

## **VARIANCES TO THE ZONING ORDINANCE**

A variance is a one time departure from the provisions of a zoning ordinance which relates to dimension or size factors such as building setbacks, side yards, frontage requirements and lot size, but does not involving the land use of the property.

South Dakota Codified Law authorizes the county Board of Adjustment to approve variances to the zoning regulations provided that:

- the variance will not be contrary to the public interest
- if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and
- the spirit of the ordinance is observed and substantial justice done

The Minnehaha County Zoning Ordinance also provides for variances to the ordinance. In order to apply for a variance, the applicant must complete an application form (attached), pay the required \$250 non-refundable application fee and provide specific proof that each of the following factors applies:

- *The reason for the variance must be based on physical aspects of the lot such as physical surroundings, shape, topography,*
- *The strict adherence to the regulations would result in a particular hardship as opposed to a mere inconvenience.*
- *The conditions that require the variance must be*

*unique to the particular property.*

- *The variance will not be detrimental to the public welfare or injurious to other property or improvements.*
- *The variance will not diminish adequate light or air to adjacent property; increase traffic congestion; increase fire danger; endanger public safety; or reduce property values.*
- *There is no possibility that the property can be reasonably used if the provisions of the zoning regulations are strictly enforced.*
- *The variance is the minimum variance necessary to provide the needed relief.*

Self imposed hardships are not a valid reason for the approval of a variance. The Board of Adjustment can approve a variance only if a two-thirds majority of the total board membership finds that each of the above factors specifically applies to the matter at hand and votes in favor of the variance. There are seven members of the Board of Adjustment, so five positive votes are required in order to approve a variance. The Board may place binding conditions or stipulations on the variance. The Board is also allowed to consider variances to the height limits in the ordinance.

Board of Adjustment meetings are typically held at 7:00 p.m. on the fourth Monday of each month (except December and holidays). The application deadline for each meeting is 3-1/2 weeks before the meeting. Meetings are held in the Minnehaha County Administration Building at 415 North Dakota Avenue in Sioux Falls.

**ZONING ORDINANCE VARIANCE  
APPLICATION CHECKLIST**

- Complete application form.
  
- Written narrative describing the justification for the proposed variance. Be sure to cover each of the seven criteria listed above that the Board of Adjustment must consider if they are to approve a variance.
  
- \$250 permit application fee



Minnehaha County \_\_\_\_  
Sioux Falls \_\_\_\_  
Dell Rapids \_\_\_\_

## ZONING BOARD OF ADJUSTMENT APPLICATION

Minnehaha County  
Office of Planning and Zoning  
Administration Building, 3<sup>rd</sup> Floor  
415 N. Dakota Avenue  
Sioux Falls, SD 57104  
Phone: 605-367-4204  
Fax: 605-367-7413  
Website: www.minnehahacounty.org

Petition No.: \_\_\_\_\_  
Date: \_\_\_\_\_  
Filing Fee:     \$250      
(Non-refundable)

I/We the undersigned, do hereby request action by the Board of Adjustment for the following:

- Appeal of Administrative decision
- Variance

Legal Description: \_\_\_\_\_

Size of Parcel: \_\_\_\_\_

Address or General Location: \_\_\_\_\_

Existing Zoning District: \_\_\_\_\_

Reason for appeal or variance: \_\_\_\_\_

**Site Plan Required:**

Petitioner (Print): \_\_\_\_\_

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

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

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

\_\_\_\_\_  
City State Zip  
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Owner (Print): \_\_\_\_\_

If different than above

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

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

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

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

Property must be posted at least 5 days prior to the meeting.