

SUBMISSION REQUIREMENTS FOR A VARIANCE

(Attach additional sheets if necessary.)

1. Does the request arise from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or the applicant? Yes No

Explain: _____

2. Will granting a variance adversely affect the rights of adjacent property owners or residents? Yes No

Explain: _____

3. Will strict application of the provisions of this ordinance constitute unnecessary hardship upon the property owner represented in the application? Yes No

Explain: _____

4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare? Yes No

Explain: _____

5. Will the variance be opposed to the general spirit and intent of this ordinance? Yes No

Explain: _____

Attach a list of names and addresses of all owners of land within the notification area (two hundred [200] feet within the city limits; one thousand [1,000] feet in the unincorporated area) of the subject property.

Prepared by: _____ **Date:** _____

It is the applicant's responsibility to demonstrate that all of these conditions have been met at the time of application. Applicants are encouraged to submit any materials which will support their case, including sketch plans, photographs, studies, letters of support, etc.

SUBMISSION REQUIREMENTS FOR AN APPEAL

(Attach additional sheets if necessary.)

1. City official who made decision which is being appealed? _____
2. Date decision was made? _____
3. Reason(s) why appeal is being requested? _____

Attach a list of names and addresses of all owners of land within the notification area (two hundred [200] feet within the city limits; one thousand [1,000] feet in the unincorporated area) of the subject property.

Prepared by: _____ **Date:** _____

Applicants are encouraged to submit any materials which will support their case, including sketch plans, photographs, studies, letters of support, etc.

**CITY OF OLATHE
BOARD OF ZONING APPEALS
INSTRUCTIONS**

CERTIFIED LETTERS: The applicant will be responsible for mailing notices (see attached form letter) of the public hearing for the requested appeal or variance by **certified mail, return receipt requested** to all owners of land within the notification area (two hundred [200] feet within the city limits; one thousand [1,000] feet in the unincorporated area) of the subject property. These notices must be sent a minimum of twenty (20) days prior to the public hearing. Information regarding ownership of the land within the notification area can be obtained from the Johnson County Department of Records and Tax Administration, or through a title insurance company (preferred method). **A list of property owners within the notification area must be submitted with the application.**

AFFIDAVIT OF COMPLIANCE: An affidavit (see attached form) concerning the mailing of property owner notification letters must be returned to the Planning Office by the Monday preceding the Board of Zoning Appeals meeting.

BOARD OF ZONING APPEALS REVIEW AND DECISION: The Olathe Board of Zoning Appeals meets in the Council Chambers of City Hall at 100 E. Santa Fe. The agenda and staff reports will be available within the week preceding the Board of Zoning Appeals meeting. The chairperson will open the public hearing for each case to hear presentations by the planning staff, the owner or authorized agent, and the audience, respectively. After everyone has had the opportunity to speak, the Board of Zoning Appeals will close or continue the public hearing to a later date.

In hearing an **appeal**, the Board is asked to make a judgment regarding a city official's interpretation of the Zoning Ordinance. The Board may reverse or affirm the official's decision in whole or in part.

In hearing a **variance**, the Board must decide whether the request meets **all** five of the following criteria:

1. that the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by the action or actions of the property owner or the applicant; and
2. that the granting of the variance will not adversely affect the rights of the adjacent property owners or residents; and
3. that the strict application of the provisions of the ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application; and
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 this ordinance.

A concurring vote of at least three (3) members of the Board are necessary to effect a ruling. Minutes of the Board's proceedings, official action, examinations and findings shall be kept and filed in the planning division.

NOTE: Decisions of the Board may be appealed to the district court within thirty (30) days of the action.

PROPERTY OWNER NOTIFICATION

AFFIDAVIT

STATE OF KANSAS

Case No. BZA-_____

COUNTY OF JOHNSON

I, _____, of lawful age being first duly sworn upon oath, state:

That I am the _____ (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Board of Zoning Appeals, mail certified notice to all persons owning property within the notification area (two hundred [200] feet in the city of Olathe; one thousand [1,000] feet in the unincorporated area) of the property on the _____ day of _____, 20__.

Further affiant saith naught.

Signature of Agent, Owner or Attorney

Subscribed and sworn to before me this _____ day of _____ 20_____.

Notary Public

My Commission Expires:
