

Variance Application – Board of Zoning Adjustment (BZA)

City of Decatur, Planning & Development Department
402 Lee Street NE
Decatur, AL 35602
(256) 341-4720 / Planning@decatur-al.gov



Location of Subject Property: _____

Name of Applicant(s): _____ Phone: _____

Address: _____ Email: _____

Name of Owner(s): _____ Phone: _____

Address: _____ Email: _____

The applicant will be the point of contact for all communication with city staff

Current Zoning: _____ Total Acreage: _____ Current Use of Property: _____

Review the Decatur Zoning Ordinance, specifically Sec. 25-2.4.16

Any variance granted shall be the minimum adjustment necessary to enable the legal use of the land, building, or structure. The Board may prescribe any safeguard that it deems necessary to secure substantially the spirit of the zoning ordinance or provisions to which the variance applies. There must be proof of unnecessary hardship. The hardship complaint cannot be self-created.

- 1. What are the extraordinary and exceptional conditions pertaining to the particular piece of property in question (size, shape, or topography)?
2. How would the application of the Zoning Ordinance of the City of Decatur to this particular piece of property create an unnecessary hardship?
3. What conditions are peculiar to this particular piece of property? (attach extra pages as needed to answer questions)

“Any party aggrieved by any final judgment or decision of such board of zoning adjustment may within 15 days thereafter appeal therefrom to the circuit court by filing with such board a written notice of appeal specifying the judgment or decision from which the appeal is taken.” (Code of Alabama § 11-52-81)

- All items must be marked as included or understood:
*The deadline to apply for the next meeting is: ___/___/___
*The date of the next available meeting is: ___/___/___
___ Proof of Ownership
___ Designation of Agent Form (mark N/A if not applicable)
___ Accurate, scaled site plan showing all necessary information, including property lines, existing & proposed structures, dimensions, and any additional information that would be helpful to the BZA in making a decision
___ Fee
___ I agree to allow the City to place a sign or signs on this property notifying the public of this request
___ Applicant must attend meeting
___ I have read the guidelines referenced in Sec. 25-2.4.16 in the City of Decatur Zoning Ordinance

I have read the above statements and warrant in good faith that I understand and will comply, and that the information submitted is true and correct. I acknowledge that it is my responsibility to supply competent and credible evidence to inform the BZA of the nature and degree of the hardship and the variance sought, and to demonstrate that the use of the property will not substantially impair the intent and purpose of the Zoning Ordinance.

Applicant Signature: _____ Date: ___/___/___

STATE OF ALABAMA
COUNTY OF _____

I, _____, a Notary Public in and for said State at Large, hereby certify that _____, whose name is signed to the foregoing document, and

____ Who is known to me, or
____ Whose identity I proved on the basis of _____

and that being informed of the contents of the document, he/she, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 20_____.

_____, Notary Public My Commission Expires: _____

Sec. 25-2.4.16. Variance (Zoning)

(a) Purpose

The purpose of this section is to establish a uniform mechanism to allow deviations from specific dimensional standards in this Ordinance when the strict application of the standards would result in unnecessary hardship.

(b) Applicability

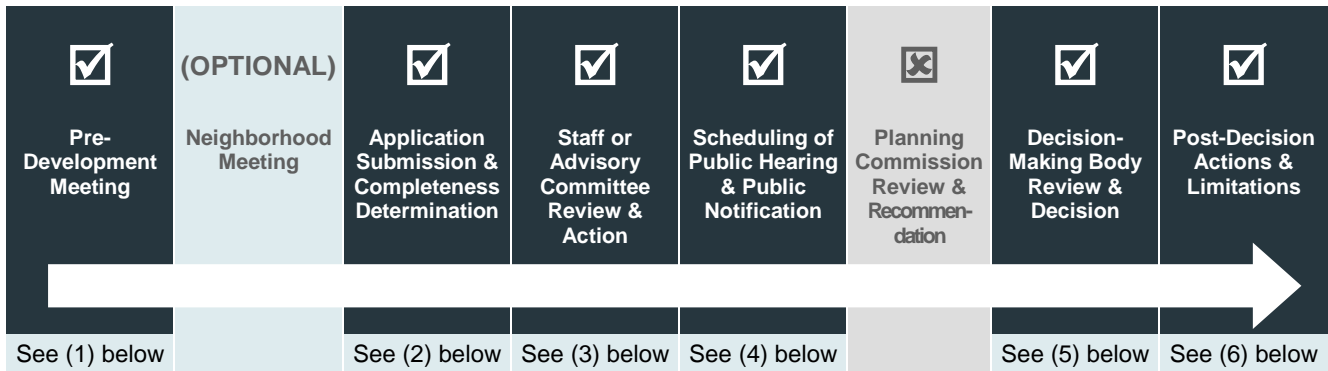
The procedures and standards of this section apply to the review of and decision on applications for a variance from the following standards:

- (1)** The dimensional standards in Article 25-3: Zoning Districts;
- (2)** The numerical use-specific standards in Article 25-4: Use Regulations, to the extent the variance does not result in allowing a use that is prohibited in the zoning district; and
- (3)** Numerical standards in Article 25-5: Development Standards.

