

Variance procedures

The Variance procedures may be found in section [18.75.070](#) of Taylor Town Code.

A. General. The board of adjustment may allow a departure from the terms of the zoning regulations contained in this title that pertain to height or width of structures, or the size of yard and open spaces where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of any action of the applicant, the strict and literal enforcement of this title would deprive the owner of the reasonable use of the land and/or building involved.

B. Application for a Variance. A request for a variance shall be made by filing an application with appropriate fees with the zoning administrator at least 21 days prior to a board of adjustment meeting. Such application shall be accompanied by a site plan showing such information as the zoning administrator deems necessary. The plans shall contain sufficient information for the board to make a proper decision on the request. The request shall state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance. In all cases, the application shall include:

1. Name and address of the applicant.
2. The legal description, including the tax assessor's parcel number, of the property involved in the request for the variance, and the street address, if any, of the property.
3. The names and address of the owners of the property and any other persons having a legal interest in the property.
4. A site plan drawn to scale showing the property dimensions, adjacent streets, drive accesses, driveways and parking areas, sidewalks, grading, landscaping, existing and proposed buildings, and location of all utilities, as applicable.
5. The actual variance request and the reasons for the request.
6. Evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with said plans within six months after issuance of the permit.

C. Notice of Public Hearing. The notice of public hearing and notification procedures for a variance shall conform to TTC [18.75.020](#).

D. Evidence Required for a Variance. At the public hearing on a variance application, the applicant shall present a statement and adequate evidence in such a form as the board may require showing:

1. That there are special circumstances or conditions applicable to the property referred to in the application which do not prevail on other property in that zone;

2. That the strict application of the regulations would work an unnecessary hardship and that the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights;

3. That the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood, and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

E. Board of Adjustment Action. In the event the board of adjustment determines that substantial conformity to the standards previously established in the zoning district may be secured, and that detriment or injury to the neighborhood will not result from the granting of the variance applied for, the board may, upon the affirmative vote of three-fourths of all the members of the board, approve or conditionally approve a variance, or, by simple majority, postpone a decision on the variance request. A decision shall not be postponed for more than two consecutive meetings. Upon approval or conditional approval, the board shall transmit notice of its action to the zoning administrator, along with the issuance of a zoning clearance and/or building permit. A report of the board's findings and recommendations, and any conditions imposed or required, shall also be submitted promptly to the town council in the form of official minutes of the board's meeting(s).

F. Disapproved Application. In the event the board of adjustment disapproves an application for a variance, no zoning clearance or permit shall be issued pending further application thereon as a result of an appeal to the superior court. Such an appeal shall be taken within 30 days from the date the disapproval is officially entered on the minutes of the board. If the court shall by final order overrule the action of the board, then the zoning administrator shall issue such permit as is ordered issued by the court without further action by the board unless the court by final order orders the board to hold a further hearing. If the court orders a further hearing by final order, said order shall be complied with.

G. Conditional Approval. In approving any variance, the board of adjustment may designate such conditions in connection therewith as will in its opinion substantially secure the objectives of the regulation or provision as to which such variance is granted, to provide adequately for the maintenance of the integrity and character of the zone in which such permit is granted, and shall provide the zoning administrator with a copy of the same.

H. Guarantees. Where necessary, the board of adjustment may require guarantees, in such form as it may deem proper under the circumstances, to ensure that the conditions designated in connection therewith are being or will be complied with. Where any condition under which a variance has been granted is violated, the variance shall cease to exist and the permit shall become null and void. [Ord. 60 § 4, 2001; Ord. 48 § 2, 1998. Code 1983 § 12-7-7.]