



## CITY OF ORANGE BEACH COMMUNITY DEVELOPMENT DEPARTMENT

P.O. Box 2432  
Orange Beach, AL 36561  
T: (251) 981-2610 ~ F: (251) 981-3725  
www.cityoforangebeach.com

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# BOARD OF ADJUSTMENT APPLICATION

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## INSTRUCTIONS FOR COMPLETING APPLICATION TO THE BOARD OF ADJUSTMENT

This coversheet is designed to provide you with the information required to complete the attached application to the Board of Adjustment. Please review the instructions carefully and contact our office if you have any questions.

The Board of Adjustment consists of five members and two supernumerary members appointed by the City Council. The Board considers all requests for variances and appeals to the City of Orange Beach Zoning Ordinance during its regular meeting on the third Wednesday of each month at 4:00 p.m. in the City Council Chamber located at 4099 Orange Beach Boulevard, at which the applicant or his/her representative is required to attend and present the request and answer any questions from the Board. The granting of a variance or appeal requires the concurring vote of four of the five members.

### Variances

A variance is a permission granted as relief from some specific or unusual hardship imposed by the strict application of the Zoning Ordinance. It is a means to adjust the property development standards of the Ordinance, which, by reason of specific location, topography, shape or size, would create an unnecessary hardship if the development complied with the Ordinance. A variance should not allow uses not permitted in the zoning district.

Section 11.06 of the Zoning Ordinance outlines the approval criteria that **MUST** be met for a variance request to be granted:

**1. The granting of the variance will not be contrary to the public interest.**

*Condition 1* requires that for a variance to be granted, it may not be against the public interest. *Public interest* for zoning variance is considered as the well-being of the general public, with specific attention to those members of the public that could be directly affected by the requested variance.

**2. The literal enforcement of the Ordinance will result in unnecessary hardship by reason of exceptional narrowness, shallowness, shape, topography or other extraordinary physical condition unique to the specific piece of property in question; unnecessary hardship shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's action.**

*Condition 2* requires that the enforcement of a zoning regulation causes an *unnecessary hardship*. The hardship must be caused by the property itself, for reasons such as exceptional size or shape, topography or other physical conditions of the property. The hardship must not be caused by the property owner, cannot be personal in nature, cannot be financial only, and must relate to the very property for which the variance is sought. It must be a unique condition, oppressive, and not common to other property. Unnecessary hardship is present only where, in the absence of a variance, no reasonable use may be made of the property.

3. **The granting of the variance requested will not confer on the applicant any special privilege that is denied by the Ordinance to other lands, buildings, or structures in the same zoning district.**

*Condition 3* requires that if the Board of Adjustment grants the variance as requested, it will not allow the operation of a use or grant privileges not specifically permitted in the zoning district in which it is located.

4. **The literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Ordinance.**

*Condition 4* requires that the literal interpretation of a zoning regulation prohibits the property owner from being able to reasonably use his or her property on the same basis as other property in the same zoning district. A variance granting special privileges is in conflict with other provision of the Ordinance.

5. **The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.**

*Condition 5* requires that the situation necessitating the request of the variance is the result of exceptional physical characteristics of the property that are unique to the property in question and distinct from those of nearby properties and the zoning district in general. The unique condition from which the hardship arises must not be the result of the action of the property owner and must be not be merely financial in nature.

6. **The granting of the variance will be in harmony with the general intent and purpose of this Ordinance, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.**

*Condition 6* requires that the granting of the variance is consistent with the intent of the City of Orange Beach Zoning Ordinance and that the variance is granted with the purpose of modifying the Ordinance as it applies to a specific property. This condition examines whether or not the granting of the variance will negatively affect the ability of adjacent property to be used in a manner appropriate to the zoning district to which it conforms. This condition also reviews the potential of the variance to influence or change the image or perception of the locality, as defined by its built environment, landscaping, natural features and open space, types and style of housing, and other elements that contribute to its distinct identity.

**All six conditions are required to be met for the Board of Adjustment to grant a variance. The burden of proving that these six conditions apply to the subject property is solely the responsibility of the applicant.** As part of this application, the applicant is required to submit evidence providing that the aforementioned conditions exist.

Failure to state in the application how the variance request meets these conditions will result in your application being deemed incomplete and will necessitate its return to the applicant without being submitted to the Board of Adjustment.

### **Appeals**

Individuals aggrieved by any decision of the administrative officer in the enforcement of the Zoning Ordinance may appeal to the Board of Adjustment. The aggrieved party must file a written appeal to the Board of Adjustment and file ten copies of supporting facts and data to the Community Development Department within 30 days of the rendering of the order, requirement, decision or determination. This does not, however, restrict the filing of a request for a variance.

