meets once a month, with their regularly scheduled for the fourth Thursday of the month at 5:30 P.M. from November through March and at 7:00 P.M. from April through October. In accordance with the Board's Rules of Procedure, either the applicant and/or his representative **MUST** be present at this public hearing to present the request to the Board. A notice will be sent to you by the Office apprising you of the date and time of the meeting. The Board has the right to continue the request to subsequent public hearing(s) in order to allow them to tour the site, obtain additional data, etc.
5. In part Section 8.096.030.02 of the Pottawattamie County, Iowa, Code, reads as follows:

The *Board* shall have the power to hear and decide appeals for *variances* from the specific terms of this Ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship, and provided, that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. No *variance* from the terms of this Ordinance shall be granted unless the *Board* is satisfied that granting the variance:

- A. Is necessary to alleviate a demonstrable hardship or difficulty so great as to warrant the variance;
- B. Will not merely serve as a convenience to the applicant;
- C. Will not impair the general purpose and intent of the regulations and provisions contained in this Ordinance;

- D. Will not impair an adequate supply of light and air to adjacent properties;
 - E. Will not increase the hazard from fire and other damages to said property;
 - F. Will not diminish the value of land and buildings in the County;
 - G. Will not increase the congestion and traffic hazards on public roads; and
 - H. Will not otherwise impair the public health, safety and general welfare of the inhabitants of the County.
 - I. Is not based on the nonconforming use of neighboring lands, structures or buildings in the same district, and the permitted or nonconforming use of lands, structures, or buildings in other districts is not grounds for the issuance of the variance.
 - J. Will not, under any circumstances, allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
6. Once the Board has rendered a decision, a resolution is prepared which sets forth their decision and conditions, if any, on the request.
7. If the zoning variance involves the construction of any type of structure, the application must make application for a building permit prior to commencing any excavating, erecting, constructing, reconstructing, enlarging, altering or moving of any building or structure. Applications for an onsite wastewater treatment and disposal system, private water well permit and floodplain development permit may also be required. Applications for these permits must accompany the application for building permit.
8. Section 335.18 of the Code of Iowa states – Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment under the provisions of this chapter (335), or any taxpayer, or any officer, department, board or bureau of the County, may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.
9. If you have any questions regarding this application, please do not hesitate to contact Matt Wyant, Director, Planning and Development, at 712-328-5792.

NOTE: The data contained in this document is for reference purposes only. For the specific regulations, you should refer to the Pottawattamie County, Iowa, Zoning Ordinance. Data contained in this document is subject to change without further notice to recipients of this document.

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