

**BOARD OF ADJUSTMENT
PROCEDURES AND INFORMATION**

The Board of Adjustment is authorized to consider certain variances, exceptions, and interpretations. If you wish to make an application to the Board of Adjustment, the following procedures will apply:

I. APPOINTMENT WITH STAFF

Potential applicants are encouraged to schedule an appointment with a Planner to discuss the request prior to submittal of the application. To schedule appointment, please call (972) 216-6216.

II. APPLICATION FORM

The attached application should be completed and submitted to the Planning Office by the deadline indicated on the attached calendar. The form must be signed by the applicant or property owner and notarized. **Your driver's license must reflect your correct address and cannot be expired.** The application can be notarized in the Planning Office free of charge.

III. DRAWING

A drawing of the request on **8½ x 11-inch** paper is required. The drawing should be shown to scale and should indicate boundaries, dimensions, existing and proposed buildings, structures, fences, front, side and rear setbacks, and any applicable features related to the request. Dimensions should be shown from property lines. (The curb or pavement line of a street or alley is generally not the property line.)

IV. APPLICATION FEE

A **non-refundable** fee of \$150.00 must be paid when submitting an application. If an application is approved, there will be a separate fee for the building permit, payable to the Building Inspection Division.

IV. JUSTIFICATION

The Board of Adjustment is only authorized to act on specific types of requests and is required to review the request as directed by Section 5-203 of the *Mesquite Zoning Ordinance*. A copy of that section is attached.

V. NOTIFICATION

Notices describing your request and stating the date of the Board of Adjustment meeting will be published in The Mesquite News, and will be mailed to all property owners within 200 feet of your property. On applications for front carports, notices will also be sent to additional properties fronting the street. These property owners are sent a form on which they can indicate support or opposition to your request.

VI. LIMITATION OF APPROVAL

The applicant shall file an application for a building permit or Certificate of Occupancy on or before the expiration of 90 days from the date of favorable Board action, unless an extended period is specifically granted by the Board. If the applicant fails to file such application within the time period, the request is automatically denied without prejudice and a new application must be made.

VII. BOARD MEETING

The Board of Adjustment meets on the fourth Thursday of each month at **6:30 p.m.** in the **Council Chambers** of City Hall, located at **711** North Galloway Avenue. Enter the building through the middle set of doors, then turn left down the hallway. The Council Chambers are through the double wooden doors. City Hall is wheelchair accessible through the Police Department entrance.

The applicant (or a representative) **must be present at the meeting** to describe the request and answer any questions the Board may have. An agenda for the meeting will be emailed to the applicant prior to the meeting. Requests for sign language interpretive services must be made 48 hours in advance of the meeting. To make arrangements, call the City Secretary's Office at (972) 216-6244 or TDD 1-800-735-2989.

Materials presented to the Board of Adjustment as part of the applicant's presentation, or as justification for the requested variance/exception, will become part of the official record and must be placed in the applicant's file. This will also apply to materials presented in opposition to a requested variance/exception.

A. CRITERIA FOR SPECIAL EXCEPTIONS

Special exceptions may be granted as set out in this ordinance, when the Board determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the surrounding neighborhood. The Board shall also consider any criteria set out in this ordinance for a specific Special Exception.

B. CRITERIA FOR VARIANCES

Variances from the terms of this ordinance which will not be contrary to the public interest may be granted where, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, so that the spirit of the ordinance is observed and substantial justice is done. The Board shall consider whether:

- 1. *Special Conditions* Special conditions and circumstances exist which are peculiar to the land or improvements thereto and which are not applicable to other lands or improvements thereto in the same district.
- 2. *Unnecessary Hardship* Literal interpretation of the provisions of the ordinance would result in unnecessary hardship to the owner of the property.
- 3. *Not Self-Imposed* The special conditions and circumstances are not self-imposed, i.e. do not result from the actions of the applicant or owner.

5-204 BOARD ACTION

A. ACTION AUTHORIZED

- 1. *Special Exceptions and Variances* The Board may deny or approve a request for Special Exception or Variance. The Board may impose reasonable conditions and limitations to an approval in order to further the purposes and intent of this ordinance.
- 2. *Appeals Interpretations* The Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.

B. EFFECT OF DECISIONS

The Board's decision is final unless appealed to a court of record within 10 days in accordance with the provisions of the State law.

C. RESUBMISSION (Ord. 3151/4-21-97)

The submission of an application previously determined by the Board shall not be permitted, unless the Board's determination is made "without prejudice". Except that, where extenuating circumstances exist, an applicant previously denied may appear before the Board to request that resubmittal of their application be permitted. Extenuating circumstances shall mean changed conditions or facts which will substantially alter the criteria for review of the application. This section shall not prohibit the submission of a new application which contains meaningful revisions for consideration. Meaningful revisions shall mean a substantial change in the size, location, or other physical characteristic of the subject of the application.

D. LIMITATION ON APPROVAL

The applicant shall file an application for a building permit or Certificate of Occupancy on or before the expiration of 90 days from the date of favorable Board action, unless an extended period is specifically granted by the Board. If the applicant fails to file such application within the time period, the request is automatically denied without prejudice and a new application must be made.

