

Zoning Process Guide



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

"Planning with People for a Better Phoenix"

Zoning Adjustment Application Handout Variances/Use Permits

The zoning adjustment application packet is for variance and use permit applications. A variance is a request to deviate from a development standard required by the Zoning Ordinance. A use permit is request to allow a permitted use provided that it will not cause an adverse impact on adjacent properties in the area. The zoning adjustment hearing process is a quasi-judicial process with established tests pursuant to Arizona State Statutes and the Zoning Ordinance that must be met in order for either a variance or use permit to be granted. The burden of proof lies with the applicant to prove that the tests are met. Please see Page 3 for additional information on the tests.

SUBMITTAL REQUIREMENTS: Applications are taken in person before 4:00 PM at the City of Phoenix Planning and Development Department located at 200 West Washington, 2nd Floor, Zoning Counter.

1. Completed Zoning Adjustment Worksheet and Ownership Verification Form. ***If the applicant and/or representative is someone other than the property owner(s), a separate written authorization from the property owner(s) that states the applicant and/or representative is authorized to file on behalf of the property owner(s) is required.***
2. Two (2) copies of a sketch or site plan of the subject property (refer to "Use Permit/Variance Sketches" handout). Other exhibits such as elevations, wall or landscape exhibits should also be submitted to inform the Hearing Officer about the proposal, if relevant.
3. A written narrative. The written narrative needs to include the following: 1) description of proposal, 2) what section of the Ordinance is requested to be modified, 3) why the modification is necessary and 4) information to substantiate how the request meets the established tests from Page 3. Each test for a variance and/or use permit should be addressed individually.
4. Copy of the site plan mark-up or Development Division comments, if the site has been reviewed by the Development Division.
5. Application Fee (NOTE: This is an application fee to cover the cost of processing the request. It is non-refundable regardless of the outcome of the case):
 - Variance or Use Permit request(s) for a commercial use - \$1,380.00 each
 - Variance or Use Permit request(s) for a residential use - \$490.00 each
 - For multiple requests, please refer to the Planning and Development Department Fee Schedule

NOTIFICATION REQUIREMENTS - APPLICANT RESPONSIBILITIES:

1. Upon application, staff will provide the applicant with a sample notification letter and a mailing list for the registered neighborhood associations within a 600-foot radius of the lot boundaries. The applicant must mail a notice to the associations via first-class mail at least 15 calendar days in advance of the scheduled hearing date. (Refer to sample letter format.)
2. Staff will provide the applicant with a mailing list of the property owners located within a 150-foot radius of the lot boundaries. The applicant must mail a notice to the property owners via first-class mail at least 15 calendar days in advance of the scheduled hearing date.
3. The applicant is responsible for reviewing all zoning case history on the subject property to determine if there are additional persons and/or organizations that must be notified of any zoning adjustment filing prior to the hearing. The applicant must mail a notice to those additional parties listed via first-class mail at least 15 calendar days in advance of the scheduled hearing date.

4. At least one day before the Zoning Adjustment hearing, the applicant will provide the Planning and Development Department in person or via email to zoning.adjustment@phoenix.gov with the following:
- A completed copy of the notification letter with attachment(s) (*template provided in packet*)
 - A list of the names and addresses of all property owners and neighborhood associations notified for the request.
 - A notarized affidavit attesting to having followed the above notification procedures (a blank affidavit is included with this packet). The completed letter with attachment(s) and list of notified names and addresses must be attached to the notarized affidavit. **NOTE: The case may be subject to a continuance if this information is not completed and provided to staff at least one day before the scheduled Zoning Adjustment hearing.**

POSTING:

At least 15 calendar days prior to the hearing, City staff will post the subject property with a 24" X 24" two-panel sign indicating the nature of the request and the hearing time and date. The applicant is responsible for maintaining the sign so that it is readable to persons in the area until the hearing process is complete.

PUBLIC HEARING PROCEDURES:

A public hearing will be held before the Zoning Administrator or a Hearing Officer within 60 days of the filing date. Hearings are scheduled on Thursdays. At the hearing, the applicant will be asked to present evidence supporting the application and how their request meets the standards for awarding a Variance or Use Permit (see page 3). Presentations may include the use of photographs or accurate drawings. The presence of neighbors in support of the request may be beneficial. The applicant usually appears on his or her own behalf, but may be represented by an agent or attorney if desired. Following the applicant's presentation, persons in interest will be allowed to speak. The applicant then may give additional comments or a rebuttal. In most cases, the Zoning Administrator or the Hearing Officer will take action to either approve or deny the request at the public hearing. Approval may include stipulations or conditions, which must be met by the applicant. If the request is approved, the applicant has sixty (60) days from the hearing date to apply for a building permit or commence the use if no building permit is required. Failure to meet this condition will invalidate the approval action. If sixty (60) days is insufficient to meet this condition, the applicant may request a longer period at the hearing, which will be considered by the Zoning Administrator or Hearing Officer.

