

ARTICLE 13: VARIANCE PROCEDURE

The board may authorize in specific cases a variance from the specific terms of this Article which will not be contrary to the public interest and where, owing to special or unusual conditions, a literal enforcement of the provisions of this Article results in unnecessary hardship, and provided that the spirit of the article shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by this Article in a zoning district. A request for a variance may be granted in such case; upon a finding of the board that all of the following conditions have been met:

1. That the variance request arises from such conditions which are unique to the property in question and which are not ordinarily found in the same zone or district; and such conditions are not created by an action or actions of the property owner or applicant;
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the provisions of this Article of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations.

When an applicant feels that the strict application of the requirements of the Zoning Regulations would create an undue hardship, he or she may request a variance from the Board of Zoning Appeals. The Board of Zoning Appeals must base its decision, to as great a degree as possible, on factual evidence and not the personal opinion of the applicant, neighbors, or others. The request for a variance should be based on a conflict between the restrictions on the development of the property due to the Zoning Regulations and the restrictions on the development of the property due to its physical characteristics. A variance should be issued only to the specific restrictions on physical construction and not to the list of permissible land uses within a given zone.

In order to request a variance from the Board of Zoning Appeals:

\$200.00

1. The applicant shall first meet with the Codes Administrator to receive a complete explanation of the zoning requirement in question, the variance procedure, and an application form.
2. The applicant shall submit a completed application form and pay the application fee. As a part of the application, a sketch map shall be submitted showing the lot dimensions proposed and existing structures and uses on the property for which the variance is being requested and on immediately adjacent properties.

The application fee shall be used to cover expenses incurred by the city in the processing and review of the application. An application shall not be processed unless it has been fully completed, the application fee is paid, and all required information submitted.

3. Upon submittal of a completed application form and attachments and payment of the appropriate application fee, the Chairman of the Board of Appeals shall schedule a meeting of the Board of Zoning Appeals. Twenty (20) days prior to the Board of Zoning Appeals meeting, an official notice to the public shall be published in a newspaper of general circulation in the city explaining the variance request and the time and place of the scheduled hearing.

In addition, a copy of the public hearing notice shall be mailed by the city, to each party of interest, owners of all property located within 200 feet of the boundaries of the property included in the application, and to each Board of Zoning Appeals member at least twenty (20) days prior to the date of the public hearing.

*(FORMAL COPY FROM COUNTY CLERK,
DOUGLAS COUNTY COURT HOUSE)*

- i) At the scheduled meeting, the Board of Zoning Appeals shall hear all facts and testimony from all parties wishing to be heard concerning the requested variance. In each case, the Board of Zoning Appeals shall not grant a variance unless it finds, by a concurring vote of a majority of a quorum, based on the evidence presented, facts which conclusively support all conditions as set forth in the zoning ordinance.
4. Minutes of the public meeting, including evidence presented during the proceedings and the findings of the Board of Zoning Appeals, shall be kept. The Board of Zoning Appeals may grant, grant conditionally, or deny the application for a variance. The written determination of the Board of Zoning Appeals shall be sent to all affected parties, including the Planning Commission.
 5. Appeals to a decision made by the Board of Zoning Appeals shall be brought before the Municipal Court to determine the reasonableness of any such order or determination.

CITY OF EUDORA, KANSAS
VARIANCE APPLICATION
BOARD OF ZONING APPEALS

Return Form to:
Codes Administrator
City of Eudora
12 East 7th
Eudora, KS 66025
(785) 542-3124
(785) 542-4112 (fax)

Contacts:
PC Secretary (785) 542-4111
Codes Administrator (785) 542 3124
City Administrator (785) 542-4111
Planning Consultant (816) 363-2696
Engineering Consultant (785) 749-4474

For Office Use Only
Case ID.: _____
Filing Fee: _____
Date Submitted: _____
Date Advertised: _____
Date Notices Sent: _____
Public Hearing Date: _____

APPLICANT INFORMATION:

Applicant: _____ Phone: _____
Address: _____ Zip: _____
Fax: _____ E-mail: _____
Owner: _____ Phone: _____
Address: _____ Zip: _____
Fax: _____ E-mail: _____

PROPERTY INFORMATION:

Location of Property: _____
Legal Description: _____

ADJACENT ZONING AND LAND USE:

	<u>Existing Land Use</u>	<u>Zoning</u>
North	_____	_____
South	_____	_____
East	_____	_____
West	_____	_____

Present Use of Property: _____

Reasons for request and intended use of property: _____

Check Item for which variance is requested:

- | | |
|---------------------------------------------|--------------------------------------------|
| <input type="checkbox"/> Lot Coverage _____ | <input type="checkbox"/> Sign _____ |
| <input type="checkbox"/> Lot Size _____ | <input type="checkbox"/> Fence _____ |
| <input type="checkbox"/> Lot Width _____ | <input type="checkbox"/> Landscaping _____ |
| <input type="checkbox"/> Parking _____ | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Setbacks _____ | |

Variance Application Checklist		
<i>PLEASE INDICATE BELOW THE EXTENT TO WHICH THE FOLLOWING STANDARDS ARE MET, IN THE APPLICANT'S OPINION. PROVIDE AN EXPLANATION ON A SEPARATE SHEET FOR EACH STANDARD WHICH IS FOUND TO BE MET.</i>	Yes	No
1. UNIQUENESS: The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant.		
2. ADJACENT PROPERTY: The granting of the permit for the variance will not adversely affect the rights of adjacent property owners represented in the application.		
3. HARDSHIP: The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.		
4. PUBLIC INTEREST: The variance desired will not adversely affect the public health, safety, morals, order, convenience prosperity, or general welfare.		
5. SPIRIT AND INTENT: The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.		

 Applicant's Signature

 Date