



APPLICATION TO THE  
CITY OF PHARR  
BOARD OF ADJUSTMENT  
FOR A  
**VARIANCE/SPECIAL EXCEPTION**

CITY OF PHARR, TEXAS

## **INSTRUCTIONS FOR COMPLETING THE REQUEST FOR A VARIANCE/SPECIAL EXCEPTION TO THE BOARD OF ADJUSTMENT**

This coversheet is designed to provide you with general information about completing the attached application and should not be considered legal advice. If you have any questions, or do not understand these instructions, you are advised to seek help from a qualified attorney or land use planning expert.

### **VARIANCES**

A variance may be granted to an applicant when the board finds:

- 1) That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or building; and
- 2) That the granting of such variance will not be detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located; and
- 3) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose; and
- 4) That the literal enforcement and strict application of the provisions of the ordinance in question will result in an unnecessary hardship inconsistent with the general provisions and intent of that ordinance and that in granting such variance the spirit of the ordinance will be preserved and substantial justice done; and
- 5) In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its findings, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

The board may, after public notice and hearing and subject to the conditions and safeguards herein contained, vary or adapt the strict application of any of the terms of this ordinance under the power and authority herein granted and consistent with Article XII, Section 1.91, subsection D.

In granting any variance under the provisions of this ordinance, the board may designate such conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this ordinance.

The board may permit the change of occupancy from one nonconforming use to another nonconforming use when the extent of the second nonconforming use is found to be less detrimental to the environment than the first.

The board may permit the enlargement of a nonconforming use only when the enlargement will not prolong the life of the nonconforming use. A specific period of time for the return to conformity can be required.

The board may permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the board,

prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming structure.

The board may permit such variance of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking or off-street loading regulations where the literal enforcement of the provisions of this ordinance would result in an unnecessary hardship, and where such variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such restricted area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district. A variation from the standard established by this ordinance shall not be granted to relieve a self-created or personal hardship, nor for financial reason only, nor shall such modification be granted to permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the district.

A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by an Ordinance to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship on another parcel of land.

**The following approval criteria must be met for a variance request to be granted:**

- 1) *The variance is not contrary to the public interest.*
  - a) This requires that in order for the variance to be granted, it may not be against the public interest. "Public Interest" for zoning variances is defined as the well-being of the general public, with specific attention to those members of the public that could be directly affected by the proposed variance."
- 2) *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
  - b) This requires that the enforcement of a zoning regulation causes an "unnecessary hardship." The hardship must be **caused by the property itself**, for reasons such as exceptional size or shape, topography or other physical conditions of a parcel of land. The hardship must not be caused by the applicant, cannot be personal in nature, cannot be financial only; and must relate to the very property for which the variance is sought. It must be unique condition, oppressive and not common to other property. Unnecessary hardship is present only where, in the absence of a variance, no reasonable use may be made of the property.
- 3) *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*
  - c) This requires that if the Board of Adjustment grants the variance as requested, it will not allow the operation of a use not specifically permitted in the zoning district in which it is located.
- 4) *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
  - d) This examines whether or not the granting of the variance will negatively influence the ability of an adjacent property to be used in a manner appropriate to the zoning district

to which it conforms. This condition also examines the potential of the variance to influence or change the image or perception of the locality, as defined by its built environment, landscaping, natural features and open space, types and style of housing, and other elements that contribute to its distinct identity.

5) *The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

e) This requires that the dilemma necessitating the request of a variance is the result of exceptional physical characteristics of the property that are unique to the subject property and distinct from those of nearby properties and the district in general. The unique condition from which the hardship arises must not be the result of the actions of the property owner themselves and must not be merely financial in nature.

**All 5 (five) conditions are required to be met in order for the Board of Adjustment to grant a variance. The burden of proving that these 5 (five) conditions apply to the subject property is solely the responsibility of the applicant.** At the Board of Adjustment hearing, you will be expected to submit evidence proving that the above stated conditions exist.