APPEALS TO THE BOARD OF ADJUSTMENT:

Any person may appeal a decision by the Zoning Administrator or Hearing Officer **within 15 calendar days** of the decision by filing an appeal at the zoning counter and paying a fee, equal to the original application fee. The case will then be scheduled for hearing by the Board of Adjustment. The Board of Adjustment is composed of seven citizens who serve without pay and are appointed by the City Council for a term of four years. Their role is to hear cases appealed from, or referred to the Board by the Zoning Administrator. The Board meets on the first Thursday of each month in the City Council Chambers, 200 West Jefferson Street (unless scheduled for another location).

APPEALS BEYOND THE BOARD OF ADJUSTMENT:

Any person may appeal a decision by the Board of Adjustment within 30 calendar days of the decision by filing an appeal to the Arizona Superior Court.

BASIS FOR ZONING ADJUSTMENT ACTIONS ON VARIANCE AND USE PERMIT REQUESTS

NOTE: Approval of a request does not replace the need for acquiring the appropriate building permits, site plan approval, liquor license or any other licenses required by governmental agencies. In case of liquor requests, approval of a use permit does not guarantee the City of Phoenix will recommend approval of the liquor license.

VARIANCES:

A variance is a request to allow a deviation from a development standard required by the Zoning Ordinance. The Arizona State Statutes and the Zoning Ordinance require that four (4) conditions exist on the subject property for a variance to be approved. The Zoning Administrator or Hearing Officer must find that these four conditions exist on the subject property to rule favorably on a variance request. It is the burden of the applicant to prove his or her case. The four conditions are as follows:

1. There are special circumstances or conditions applying to the land, building, or use of the subject property which do not apply to other similar properties in the same zoning district. (Background: Special circumstances or conditions would include, for example: an unusual lot size, shape, or topography. This condition is considered a property hardship and it must be a condition relating to the property that is so unique it cannot be replicated on any other similarly zoned land in the City.)
2. The special circumstances or conditions described above were not created by the applicant or owner. The property hardship cannot be self-imposed. (Background: Owners include current and previous owners)
3. The authorization of a variance is necessary in order for the owner or applicant to enjoy reasonable and substantial property rights. (Background: In other words, without the granting of a variance the property cannot be reasonably used. There is no cause for a variance if the property can be used, even if it is in a manner other than that desired by the owner or applicant.)
4. The authorization of a variance will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare in general. (Background: A variance which will not be compatible with the surrounding development or will create an adverse impact on other properties cannot be approved.)

ALL FOUR CONDITIONS MUST BE SATISFIED BY THE SUBJECT PROPERTY FOR A VARIANCE TO BE GRANTED.

USE PERMIT:

A Use Permit is a request to allow a use which is permitted by the Zoning Ordinance provided that the use will not cause an adverse impact on adjacent property or properties in the area. The burden of proof lies with the applicant to prove that the tests are met. The Zoning Administrator or Hearing Officer must find that the following conditions exist in order to rule favorably on a Use Permit request:

1. The use will not cause an adverse impact on adjacent property or properties in the area. Adverse impacts would include, for example: a significant increase in vehicular or pedestrian traffic in adjacent residential areas; emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding ambient conditions; contribution in a measurable way to the deterioration of the neighborhood or area or contribution to the lowering of property values.
2. The use will be in compliance with all provisions of the Zoning Ordinance and the laws of the City of Phoenix.

ALL CONDITIONS MUST BE SATISFIED BY THE SUBJECT PROPERTY FOR A USE PERMIT TO BE GRANTED.

A use permit may be revoked by the Zoning Administrator or Hearing Officer through the public hearing process upon a finding that there has been material noncompliance with a condition prescribed in conjunction with the issuance of the use permit or that the use covered by the permit or the manner of conducting the same violates the standards listed in Section 307.A of the Phoenix Zoning Ordinance.

Upon request this publication will be made available in alternate formats including large print, Braille, audiotape or computer disk to accommodate a person with a disability if given reasonable advance notice. Please contact Tamra Ingersoll at voice 602-534-6648 or via the City TTY Relay at 7-1-1.

