

BOX ELDER COUNTY

COMMUNITY DEVELOPMENT DEPARTMENT – (435) 734-2634

APPLICATION FOR HEARING BY THE BOX ELDER COUNTY HEARING OFFICER

CASE NUMBER _____

This completed application form including any supporting material shall be provided to the Community Development office at least thirty (30) calendar days before the date of the meeting that the Hearing Officer is scheduled to hear this case.

Date Application Received _____ Received by _____

- Fee for Variance Request Hearing \$ 375.00
- Applicable Plans or Drawings Submitted
- Completed Application Form
- Signature Page Completed

APPLICANT, PLEASE NOTE- You are making application for permission to deviate or vary from one or more provisions of the Box Elder County Land Use Management and Development Code. Authority for the Hearing Officer to grant such variances is limited by provisions outlined in Utah Code Annotated (UCA) Chapter 17-27a, Part 702 and repeated in Article 2-1-060 and 2-2-130 of the Box Elder County Land Use Management and Development Code. Applicable excerpts from the State Code are included as part of this application form for your information and guidance in making this application. As you study these excerpts you will find that you **MUST** meet ALL five conditions as given in UCA 17-27a-702 (2) (a) (i) thru (v). Please acquaint yourself with these five conditions and assure yourself that you can demonstrate to the Hearing Officer that you meet all five. Also, in order for the Hearing Officer to hear request(s), it must understand exactly what you are requesting. Please take the time to carefully and accurately complete this application form and submit it with the appropriate papers, so we may serve you better.

NAME OF APPLICANT: _____ PHONE #: _____

APPLICANT'S ADDRESS: _____

AGENT'S NAME & ADDRESS: _____

AGENT'S PHONE #: _____ PARCEL #: _____

PROPERTY ADDRESS: _____

CURRENT RECORDED OWNER OF PROPERTY: _____

CURRENT ZONE OF PROPERTY: _____ PRESENT PROPERTY USE: _____

I am requesting a variance from the provision(s) of the following part(s) of the County Code, (please cite the applicable Articles, Sections and Sub-Sections of the Code – Staff can assist you in this):

The following is a narrative statement of why I need a variance from the above-cited provisions of the Box Elder Code:

THE FOLLOWING PROVIDES APPLICABLE EXCERPTS FROM UCA 17-27a-702 "VARIANCES"

1. Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
2. (a) The appeal authority may grant a variance only if:
 - i. literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - ii. there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - iii. granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - iv. the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - v. the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

- A. is located on or associated with the property for which the variance is sought; and
 - B. comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - ii. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - C. In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
 - (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
 - (4) Variances run with the land.
 - (5) The appeal authority may not grant a use variance.
 - (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - (a) mitigate any harmful effects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

* YOU SHOULD RECORD ALL VARIANCES ASSOCIATED WITH YOUR LAND AT THE COUNTY RECORDERS OFFICE*

TO ASSIST THE HEARING OFFICER TO UNDERSTAND AND ACT WITHIN THE LAW ON YOUR REQUEST(S)
PLEASE PROVIDE A SHORT NARRATIVE THAT IS “adequate to convince a reasonable mind” IN RESPONSE
TO THE FOLLOWING:

1. State in what way you believe that literal enforcement of the provision(s) of the Box Elder County Code, that you cited on Page 1 above, would cause you an unreasonable hardship (See UCA 17-27a-702 (2) (a) (i)):

NOTE FOR YOUR INFORMATION: Courts have interpreted “unreasonable hardship” to mean that you cannot make **reasonable** use of your property unless you are granted one or more variances. The definition of hardship that is recognized by the law does **not** allow for special privileges. The Hearing Officer is without authority to grant a request for a variance that is based upon a personal, even medical, hardship. The hardship must relate to the property, i.e., the land, not to the owner or user. The following are factors that have been used by courts to determine if an “unreasonable hardship” exists:

- The difficulties encountered must be caused by conditions unique to the property (land) in question, for example, topographical anomalies. If the hardship is common to several properties, the variance cannot ordinarily be granted.
- The needs of the property owner cannot create the hardship.
- A potential for economic loss, or something less than the maximum potential economic return to the property owner, are not considered hardships.
- The hardship cannot have been created by an action or inaction on the part of the owner or previous owner, i.e., a self-imposed hardship.

2. Describe any special circumstances attached to this property which you wish the Hearing Officer to consider (See UCA 17-27a-702 (2) (a) (ii) (These special circumstances must not also apply to other properties in your general area):

3. Why is this variance necessary for you to enjoy substantially the same property rights as others in your area? (See UCA 17-27a-702 (2) (a) (iii) (Discuss briefly what these property rights are) :

4. If the variance being requested is granted please explain why it will not be contrary to the public interest (See UCA 17-27a-702 (2) (a) (iv)) The Hearing Officer will determine the effect the requested variance will have on the General Plan:

5. Please provide any additional information you believe that the Hearing Officer should consider including any comment you would like to make regarding UCA 17-27a-702 (2) (a) (v) which reads “(has) the spirit of the zoning ordinance (been) observed and (has) substantial justice (been) done?” (“Substantial justice” to the applicable zoning/land use code, to the applicant, to the public?) :

NOTE TO THE APPLICANT

Please be aware that, even if the Hearing Officer grants your variance request(s), a building permit must be obtained prior to remodeling or construction of any structure.

DECLARATION BY THE APPLICANT

I declare under penalty of perjury that I am the owner or authorized agent of the property subject of the request and that the statements, answers and attached documents are true and correct.

Signature of Applicant/Owner/Agent _____ Date _____

ACCEPTANCE STATEMENT AND NOTIFICATION TO APPLICANT OF DATE OF HEARING

The Community Development Department accepts this application and notes that the scheduled date the Hearing Officer will hear this case will be: _____

Signed by: _____ Date: _____

INSTRUCTION TO THE COMMUNITY DEVELOPMENT DEPARTMENT

Upon receipt of this completed application, the Community Development Department representative accepting the application will provide a copy of it to the applicant and assure that a copy is included in the case briefing package provided to the Hearing Officer. That briefing package will be provided at least ten (10) calendar days before the date of the meeting that the Hearing Officer is scheduled to hear this case.

REQUIREMENTS FOR A COMPLETE APPLICATION

A plot plan showing the following:

- 1) Applicant's name;
- 2) Site address;
- 3) Property boundaries and dimensions;
- 4) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
- 5) Adjoining property lines and uses within one hundred (100) feet of the subject property.

An elevation plan drawn to scale showing elevations of existing and proposed structures;

When the variance involves building height, a streetscape plan showing the height of all buildings within one hundred fifty (150) feet of the subject property;

When a variance involves grade changes, a topographical drawing prepared by a licensed surveyor or civil engineer, showing existing topography in dashed lines at two (2) foot intervals and showing the proposed grade in solid lines at two (2) foot intervals;

When a variance involves retaining walls, a plan showing all retaining walls, including their height relative to proposed grades; and

Any other information reasonably determined by the Zoning Administrator to be pertinent to a requested variance.