## **SPECIAL EXCEPTIONS**

A special exception may be granted to an applicant when the board finds:

- 1) That the granting of such exception will not be injurious or otherwise detrimental to the public health, safety, morals and general welfare of the general public, and
- 2) That the granting of such exception will not be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located, and
- 3) That the granting of such exception will be in harmony with the general purpose and intent of this ordinance.

In determining its finding, the board shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such building or upon such land, traffic conditions in the vicinity, and the conformance of such area to the zoning map and general plan.

The board may, after public hearing and subject to the conditions and safeguards herein contained, authorize special exceptions to this ordinance as follows:

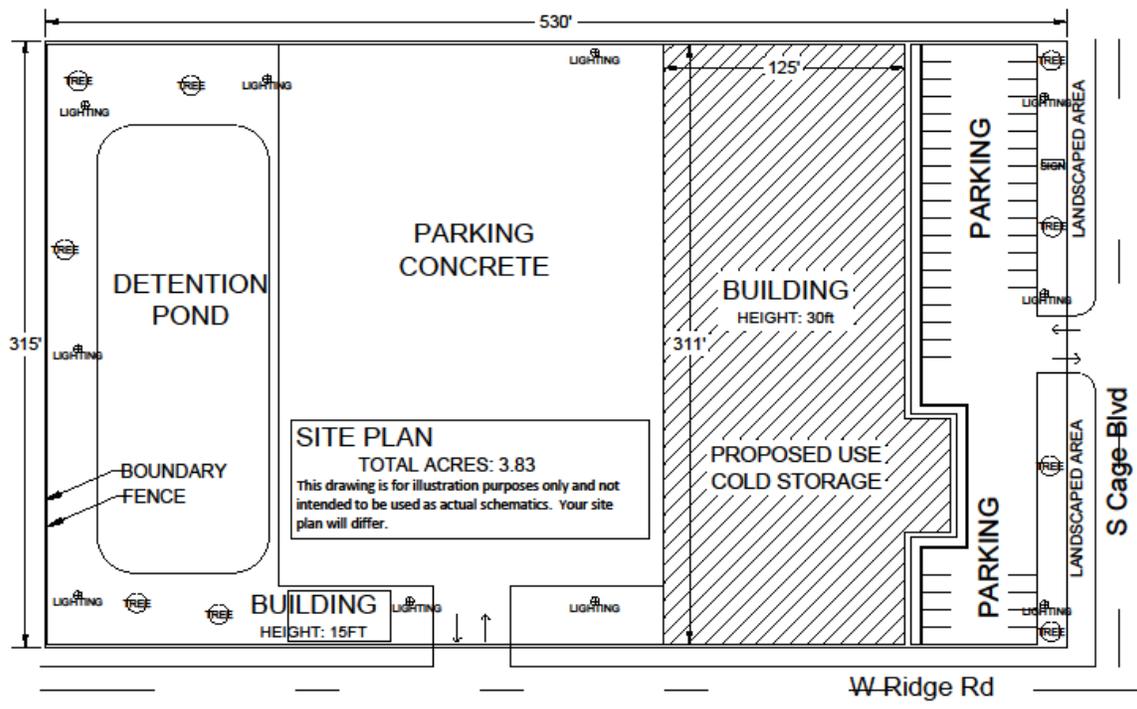
- 1) Permit the enlargement of a nonconforming use only when the enlargement will not prolong the life of the nonconforming use. A specific period of time for the return to conformity can be required.
- 2) Permit the use of a lot or lots in any dwelling district adjacent to any other district, even if separated therefrom by an alley or by a street, for the parking of passenger cars under such safeguards and conditions of the more restricted property, provided no other business use is made of such lot or lots.
- 3) Permit such modification of a yard, lot area or lot width regulation requirements as may be necessary to secure appropriate improvement of a parcel of land where such parcel was separately owned on the effective date of this ordinance, and is not adjacent to another parcel of the same ownership and where such parcel is of such size that it cannot be improved without such modification or of such restricted area that it cannot be appropriately improved without such modification.
- 4) Grant conditional use permits in any zone where such uses are allowed conditionally by the provisions of this ordinance.
- 5) Permit the modification of the requirements for signs.
- 6) May grant a permit for the extension of a use, height, or area regulation into an adjoining district for a distance of not more than 25 feet, where the boundary line of the district divides a lot in single ownership as of the effective date of this ordinance.

