



## PETITION TO THE BOARD OF ZONING APPEALS

The Board of Zoning Appeals is a five-member board recommended by City Council and appointed by the Circuit Court. The Board has the authority to a) hear and decide appeals from any written order, requirement, decision, or determination of the Zoning Administrator, b) authorize variances from the zoning ordinance.

- A. If you disagree with a decision of the Zoning Administrator, you may file an appeal. **The appeal must be filed in writing within thirty days of the date of the Zoning Administrator's decision.**
- B. If you want relief from a provision of the zoning ordinance, you may apply for a variance. A variance may be applied for at any time.

For a variance or appeal, you must:

1. Fill out and sign the attached application form,
2. Provide a letter detailing the justification for the request, including any supporting documentation,
3. Provide a detailed scale drawing of the property and the proposed project, with a location map,
4. File ten (10) copies of all application materials at the Department of Community Development with the \$200 application fee (Make checks payable to "Treasurer of City of Salem"):
5. Agree to and submit payment for all legal notice fees as required by state law.

The Board of Zoning Appeals meets on the fourth Thursday of each month on an as needed basis. Applications must be received on or before the last Monday of the month in order to be processed and heard at the next month's meeting. (Example: Applications received by the last Monday in January will be heard at the February meeting.)

### Rules Governing Justification for Variance:

In writing your justification for a variance request, you should carefully consider and select one or both of the following. Section 106-528.1(C) of the Code of the City of Salem states that the Board of Zoning Appeals shall base its required findings upon the particular evidence presented to it in each specific case where the property owner can provide proof to the satisfaction of the BZA that:

1. The strict application of the terms of the ordinance would **unreasonably restrict** the use of the property.
- or
2. That the granting of the variance would alleviate a hardship due to the **physical condition** relating to the property at the time of the effective date of the ordinance or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability.

In either case the following criteria must be met:

The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;  
The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;  
The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;  
The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and  
The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.

## BOARD OF ZONING APPEALS PETITION APPLICATION

### OWNER INFORMATION

USE CURRENT CONTACT INFORMATION FOR ALL PROPERTY OWNERS. (AN ADDITIONAL SHEET MAY BE ATTACHED FOR MULTIPLE OWNERS)

Name:

Mailing address:

City:

State:

ZIP Code:

Phone:

Email:

### AGENT INFORMATION

Name:

Corporation:

Mailing address:

City:

State:

ZIP Code:

Phone:

Email:

Fax:

### APPLICATION DETAILS

**Application For:**

**Appeal of Zoning Decision:**

**Variance:**

**Appeal Details:**

Date of Decision:

Regarding:

**Variance Details:**

Section of Zoning Ordinance:

To Allow:

**Variance Request basis:**

- Unreasonable Restriction
- Hardship due to Physical Condition

### PROPERTY INFORMATION

Address of Property:

Tax Map #:

Legal Description:

Zoning District:

Present Use:

### APPLICATION CHECKLIST

Letter detailing justification for request (Variance & Appeals)

A scale drawing of the property & proposed project, with location map

Application Fee

Ten (10) copies of application & associated materials

### SIGNATURES

I certify that the information supplied on this application and on the attachments provided (maps and other information) is accurate and true to the best of my knowledge. I further agree to submit payment to the newspaper for costs associated with the legal advertisement of the above request. In addition, I hereby grant permission to the agents and employees of the City of Salem to enter the above property for the purposes of processing and reviewing the above application. Also, the petitioner understands that a "Notice of Zoning Request" sign will be posted by the City on any property which is involved with a petition

Signature of Owner:

Date:

Signature of Owner:

Date:

Signature of Agent:

Date:

The Board of Zoning Appeals can grant a variance only if certain legal requirements have been met. The following questions are intended to help the applicant show that a variance is appropriate.

**Please answer all questions as completely as possible. Attach additional pages if necessary.**

1. Does the zoning ordinance *unreasonably restrict* the use of the property? If so, how is the zoning ordinance unreasonable?

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2. Is there a *hardship* related to the physical conditions of the property? If so, what physical conditions make the variance necessary? Were those physical conditions present when the ordinance was adopted?

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3. Is a variance necessary to make a reasonable modification to the property or improvements requested by, or on behalf of, a *person with disability*? If so, describe what modification is needed, and why.

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4. If there is a hardship, was it created by the applicant?

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5. Is the condition or situation unique to this property, or is it common among other property in the area?

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6. Would the variance have a negative effect on other property in the area?

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