BOARD OF ADJUSTMENT
Meeting Procedure

Board: The Board is appointed by the City Council and is authorized to consider certain exception and variances to zoning, sign and fence ordinance requirements.

The Board is made of 5 members and 2 alternates, the alternates are sitting at the ends and can participate in the discussion, but will not be voting.

There will be 5 members voting and 4 votes are required to approve an application.

The Board's decisions are final and cannot be appealed to the City Council. If you should wish to appeal a decision of the Board, your next step is district court.

Procedure: When your item is read from the Agenda, a member of the Planning Staff will be called on to present the Staff Report. Upon completion of the staff report, the applicant will be called to approach the podium.

The applicant is to describe to the Board what the request involves and the circumstances and reason for the request. Once the applicant has stated their case, the Board members may ask you some questions to clarify the request or to obtain additional information.

At the end of their presentation, the applicant will be asked to take a seat and the Board will open the public hearing, which is the opportunity for anyone interested in the case to present their facts and comments either for or against the application.

Any one wishing to speak for or against the application will be asked to approach the podium when the public hearing on the item is opened.

- State your name and address for the record and then present your facts regarding the application.

When everyone who wishes has had the opportunity to give their comments, the public hearing will be closed.

At that time the Board will discuss the application and vote to either approve, table, approve with conditions, or deny the request.

If your application is approved, you may apply for your permit and pay the building permit fee any time after 1:00 p.m. tomorrow in the Building Inspection office located at 1515 N. Galloway. The permit must be obtained within 90 days of approval. The applicant may request an extension prior to the expiration of the 90 days, otherwise the request is denied without prejudice

Materials presented to the Board of Adjustment as part of the applicant's presentation or as justification for the requested variance/special exception will become part of the official record and must be placed in the applicant's file. This will be also apply to materials presented in the opposition to a requested variance/special exception.

BOARD OF ADJUSTMENT

2009 Submittal Schedule

Application Deadline	BOA Meets 4th Thursday* at 6:30 p.m.
December 24	January 22
January 29	February 26
February 26	March 26
March 26	April 23
April 30	May 28
May 28	June 25
June 25	July 23
July 30	August 27
August 27	September 24
September 24	October 22
November 12	December 3*
Dec. 31, 2009	January 28, 2010

**CITY OF MESQUITE
BOARD OF ADJUSTMENT
APPLICATION**

Application #: _____
Receipt #: _____
Date Received: _____

Property Address: _____
Mesquite, Texas 75_____ - _____
Legal Description: Subdivision: _____
Block: _____ Lot: _____
Property Owner(s): _____ Ph: _____

APPLICANT

Name: _____
Address: _____
Home Phone: (_____) _____ - _____
Work Phone: (_____) _____ - _____
E-mail Address: _____

CHECK STRUCTURE TYPE(S)

Main Structure

- Room Addition
- Garage Addition
- New Residence

Fence

- Wood
- Chain Link
- Wrought Iron

Accessory Structure

- Carport
- Storage Building
- Detached Garage

Other

Affected Part(s) of the Property

- Interior Side Yard
- Exterior Side Yard
- Front Yard
- Rear Yard

Will It

- Exceed Maximum Height?
- Exceed Maximum Size?

Status

- Existing
- Proposed

Describe the structure and its purpose:

If request for a Special Exception, the Board must find both of the following to be true to approve your request:

Will the Special Exception allow greater use and enjoyment of the property without creating adverse impacts on adjacent properties? How?

Will the Special Exception be compatible with the surrounding neighborhood? How?

If request for a Variance, the Board must find the first two of the following to be true, and that the circumstances are not self-imposed to approve your request:

Are there special conditions and circumstances that exist on the property that are peculiar to the land or improvements thereto and which are not applicable to other lands or improvements in the same district? If so, explain:

Will the literal interpretation of the ordinance result in an unnecessary hardship to the owner of the property? How?

Are the special conditions and circumstances on the property self-imposed?

YOUR DRIVER'S LICENSE MUST SHOW YOUR CURRENT ADDRESS AND IT CANNOT BE EXPIRED.

Notarized Signature of Applicant
(Signature must be witnessed by a Notary Public)

STATE OF TEXAS
COUNTY OF DALLAS

Before me, the undersigned, personally appeared _____,
who on his/her oath certifies that the above/attached statements are true and correct.

Given under my hand and seal of office, this _____ day of _____, 20_____.

Notary Public, State of Texas



City of Mesquite Planning Office

MAILING ADDRESS:
P.O. Box 850137
Mesquite, TX 75185-0137

JEFF ARMSTRONG
Manager of Planning & Zoning
jarmstro@ci.mesquite.tx.us
(972) 216-6345

PHYSICAL ADDRESS:
1515 N. Galloway Ave.
Mesquite, TX 75149-2300

GARRETT LANGFORD
Planner
glangfor@ci.mesquite.tx.us
(972) 329-8543

PHONE:
(972) 216-6216
FAX:
(972) 216-8109

ARTI WAGHRAY
Planner
awaghray@ci.mesquite.tx.us
(972) 329-8523

WEB SITE:
www.cityofmesquite.com

BRET (Bee) MARTIN
Planner
bmartin@ci.mesquite.tx.us
(972) 216-6343

KIM ATTEBERY
Administrative Secretary
katteber@ci.mesquite.tx.us
(972) 216-6216