

# American Fork City Board of Adjustment Application

Please return the completed application to:

American Fork City Building Department  
Attention: Erin Waugh  
275 East 200 North  
American Fork, UT 84003  
801-763-3065

## THE BOARD OF ADJUSTMENT

The Board of Adjustment is a quasi-judicial body appointed for the benefit of residents in hearing requests to vary zoning and building ordinances set by American Fork City. The Board of Adjustment meets the **second Wednesday** of every month of 6:30 p.m. in the Conference Room at the Public Works Administration building. This is a public meeting and will be conducted as such following proper procedure. Public Notice must be filed in the local newspaper on week in advance of the meeting. Any applicant wanting to be on the agenda must have his completed application, including **seven** (7) copies of all relative maps and plot plans (drawn to scale), in the office of the American Fork City Building Department no later than 5:00 p.m. on the **third Wednesday of the month before**. A list of dates has been included. All applicants must be present at the hearing in order for action on their request to be taken.

An application will not be considered unless completed in full. All applicable information is needed for review by board members. If you have any questions, please contact Erin Waugh at the Building Department office (801-763-3065).

American Fork City  
Board of Adjustment

In order to submit the Board of Adjustment agendas to *New Utah!* in a timely manner, application for the meeting must be submitted by 5:00 PM according to the following time schedule:

| <b>Application Deadline</b> | <b>Meeting Date</b> |
|-----------------------------|---------------------|
| September 17, 2008          | October 8, 2008     |
| October 15, 2008            | November 12, 2008   |
| November 19, 2008           | December 10, 2008   |
| December 17, 2008           | January 14, 2009    |
| January 21, 2009            | February 11, 2009   |
| February 18, 2009           | March 11, 2009      |
| March 18, 2009              | April 8, 2009       |
| April 15, 2009              | May 13, 2009        |
| May 20, 2009                | June 10, 2009       |
| June 17, 2009               | July 8, 2009        |
| July 15, 2009               | August 12, 2009     |
| August 19, 2009             | September 9, 2009   |

# POWERS OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers:

1. The Board of Adjustment shall hear and decide:
  - a. Appeals from zoning decisions applying to the zoning ordinance;
  - b. Special exceptions to the terms of the zoning ordinance; and
  - c. Variances from the terms of the zoning ordinance.
2. The Board of Adjustment may make determinations regarding the existence, expansion, or modification of nonconforming uses if that authority is delegated to them by the legislative body.

## APPEALS

1. (a)(i) The applicant or any other person or entity adversely affected by a decision administering or interpreting a zoning ordinance may appeal that decision applying the zoning ordinance by alleging that there is error in any order, requirement, decision, or determination made by an official in the administration or interpretation of the zoning ordinance.  
(ii) The legislative body shall enact an ordinance establishing a reasonable time for appeal to the Board of Adjustment of decisions administering or interpreting a zoning ordinance.  
(b) Any officer, department, board or bureau of a municipality affected by the grant or refusal of a building permit or by any other decisions of zoning ordinance may appeal any decision to the Board of Adjustment.
2. The Board of Adjustment shall hear and decide appeals from Planning Commission decisions regarding conditional use permits

unless the zoning ordinance designates the legislative body or another body to hear conditional use permit appeals.

3. The person or entity making the appeal has the burden of proving that an error has been made.
4. (a) Only decision applying the zoning ordinance may be appealed to the Board of Adjustment.  
(b) A person may not appeal, and the Board of Adjustment may not consider, any zoning ordinance amendment.
5. Appeals may not be used to waive or modify the terms or requirements of the zoning ordinance.

## SPECIAL EXCEPTIONS

1. In enacting the zoning ordinance, the legislative body may:
  - a. Provide for special exceptions; and
  - b. Grant jurisdiction to the Board of Adjustment to hear and decide some or all special exceptions.
2. The Board of Adjustment may hear and decide special exceptions on if authorized to do so by the zoning ordinance and based only on the standards contained in the zoning ordinance.
3. The legislative body may provide that conditional use permits be treated as special exceptions in the zoning ordinance.

## VARIANCES

1. Any person or entity desiring a waiver or modification of the requirements of the zoning 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 Board of Adjustment for a variance from the terms of the zoning ordinance.

2. (a) The Board of Adjustment may grant a variance only if:
  - (i) literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose for the zoning ordinance;
  - (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;
  - (iii) Granting the variance is essential to the enjoyment of the substantial property right possessed by other property in the same district;
  - (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 zoning ordinance is observed and substantial justice done.

(b)(i) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (2)(a), the Board of Adjustment 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.

(b)(ii) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (2)(a), the Board of Adjustment may 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 Board of Adjustment may find that special circumstances exist only if the special circumstances:

- (i) Related to hardship complained or; and

(ii) Deprive the property of the privileges granted to other properties in the same district.

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 Board of Adjustment and any other body may not grant use variances.
6. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:
  - (a) Mitigate any harmful affects of the variance; or
  - (b) Serve the purpose of the standard or requirement that is waived or modified.