The Board of Adjustment shall hold a public hearing on the submitted appeal, and public notices of the hearing shall be given as well as due notice to the parties in interest. The Board may require the individual appealing to send certified mail receipted notices to the property owners within a reasonable area not to exceed a distance of 1,000 feet from the property involved.

**REQUIRED MATERIALS FOR FILING AN APPLICATION  
TO THE BOARD OF ADJUSTMENT**

A PRE-APPLICATION MEETING IS REQUIRED BEFORE MAKING A FORMAL APPLICATION SUBMITTAL. ALL ITEMS MUST BE SUBMITTED AT ONE TIME WITH THE APPROPRIATE APPLICATION FEE.		
ATTACHMENT	Variance	Appeal
<b>Application</b>	Required	Required
<b>Application Fee</b>	Required	Required
<b>Authorization Letter</b>	If applicable	If applicable
<b>Appeal Justification Letter</b>	N/A	Required
<b>Building Permit Application or Site Plan Application</b>	Required	N/A
<b>Decision Letter from the Community Development Department</b>	N/A	Required
<b>Deed &amp; Legal Description</b>	Required	May be required
<b>Certified Parcel List</b>	Required	May be required
<b>Current Boundary Survey</b>	Required	May be required
<b>Site Plans, Floor Plans, Elevations, Photographs</b>	Required	May be required

- **Pre-Application Meeting:** This meeting is required before making a formal application submittal. The purposes of the meeting are to discuss the nature of the variance request and to determine what items will be needed for application submittal. It is the responsibility of the applicant to schedule this meeting by contacting our office at (251) 981-2610.
- **Application:** A **completed** application is required. Information on the application includes contact information, property information, detailed project description, and adherence to the six conditions in Section 11.06 of the Zoning Ordinance. The application shall be signed by the owner of record of the subject property on which the variance is being requested. Incomplete applications **will not** be accepted.
- **Application Fees:** The application fee is \$100.00. Our office will submit on the applicant's behalf certified notices to the adjoining property owners. All associated fees with the certified notices will be charged to the applicant unless otherwise arranged. Fees must be paid prior to the meeting, or the application will not be considered by the Board of Adjustment.
- **Authorization Letter:** If the applicant is the authorized agent of the property owner, a letter signed by the property owner and creating or acknowledging that agent is authorized to represent him or her must be provide with the submittal.

- **Appeal Justification Letter:** For appeals, a letter to the Board of Adjustment explaining the appeal request and the reasons for the appeal request is required.
- **Building Permit Application or Site Plan Application:** If filing for a variance, a copy of the building permit application or site plan application and documentation from the Community Development Department, usually a staff review indicating denial of the application, are required.
- **Decision Letter from the Community Development Department:** If filing for an appeal, a decision letter from the Community Development Department is required, and the appeal must be filed within 30 days of the date of the decision.
- **Deed & Legal Description:** To verify ownership, a copy of the recorded deed for the subject property, including exhibits and attachments, is required. The deed and all attachments must be legible.
- **Certified Parcel List:** The applicant must provide a certified list with the names and addresses of all property owners within **150 feet** of the subject property as shown on the latest public records of Baldwin County. The list can be obtained from the Baldwin County Revenue Department (251-972-6819) and must be certified by the Revenue Official. **NO OTHER LIST WILL BE ACCEPTED.**
- **Current Boundary Survey:** Ten copies of the current boundary survey are required. The boundary survey must be signed and sealed by a professional land surveyor.
- **Site Plans, Floor Plans, Elevations, and Photographs:** The application must be accompanied by plans sufficient for proper determination of the request. In all cases, a **site plan** is required and must be legible, drawn to scale, and show property lines, setback lines, lot size, existing and proposed structures, landscaped areas, driveways, parking areas, easements, and adjacent streets and land uses. Ten copies are required.

Depending on the request, **floor plans** and **building elevations** may be provided, drawn to scale and legible showing the floor areas and all sides of the existing or proposed building or building addition. Ten copies are required.

The applicant may submit **photographs** as part of the submittal to show the nature of the property.



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**TYPE OF APPLICATION:**

- Variance  
 Appeal

**CASE NUMBER:** \_\_\_\_\_

**MEETING DATE:** \_\_\_\_\_

**FEES PAID:** \_\_\_\_\_

**CHECK NUMBER:** \_\_\_\_\_

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Site Address: \_\_\_\_\_

Subdivision: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Tax Parcel Number(s): \_\_\_\_\_ Property PPIN(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**APPLICANT INFORMATION**    **Property Owner**                       **Agent (1)**

Applicant Name: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**PROPERTY OWNER INFORMATION**                       **Same as Above**

Property Owner Name: \_\_\_\_\_

Property Owner Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

(1) Authorization Letter Required

**VARIANCE INFORMATION**

Please provide a detailed description of the requested variance:

This application for variance(s) is being made to the Board of Adjustment for a waiver to the following requirements, more specifically described as follows:

	Article & Section	Required	Provided	Waiver Amount
1.				
2.				
3.				
4.				