In granting any special exception under the provisions of this ordinance, the board may designate such conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this ordinance.

## REQUIRED MATERIAL FOR FILING A REQUEST FOR A VARIANCE TO THE BOARD OF ADJUSTMENT

- 1) A completed application for a Variance/Special Exception.
- 2) A copy of the Warranty Deed with Owner's consent.
- 3) If you are acting as an agent/representative for the property, you must bring a letter signed by the owner stating his consent for the request being applied for.
- 4) Application fee of \$750.00
- 5) Narrative: proposed use and intent of variance/special exception.
- 6) A site plan of your property **drawn to scale**. The site plan must contain the following items:
  - a) A North arrow and scale;
  - b) The location of all structures on the subject property and on adjoining property;
  - c) Landscaping and/or fencing of yards and setback areas and proposed changes;
  - d) Design of ingress and egress;
  - e) Off-street parking and loading facilities;
  - f) Height of all structures;
  - g) Proposed uses; and
  - h) The location and type of all signs, including lighting and heights.

### EXAMPLE SITE PLAN



# APPLICATION FOR VARIANCE/SPECIAL EXEPTION

Application Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Company Name or Business Entity: \_\_\_\_\_

Applicant: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
(First) (Middle) (Last)

Mailing Address: \_\_\_\_\_  
(Address) (City) (State) (Zip)

Email: \_\_\_\_\_

Property Owner: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
(First) (Middle) (Last)

Owner Mailing Address: \_\_\_\_\_  
(Address) (City) (State) (Zip)

Present Property Zoning: \_\_\_\_\_ Nature of Request: \_\_\_\_\_

Property Address: \_\_\_\_\_

Property  
Legal Description: \_\_\_\_\_  
(Subdivision) (Block) (Lot)

Current use of Property: \_\_\_\_\_ Proposed use of Property: \_\_\_\_\_

I hereby certify that the information provided above is true and correct to the best of my knowledge. By signing this application I hereby grant the City of Pharr authorization to do the background and information check(s) necessary to process this application. I also hereby grant employees of the City of Pharr to enter the premises and conduct any inspections necessary to process this application. Alterations, changes or deviations from the plans authorized by this permit are unlawful without written authorization. The applicant hereby agrees to comply with all City Ordinances, Code, Subdivision Regulations, Restrictions, Local, State and Federal Laws and assumes all responsibility for such compliance. I understand that the City of Pharr does not enforce any private restriction, covenant rule, or regulation that may be imposed. If permit becomes invalid for any reason no refunds will be issued.

**I hereby request a hearing before the Board of Adjustment and I acknowledge receiving the Guidelines / Restrictions as they will apply to the proposed use.**

As agent, appointed by the owner, I am authorized to act on his/her behalf in regards to the above information.

\_\_\_\_\_  
**(Agent Signature) (Date) (Agent Print Name) (Date)**

As owner of the above described property, I hereby request a hearing before the Board of Adjustment in reference to the above information.

\_\_\_\_\_  
**(Property Owner Signature) (Date) (Property Owner Print Name) (Date)**

## CONDITIONS NECESSARY FOR GRANTING A VARIANCE

Below are the conditions that are required to exist in order for the Board of Adjustment to grant a variance request. Describe in detail how the requested variance meets these conditions. (*Attach additional pages if necessary.*)

**1. The variance is not contrary to the public interest.**

**2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.**

**3. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.**

**4. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.**

**5. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.**