

City of Alva, Oklahoma
Board of Adjustments Meeting
Application

(Note that this application must be completed to be considered)

Property Address _____

Owner Address _____

Owner Name _____

Owner Phone Number _____

Legal Description of property to be considered:

Lot _____ Block _____ Addition _____

What is this request for?

Variance

Conditional Use Permit

Fee for meeting \$150.00 (due with application)

Please include a copy of the payment receipt with this application.

Owner Signature _____

Date Signed _____ / ____ / _____

Sec. 70.50. Board of adjustment; establishment.

70.50.10 *Appointment.* There is hereby established in the municipality a board of adjustment with the powers and duties hereinafter set forth and such other powers and duties as may be provided by law. Such board shall be composed of five members. The Mayor shall appoint the members of the board for a term of three years, subject to confirmation by the city council; provided, however, that when the first appointment is made hereunder, the term of office of two of said members shall be one year, the term of office of two of said members shall be two years, and the term of office of one of said members shall be three years. At least one of said members shall also be a member of the planning commission. All members of the board shall serve as such without compensation.

70.50.20 *Removal and vacancies.* A member of the board, once qualified, shall thereafter be removed during his term of office only for cause upon written charges, and after hearing held before the city council. In the event of the death, resignation, or removal of any member before the expiration of his term, a successor shall be appointed in the manner described above for the unexpired portion of his term.

Sec. 70.55. Board of adjustment; powers and duties.

The board of adjustment shall have the following powers and duties:

- (1) To hear and decide appeals, subject to section 70.65.
- (2) To hear and decide applications for conditional use permits (special exceptions), subject to section 70.70.
- (3) To authorize variances from the terms of this ordinance, subject to section 70.75.
- (4) Such other powers and duties as may be provided by statute or this ordinance.

Sec. 70.60. Board of adjustment; procedure.

70.60.10 *Organization, rules, meetings, and records.*

(1) The board shall elect its own chair and shall adopt rules of procedure consistent with these regulations and pertinent statutes.

(2) Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair, or in his absence, the acting chair, may administer oaths and compel the attendance of witnesses. All meetings, deliberations, and voting of the board shall be subject to the open meeting laws of the State of Oklahoma and shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record. The concurring vote of four members, three members if no protests are registered, of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance. Any member of the board who shall have a direct or indirect interest in any property or in the decision relating to such property, which shall be the subject matter of, or affected by, a decision of the board, shall be disqualified from participating in the discussion, decision, or proceedings of the board in connection there with.

70.60.20 *Public hearings.*

- (1) Before the board shall grant a conditional use permit or a variance, it shall hold a public hearing thereon. At the hearing, any party may appear in person or by agent, or by attorney.
- (2) Notice of such hearing shall be given by publication in the official city newspaper and by mailing written notice by the clerk of the board to the planning commission and to all owners of property within a 300-foot radius of the exterior boundary of the subject property. The applicant shall furnish the board with a certified ownership list of all owners of property within 300-foot radius of the exterior boundary of the subject property. Said notice shall contain:
 - (a) Legal description of the property and its street address or approximate location.
 - (b) Present zoning classification of the property and the nature of the conditional use permit or variance requested.
 - (c) Date, time, and place of hearing.

A copy of the published notice may be mailed in lieu of other written notice; however, the notice by publication and written notice shall be published and mailed at least 15 days prior to the hearing.

(Ord. No. 708, § 1, 6-5-1972)

70.60.30 Action by the board. In exercising its powers, the board may, in conformity with the provisions of this ordinance and pertinent statutes, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The board shall decide appeals and applications in a reasonable time.

Sec. 70.65. Board of adjustment; appeals to the board.

70.65.10 Appeals. The board of adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance.

70.65.20 Filing of appeals. Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the inspecting officer in administering this ordinance. Such appeal shall be taken within ten days after the date of the decision by filing with the inspecting officer and with the board a written notice of appeal specifying the grounds thereof, and by paying a filing fee, as provided in section 70.85, at the time the notice is filed. The inspecting officer shall forthwith transmit to the board certified copies of all the papers constituting the record of said matter, together with a copy of the ruling or order from which such appeal is taken.

70.65.30 Action on appeals. Action on appeals shall be as provided in subsections 70.60.20 and 70.60.30.

70.65.40 Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay, in his opinion, would cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown.

Sec. 70.70. Board of adjustment; conditional use permits.

70.70.10 *Power to grant.* The board shall have the power to hear and decide applications for conditional use permits for only such uses for which this ordinance requires such a permit, subject to the requirements of this section.

70.70.20 *Application for permit.* The applicant shall submit a written application for a conditional use permit indicating the section of this ordinance under which the permit is sought, stating the grounds on which a permit is requested, and submitting a site plan showing the proposed development. When the application is filed, a fee as provided in section 70.85 shall be paid.

70.70.30 *Public hearing on the application.* The board shall hold a public hearing on the application as provided in section 70.60.

70.70.40 *Findings.* The board shall make written findings certifying that the application complies with such pertinent individual conditions of use as may be set forth in article 50, that any additional conditions of use specified in the granting of the permit are compatible with the general provisions of this ordinance, as well as the provisions for the district in which such use is permitted, and that satisfactory provisions and arrangements have been made concerning the following, where applicable:

- (1) Safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site.
- (2) Safety from fire hazard and measures for fire control.
- (3) Protection of adjacent property from flood or water damage.
- (4) Noise producing elements and glare of vehicular and stationary lights and effects of such lights on the established character of the neighborhood.
- (5) Location, lighting, and types of signs and relation of signs to traffic control and adverse effects on adjacent properties.
- (6) Street size and adequacy of pavement width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood.
- (7) Adequacy of parking, as determined by requirements of this ordinance for off-street parking facilities in the use district in which the site is located; location of ingress and egress points for parking and off-street loading spaces; and protection of public health by surfacing on all parking areas to control dust.
- (8) Such other measures as will secure and protect public health, safety, morals, and general welfare.

70.70.50 *Board action.* The board shall consider the application and site plan and shall grant or deny the application. In granting an application, the board shall impose such requirements and conditions, in addition to those expressly stipulated in this ordinance for the particular use, as the board may deem necessary for the protection of adjacent properties and the public interest.

70.70.60 *Issuance of permit.* Where a conditional use permit is required and granted, it shall be issued prior to issuance of a building permit or a certificate of occupancy, and shall be issued subject to the conditions upon which the board has determined to grant the permit.

70.70.70 *Expiration of conditional use permit.*

- (1) Authority to issue building or occupancy permits pursuant to the granting of a conditional use permit shall expire two years after the granting of the conditional use permit, except when the following conditions have been met:
 - (a) Building permits have been issued, materials have been acquired, and the foundation of at least one building has been placed on the site; or
 - (b) Where no construction is required, an occupancy permit has been issued, and actual operation of the use has been started.

(2) After authority for issuance of a building or occupancy permit, pursuant to the granting of a conditional use permit, has expired by default, no building or occupancy permit shall be issued except under a conditional use permit granted pursuant to a new application.

Sec. 70.75. Board of adjustment; variances.

70.75.10 *Power to grant variances.* Where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation or condition peculiar to a particular piece of property, the strict application of any provision of this ordinance would result in exceptional, demonstrable, unnecessary hardship, the board shall have the power to grant, upon an appeal relating to such property, a variance from such strict application so as to relieve such demonstrable difficulties or hardships, subject to the requirements of this section.

70.75.20 *Application for variance.*

(1) The applicant shall submit written application for a variance demonstrating:

(a) That there exist special conditions and circumstances of the type specified in subsection 70.75.10, which are peculiar to the land, structure, or building involved and which are not applicable to other lands or structures in the same district;

(b) That said special conditions and circumstances do not result from the actions of the applicant;

(c) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

(d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same district.

(2) When the application is filed, a fee as provided in section 70.85 shall be paid.

70.75.30 *Public hearing on application.* The board shall hold a public hearing on the application, as provided in section 70.60.

70.75.40 *Board findings.* The board shall make the following findings:

(1) That the representations in the application are valid.

(2) That the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land or structure.

(3) That the granting of the variance will be in harmony with the general purpose and intent of the Comprehensive Plan and this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

70.75.50 *Limitations of granting of variances.*

(1) No nonconforming use of neighboring lands or structures in the same district, and no permitted or nonconforming use of land or structures in other districts shall be considered grounds for the issuance of a variance.

(2) Under no circumstances shall the board grant a variance to allow a use not permitted 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.

70.75.60 *Board action.* The board shall consider the application and grant or deny it. In granting any variance, the board may prescribe appropriate conditions in conformity with this ordinance.

70.75.70 *Issuance of permit.* Where a variance is required and granted, it shall be issued prior to the issuance of a building permit or certificate of occupancy and shall be issued subject to the conditions upon which the board has determined to grant the variance.

Sec. 70.80. Board of adjustment; appeals from the board.

An appeal from any action, decision, ruling, judgment, or order of the board of adjustment may be taken by any person or persons, firm or corporation, jointly or severally, who have been aggrieved thereby, or by any taxpayer, or any officer, department, board, or bureau of government to the District Court, as provided by law.

Office Use Only

Date application was received ___/___/_____

Was payment made yes no

Who received this application _____

Application reviewed by _____