(c) Procedure for Variance

An application for a variance (zoning) shall be submitted, processed, reviewed, and decided on in accordance with Section 25-2.3, Standard Application Requirements and Procedures, as modified in this section. Figure 25-2.4.16: Summary of Variance (Zoning) Procedure, identifies the standard procedures in Section 25-2.3 that apply to variance (zoning) applications and those that do not apply. Subsections (1) through (6) below, set out the required procedure for variance (zoning) applications, including any modifications to the standard procedures in in Section 25-2.3.

Figure 25-2.4.16: Summary of Variance (Zoning) Procedure



= Applicable; =Not Applicable

(1) Pre-Development Meeting

A pre-development meeting in accordance with Sec. 25-2.3.2, Pre-Development Meeting, is required.

(2) Application Submission and Completeness Determination

- (i) Applications shall be submitted in accordance with Sec. 25-2.3.4, Application Submission.
- (ii) The Director shall make a determination as whether the application is complete in accordance with Sec. 25-2.3.5, Application Completeness Determination.

(3) Staff Review and Action

The BOZA Technical Review Committee shall review the application and members of the Committee may make statements at the hearing on the application in accordance with Sec. 25-2.3.6, Staff or Advisory Committee Review and Action.

(4) Scheduling of Public Hearing and Public Notification

The public hearing shall be scheduled and notification of the hearing provided in accordance with Sec. 25-2.3.7, Scheduling of Public Hearing and Public Notification.

(5) Decision-Making Body Review and Decision

The Board of Zoning Adjustment shall conduct a public hearing on the application and make a decision in accordance with Sec. 25-2.3.9, Decision-Making Body Review and Decision, and Sec. 25-2.4.16(d), Decision-Making Standards for Variance. The Board of Zoning Adjustment’s decision shall be one of the following:

- (i) Approve the application as submitted;
- (ii) Approve the application subject to conditions of approval; or
- (iii) Deny the application.

(6) Post Decision Actions and Limitations

Post decision actions and limitations shall be in accordance with Sec. 25-2.3.10, Post Decision Actions and Limitations, and subsections (i) and (ii) below.

(i) Effect of Approval

Approval of a variance authorizes only the particular relief approved. It does not exempt the applicant from the responsibility to obtain all other approvals required

by this Ordinance and any other applicable laws, and does not indicate that the development for which the variance is granted should receive other development approvals or permits under this Ordinance unless the relevant and applicable portions of this Ordinance or any other applicable laws are met. Unless it expires, a variance, including any conditions of approval, shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership.

(ii) Lapse of Approval

As a condition of approval, the Board of Zoning Adjustment may establish a time frame within which the development for which the variance requested shall begin and/or be completed. The variance shall automatically expire and be void upon the lapse of the established time frame if the development for which the variance is granted is not begun and/or completed as required.

(d) Decision-Making Standards for Variance

- (1)** The Board of Zoning Adjustment shall grant a variance only on finding the applicant demonstrates all of the following:
 - (i)** There are extraordinary and exceptional conditions pertaining to the particular piece of property;
 - (ii)** Those conditions are peculiar to the property and do not generally apply to other property in the vicinity;
 - (iii)** Those conditions are not the result of the landowner's or applicant's own actions;
 - (iv)** Because of those conditions, the application of the standards in this Ordinance to the particular piece of property would result in unnecessary hardship to the applicant; and
 - (v)** The variance is the minimum necessary to alleviate that hardship and is consistent with the public interest and with the spirit, purpose, and intent of this Ordinance, such that public safety is secured, and substantial justice is achieved.
- (2)** The following factors do not constitute sufficient grounds for approval of a variance:
 - (i)** A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
 - (ii)** Hardships resulting from factors other than application of standards of this Ordinance;
 - (iii)** The fact that land or a structure may be utilized more profitably or be more marketable with a variance;
 - (iv)** The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts; or
 - (v)** Financial hardship.
- (3)** The Board of Zoning Adjustment shall not approve a variance application if the approval would have the effect of:
 - (i)** Allowing the establishment of a use not otherwise permitted in a zoning district;
 - (ii)** Extending physically a nonconforming use of land;
 - (iii)** Changing the zoning district boundaries shown on the Zoning Map; or