**Section 10-9-703, Utah Code Annotated (1953, as amended)**

**CASE**  
**ZONING ADMINISTRATOR**  
**BOARD OR ADJUSTMENT**

| <b>APPEAL</b>   | <b>SPECIAL EXCEPTION</b>  | <b>VARIANCE</b>  |
|---|---|--|
| <p style="text-align: center;">Typical Case</p> <ol style="list-style-type: none"> <li>1. Zoning Administrator decides on location of questionable district boundary.</li> <li>2. Planning Commission determines unlisted use is unacceptable in district.</li> </ol>                 | <p style="text-align: center;">Typical Case</p> <ol style="list-style-type: none"> <li>1. Request for utility substation in a residential district.</li> <li>2. Request to extend nonconforming building use.</li> </ol>                                      | <p style="text-align: center;">Typical Case</p> <ol style="list-style-type: none"> <li>1. Allow a structure to extend into required front, side or rear yard when slope or other natural feature prevents use of the lot to the same extent as surrounding lots.</li> <li>2. Request to extend into required yard because building lot is an odd shape and different from others.</li> </ol> |
| <p style="text-align: center;">Action</p> <p>Aggrieved person appeals</p>   | <p style="text-align: center;">Action</p> <p>Applicant applies for special exception.</p>   | <p style="text-align: center;">Action</p> <p>Applicant applies for a variance.</p>   |
| <p style="text-align: center;">Principle Criteria for Decision</p> <ol style="list-style-type: none"> <li>1. Board should determine the intent of the regulation.</li> <li>2. Decision must be based on fairness and equality within the general purpose of the ordinance.</li> </ol> | <p style="text-align: center;">Principle Criteria for Decision</p> <ol style="list-style-type: none"> <li>1. Exception must be specifically authorized by the ordinance.</li> <li>2. Board had original jurisdiction only when ordinance provides.</li> </ol> | <p style="text-align: center;">Principal Criteria for Decision</p> <ol style="list-style-type: none"> <li>1. Problem must be a hardship imposed by the lot.</li> <li>2. Problem must be unique to this lot.</li> <li>3. Problem must not be self-imposed.</li> <li>4. Request is NOT for a change of use.</li> </ol>   |

**APPLICATION TO APPEAR BEFORE  
THE BOARD OF ADJUSTMENT**

Date: \_\_\_\_\_ Request #: \_\_\_\_\_

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

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Property in question: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Zone: \_\_\_\_\_

**TYPE OF REQUEST:**

I (We), the above stated applicant(s), hereby make application to the Board of Adjustment of American Fork City, Utah, for one of the following: (circle the provision which describes the type of request).

1. An error in an order, requirement, decision or determination made in the enforcement of the Zoning Ordinance.
2. An interpretation of the Zoning Ordinance text or boundary line.
3. A variance in the specific terms of the ordinance (requests for variance are generally limited to requirements relating to lot dimensions, building setbacks, lot area and/or size of building).  
The Board is not authorized to issue use variances.
4. A special exception to the ordinance (a use which the terms of the ordinance specifically authorized or require the action of the Board).

## SUMMARY OF REQUEST:

Please attach a sheet *describing in detail* the specific action requested by the applicant under this appeal. Include reasons you feel qualify you for granting you for granting your appeal. Please identify the specific section(s) of the Ordinance applicable to the issue.

## EXPLANATION AND SUPPORTING DOCUMENTATION:

*State the facts fully.* A plot plan must be attached showing the location of the property with existing and proposed buildings on the lot (please indicate what is existing and what is proposed). You should also include the buildings on adjacent lots that will be affected by the variance. Please make the plot plan to scale. Use additional sheets if necessary and attach to the plot plan.

Adjoining neighbors (names and mailing addresses):

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FOR OFFICIAL USE

DATE RECEIVED: \_\_\_\_\_ BY: \_\_\_\_\_ FEE PAID: \_\_\_\_\_

# ACTION BY THE BOARD OF ADJUSTMENT

Applicant's Name: \_\_\_\_\_

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

Property in question: \_\_\_\_\_

Date: \_\_\_\_\_ Appeal Number: \_\_\_\_\_

## DETERMINATION OF AUTHORITY TO ACT

1. The Board has determined that the appeal is on upon which the Board has the power to act.
2. The Board has determined that the appeal is not one upon which the Board has the power to act.

## FINDINGS OF FACT

The Board of Adjustment has reviewed the matter referred to in the above-mentioned appeal and has found the following facts with respect thereto.

## CONCLUSIONS AND DECISIONS

Based upon the conclusions and determinations herein below set forth, the request is hereby:

- a. Granted
- b. Granted, subject to conditions (see below)
- c. Denied

**SUMMARY OF CONCLUSIONS AND DETERMINATIONS:**

**CONDITIONS OF APPROVAL:**

# RECORD AND VOTE:

Hearing on this request was advertised: \_\_\_\_\_

Hearing on this: \_\_\_\_\_

Date decision made and filed: \_\_\_\_\_

# VOTE RECORD:

| <b>Board of Adjustment Members</b> |  | <b>Aye</b>    | <b>Nay</b> | <b>Abstained</b> |
|------------------------------------|--|---------------|------------|------------------|
| Wayne Christensen                  |  |               |            |                  |
| Robert Shelton                     |  |               |            |                  |
| Mike Privett                       |  |               |            |                  |
| Richard Harwood                    |  |               |            |                  |
| Marie Adams                        |  |               |            |                  |
| <b>VOTE TOTALS</b>                 |  |               |            |                  |
|                                    |  | <b>PASSED</b> |            |                  |
|                                    |  | <b>FAILED</b> |            |                  |

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date