VARIANCE/USE PERMIT SKETCHES

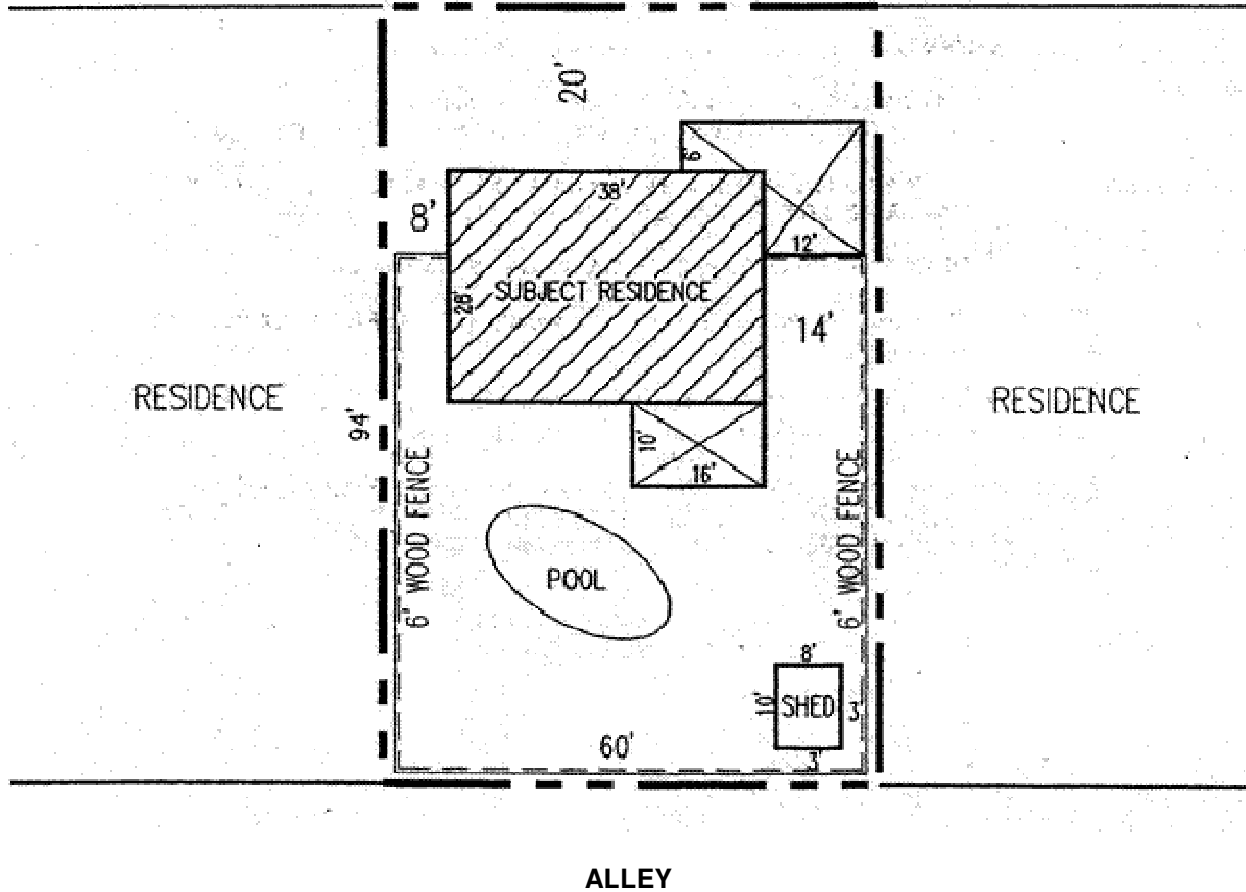
The sketch that you provide with your variance/use permit application is used by the Planning and Development Department to draft finished maps for the public hearing (see sample). In order for the finished map to be accurate, the sketch that you provide should be as accurate as possible. An inaccurate sketch could impact the hearing decision. While your sketch does not have to be as finished as the sample provided, it must be legible, at least 8 1/2" x 11" and include:

1. A north arrow.
2. Street names.
3. Dimensions of the lot.
4. Dimensions between all structures and property lines and/or fences.
5. Dimensions between all structures on lot.
6. Location and dimensions of proposed addition (the addition should clearly be labeled - proposed or existing).
7. Location of proposed addition (for example: room, wireless communication facility or satellite antenna, fence, pool, etc.).
8. Type of fence (for example: wood, block).
9. Proposed landscaping (for multi-family, commercial or industrial projects).
10. Status of project (proposed or existing).
11. City staff will be posting the site approximately 15 calendar days prior to the hearing. For field crew protection, please indicate on your sketch if a dog or dogs are kept on the lot.

