

Zoning Board of Adjustment

- LGC Sections 211.008-211.011
- Decide appeals from a decision of an administrative official regarding the Zoning Ordinance
 - May reverse, affirm, or modify an administrative official's order, requirement, or decision
- Authorize a variance, if:
 - Public interest is served;
 - Substantial justice is achieved; and
 - Unnecessary hardship would otherwise result.
- Decide other matters authorized by ordinance (Special Exceptions, etc.)



What the Board of Adjustment CAN do

- Interpret the Zoning Ordinance and how to apply the facts
- Grant special exceptions when authorized by an ordinance
- Grant variance that will:
 - Not be contrary to public interest
 - Where due to special conditions literal enforcement would result in unnecessary hardship
 - So that the spirit of the ordinance is observed, and substantial justice is done
- Board of Adjustment is the escape valve for the Zoning Ordinance when land does not fit ordinance mold



Special Exceptions

- Special exceptions must be specifically set forth and be found in the ordinance provisions themselves.
- Ordinance should include a procedure for processing and granting special exceptions.
- Criteria for evaluating special exceptions should be included in the ordinance. Criteria does not have to require an unnecessary hardship.
- Special exceptions can be used as a relief valve for regulations where the City wants the ability to grant relief or alternative compliance.
- Special exceptions cannot create an incompatibility.



Special Exception Examples

- Reduce required off-street parking if it can be shown that the required minimum as herein established will not at any time be necessary because of the character of the proposed uses at a probable limited quantity of employees, clients, customers or tenants.
- Permit such modification of the height, yard, area, coverage, and parking regulations as may be necessary to secure appropriate development of a parcel of land that differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification.
- Reduce, substitute, or allow alternative screening and buffering between districts when the proposed alternative provides equal or greater mitigation of nuisances created by the non-residential or multi-family development and result in an equal or greater level of compatibility between the uses.

Variance vs. Special Exception

- Variances have been defined as suspensions of the literal enforcement of the ordinance against a particular use. Therefore, a variance is a permission to use land in a manner prohibited by the ordinance, while a special exception allows a deviation from the ordinance that is specifically provided for in the ordinance.
- A variance may be granted where the application of the law or use may present a practical difficulty or unnecessary hardship, and the literal enforcement of the regulations may be disregarded.
- Special exception must be specifically set forth and be found in the ordinance provisions themselves and may not be altered.
- Special exceptions and variances are not mutually exclusive, and it is possible for relief requests to qualify for both processes.