



ZONING APPEAL

An appeal from zoning ordinance standards or an administrative decision of the Planning Director may be requested when there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the zoning ordinance. An applicant should be aware that established regulations are considered to be appropriate unless the applicant can sufficiently justify why the waiver should be approved.

To request a ZONING APPEAL:

Step 1: **Contact the City Planning Department at:**

**Omaha/Douglas Civic Center
Current Planning Division
1819 Farnam Street, Room 1110
Omaha, Nebraska 68183
(402) 444-5150**

Note: While it is possible to initially apply for a waiver, it is recommended that you submit an application for a building permit first, including detailed site and building plans. This will assure a complete review of your project to confirm the need for a waiver.

Step 2: Submit to the Planning Department: 1) a completed application form; 2) a proposed site plan, drawn to scale and fully dimensioned, showing existing and proposed improvements; and, 3) the appropriate application fee. The Current Planning Section will verify the fee amount. (Make checks payable to: City of Omaha.)

Note: It is recommended that the applicant contact adjacent neighbors to explain the requested waiver to them. The Planning Department will be sending out notices before the hearing, but this is generally not sufficient to explain the details of the request.

Step 3: Following a review of the application and a site inspection by a Planning Department staff member, the Planning Department will prepare and transmit an agenda for the hearing along with a recommendation report to the applicant. This report is advisory only and may not represent the final decision on the case.

Step 4: Zoning Board of Appeals hearing. This Board meets once a month on the second Thursday of the month in the Legislative Chambers (LC), 3rd Floor of the Omaha Douglas County Civic Center at 19th and Farnam Streets. This hearing is intended to allow the public an opportunity to comment on the request and to receive additional information about the proposed project.

Step 5: The applicant will generally receive a decision from the Zoning Board of Appeals on the day of the hearing. The Board may approve the request in accordance with the plan submitted, approve the request in accordance with the plans submitted with modifications, deny the request, or lay it over to a future meeting for additional information. A motion to approve must receive four (4) votes in order for the waiver to be granted.

Note: A decision to deny a waiver may only be appealed to the District Court. Such appeals must be filed within thirty (30) days of the date of the Board's decision.

Step 6: Following approval action by the Zoning Board of Appeals, the Permit and Inspections Division may issue a building permit. The permit will not be issued sooner than the Monday following the Board hearing.

Note: Approval by the Zoning Board of Appeals does not guarantee that a building permit will be issued. The project must also comply with all other applicable codes, including building and fire safety, and any use permits approved by the Planning Board and/or City Council.

Note: You are appealing a decision of the Planning Department. A staff member is available to assist you in preparing a complete application. However, the staff will not advocate for your request unless there is a clear hardship or practical difficulty as defined in case decisions by the Nebraska Supreme Court.

HARDSHIP/PRACTICAL DIFFICULTY

To support a request for a waiver or variance from the regulations, the applicant should provide information to show a demonstrated hardship or practical difficulty as defined by law. The Nebraska State Supreme Court provides the following guidelines:

- Can the property be developed in compliance with the ordinance? What is the condition that would not allow the property to be developed in compliance with the code or is the request a design preference that exceeds allowed zoning standards?
- The requested variance is based on the financial situation of this applicant. The financial condition of the applicant is not a basis for a hardship.
- The need for the requested variance was created either intentionally or inadvertently by the actions of the applicant.
- The variance would injure or result in an injustice to others. The variance may damage the property values of an adjacent parcel. This must be weighed against the justified hardship to the applicant.
- The applicant purchased the property after the enactment of these regulations in 1987. Zoning restrictions are a condition that run with the property and contribute to the value of the land. The applicant would have known the zoning limits because they were included in the terms of the sale.
- The requested variance is more than the minimum necessary to be consistent with and in harmony with the zoning regulations.
- The requested variance does not comply with the intent, spirit, purposes, and general plan that are the basis for the zoning regulations, which is the expressed development policy of the City of Omaha.
- The requested variance does not protect the health and safety of the community.
- The requested variance does not encourage stability of the neighborhood or assure the protection of other property in the area.
- The need for the variance does not result from an unnecessary and unjust invasion of the fundamental right of property; i.e., the applicant does not lose the entire right to use the property without the variance.
- This requested variance would grant special or peculiar favor to this applicant, which is not enjoyed by other property owners in the same district without a similar variance.