In addition to this request, will the subject property and/or proposed development require other official actions by the City of Orange Beach?     Yes                       No

If so, please specify:                       Rezoning                       Conditional Use Approval  
     Site Plan Approval            Subdivision Plat Approval  
     Other: \_\_\_\_\_

**VARIANCE APPROVAL CRITERIA**

**All six conditions are required to be met for the Board of Adjustment to grant a variance. The burden of proving that these six conditions apply to the subject property is solely the responsibility of the applicant.** As part of this application, the applicant is required to submit evidence providing that the aforementioned conditions exist. Please refer to the first and second pages of the application package for more information and use the spaces provided below to detail how the variance request meets the conditions.

(1)     The granting of the variance will not be contrary to the public interest.

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(2) The literal enforcement of the Ordinance will result in unnecessary hardship by reason of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical condition unique to the specific piece of property in question; unnecessary hardship shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's action.

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(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district.

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(4) The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance.

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(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

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- (6) The granting of the variance will be in harmony with the general intent and purpose of this Ordinance, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

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**APPEALS – SUMMARY OF DECISION OR REASON FOR APPEAL (Required for appeals only)**

This application is being made to the Board of Adjustment to appeal the decision of the Community Development Department, more specifically described as follows:

**SUPPLEMENTAL INFORMATION (For Office Use Only)**

<b>Lot Characteristics</b>			
Lot Width:		Front Yard Setback:	
Lot Depth:		Rear Yard Setback:	
Lot Area:		Side Yard 1 Setback:	
		Side Yard 2 Setback:	

<b>Main Building Characteristics</b>			
Building Footprint Area		Building Height	
Gross Floor Area		Residential Units	
Maximum Building Coverage %		Number of Bedrooms	

<b>Use of Main Building (see the district use table in Article 4 of the Zoning Ordinance)</b>	
Existing Use	
Proposed Use	

<b>Accessory Structures (if applicable)</b>			
Type: <input type="checkbox"/> Detached <input type="checkbox"/> Marine <input type="checkbox"/> Pool			
Structure Dimensions		Rear Yard Setback	
		Side Yard 1 Setback	
Structure Area		Side Yard 2 Setback	
Building Height		Main Structure Setback	

<b>Parking</b>	
Number of Parking Spaces Required	
Number of Parking Spaces Provided	
Number of Handicapped Parking Spaces Provided	

## APPLICATION SUBMITTAL CHECKLIST

Application submittals to the Community Development Department must be accompanied by this checklist and all required materials. Please refer to the fourth and fifth pages of the application package for more information and description of the required items.

REQUIRED ITEMS		CHECKLIST
Pre-Application Meeting		●
Application	Property Information	<input type="checkbox"/>
	Applicant Information	<input type="checkbox"/>
	Property Owner Information	<input type="checkbox"/>
	Variance Information	<input type="checkbox"/>
	Supplemental Information	<input type="checkbox"/>
	Variance Approval Criteria	<input type="checkbox"/>
	Appeals	<input type="checkbox"/>
Application Fee (check payable to the City of Orange Beach)		<input type="checkbox"/>
Authorization Letter		<input type="checkbox"/>
Letter to the Board of Adjustment		<input type="checkbox"/>
Building Permit or Site Plan Application		<input type="checkbox"/>
Decision Letter from Community Development		<input type="checkbox"/>
Deed & Legal Description		<input type="checkbox"/>
Certified Parcel List		<input type="checkbox"/>
Current Boundary Survey		<input type="checkbox"/>
Site Plan (ten copies required)		<input type="checkbox"/>
Building Elevations (if applicable, ten copies required)		<input type="checkbox"/>
Floor Plans (if applicable, ten copies required)		<input type="checkbox"/>
Signature of the Applicant and Property Owner (please see the next page)		<input type="checkbox"/>

Required Material: Write N/A if you believe the item is not applicable (e.g., letter of authorization is not required when the property owner is the applicant).

Required before making a formal application submittal.

**SIGNATURES**

The application must be signed by the applicant and property owner before making a formal submittal.

*I, the applicant, certify that all of the submitted facts are true and correct to the best of my knowledge. I understand that any variance or reversal of administrative decision granted under this request shall apply exclusively to the subject property and is contingent upon any special conditions established by the Board of Adjustment. Any regulations, interpretation, or policy of the City of Orange Beach which is not addressed in this application shall remain in full force with regard to the subject property. I hereby agree to allow the City of Orange Beach to post a sign on the subject property notifying the general public of this request.*

Applicant Signature: \_\_\_\_\_

Applicant Name (Please print): \_\_\_\_\_

Date: \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_

Property Owner Name (Please print): \_\_\_\_\_

Date: \_\_\_\_\_