(SAMPLE SKETCH ON BACK)

ZONING ADJUSTMENT APPLICATION – SAMPLE SKETCH

STREET NAME



CITY OF PHOENIX - ZONING ADJUSTMENT APPLICATION – OWNERSHIP VERIFICATION FORM

It is requested that an application for Zoning Adjustment be accepted by the Planning and Development Department for property located at: _____

Said property is owned by:

Property Owner Name: _____

Property Owner Mailing Address: _____

Property is legally described as (or see attached): _____

Assessor Parcel Number(s): _____

NOTE: The tax parcel number can be obtained from your property tax statement or the Maricopa County Assessor's Office (602) 506-3406.

I hereby certify that the above information is correct, and that I am authorized to file an application on said property, being either the owner of record or authorized to file on behalf of the owner (signed authorization must be attached). I am requesting this zoning adjustment action because I believe that it is in the best interest of my desires as the property owner, applicant or representative.

(Applicant/Representative Signature)

(Date)

ZONING ADJUSTMENT WORKSHEET
(Must be filled out completely)

Property Owner Name: _____

Company _____

Address: _____ Suite: _____

City, State, Zip Code: _____

Telephone: _____ Fax: _____

Email Address: _____

Applicant Name: _____

Company: _____

Address: _____ Suite: _____

City, State, Zip Code: _____

Telephone: _____ Fax: _____

Email Address: _____

Representative Name: _____

Company: _____

Address: _____ Suite: _____

City, State, Zip Code: _____

Telephone: _____ Fax: _____

Email Address: _____

Is this property in a gate community? Yes No

If gated, please provide the gate code or entry instructions to a Planning and Development Department representative.

Provided: Yes No

OFFICE USE ONLY

Map: _____ Council District: _____ Annex: _____

Q.S.: _____ Zoning: _____

Other Notes:

SAMPLE LETTER

[DATE]

Dear **Property Owner** or **Neighborhood Association President**:

The purpose of this letter is to inform you that we have recently filed a Zoning Adjustment application (**ZA-XXX-XX-X**) for a site located at _____

Our request is for a **[INSERT REQUEST LANGUAGE FROM THE SIGNED APPLICATION]** _____

- *i.e., Our request is for a use permit to allow outdoor dining as an accessory use to a restaurant (Jane's Café). Use permit required. (Section 622.D.149.d.)*

The hearing is as follows:

Zoning Adjustment Hearing

City Hall

200 West Washington Street

Assembly Room _____

On _____, 2017 at _____

You may attend the hearing to learn about the case and make your opinions known. Hearing information may also be found on signs posted on the site. You may also make your feelings known on this case by writing to the Planning and Development Department at 200 West Washington, 2nd Floor, Phoenix, Arizona, 85003 and referencing the case number. You can also send an email to zoning.adjustment@phoenix.gov. Please reference the above case number and hearing date in your email. Your letter/email will be made part of the case file and shared with the Hearing Officer.

I would be happy to answer any questions or hear any concerns that you may have regarding this proposal. You may reach me at **[PHONE NUMBER]** or **[EMAIL ADDRESS]** or by fax at **[FAX NUMBER]** or you may reach the City of Phoenix's Planning and Development Department at 602-262-7131, Option 6 or zoning.adjustment@phoenix.gov. Please reference the above case number and hearing date in your email to expedite a response.

Sincerely,

[DEVELOPER OR REPRESENTATIVE'S NAME]

Attachment(s)

NOTE: ATTACH A COPY OF THE SIGNED APPLICATION, SITE PLAN/SKETCH OR OTHER EXHIBITS THAT EXPLAIN THE REQUEST

Affidavit of Notification

For additional information, please call the Planning and Development Department, Zoning Section at 602-262-7131, Option 6.

Application No: _____

Applicant Name: _____

Location: _____

I confirm that notice as required for the case noted above has been mailed or delivered to the attached list of property owners and neighborhood associations at the addresses noted.

Applicant/Representative Signature

Date

This instrument was acknowledged before me on this _____ day of _____,

20_____, by _____ . In witness whereof

I hereunto set my hand and official seal.

Notary Public

My commission expires _____