





## Procedure

The Board of Adjustment shall adopt rules and regulations, consistent with Utah state code and Weber County ordinances, for conducting its business and may amend such rules from time to time. Such rules may include policies and procedures for the conduct of its meetings, the processing of applications, the handling of conflict of interest and any other purpose considered necessary for the functioning of the board.

### 1. Application and Notice.

- A. Any person or entity wishing to petition the Board of Adjustment for an appeal or interpretation of the Land Use Code or Zoning Maps, or for a variance from the requirements of the Land Use Code may commence such action by completing the proper application and submitting it to the Weber County Planning Division office. Applications must be submitted at least 30 days prior to the date of the meeting at which the application will be considered. The application must clearly explain the appeal, interpretation, or variance being requested, and must be accompanied by the required fee and applicable supporting information.
- B. After a complete application has been submitted and accepted, the Planning Division shall prepare a staff report to the Board of Adjustment, schedule a meeting of the Board, and send notice to property owners within 500 feet of the parcel on which the request has been made. Notice may be sent to other interested persons or organizations upon written request.

### 2. Meeting.

- A. The Board of Adjustment shall hold a public meeting to decide upon the appropriate action to be taken on an appeal, variance, or interpretation request. The concurring vote of at least three (3) of the five (5) Board members is required to decide in favor of the request.

### 3. Decision and Minutes.

- A. After the Board of Adjustment has made a decision, a notice of decision shall be prepared by the Planning Division, signed by the Board of Adjustment Chair or the Chair's designee, and sent to the appellant in accordance with Chapter 31 Section 4 of the Weber County Land Use Code. This notice acts as the Board's written decision for an appeal, variance, or interpretation request. Decisions of the Board of Adjustment shall be final at the time a notice of decision is issued.
- B. The minutes of all meetings of the Board of Adjustment shall be prepared and filed in the Weber County Planning Division office. The minutes shall be available for public review and access in accordance with the Government Records and Access Management Act.

### 4. Expiration.

- A. If the Board has decided in favor of a variance request, the approval is valid for a period of 18 months. If an approved variance request has not been acted upon within this time frame, the approval shall expire and become void.
- B. If the Board has made an interpretation to the Zoning Map or Land Use Code, the interpretation is valid until an amendment to the Zoning Map or Land Use Code is made which changes the conditions upon which the interpretation or decision was made.



5. Appeal of Decision.

- A. Appeals from decisions of the Board of Adjustment are made directly to the District Court as designated in Utah state code.

**Decision Criteria and Standards**

1. Appeals from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps

- A. The Board of Adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Weber County Land Use Code and Zoning Maps.
- B. The Board of Adjustment may hear only those decisions in which the land use authority has applied the Weber County Land Use Code or Zoning Maps to a particular application, person, or parcel.
- C. The appellant has the burden of proof that the land use authority erred.
- D. All appeals to the Board of Adjustment shall be filed with the Planning Division not more than 15 calendar days after the date of the written decision of the land use authority.
- E. Appeals to the Board of Adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.

2. Variances from the requirements of the Weber County Land Use Code

- A. Any person(s) or entity desiring a waiver or modification of the requirements of the Weber County Land Use Code as applied to a parcel of property that they own, lease, or in which they hold some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of the Land Use Code.
- B. The Board of Adjustment may grant a variance only if the following 5 criteria are met:
  - 1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.
    - a. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
    - b. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
  - 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.



- a. In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the land use ordinance is observed and substantial justice done.
- C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- D. Variances run with the land.
- E. The appeal authority may not grant a use variance.
- F. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
  1. Mitigate any harmful effects of the variance; or
  2. Serve the purpose of the standard or requirement that is waived or modified.

#### **For Your Information**

This application can be found at the following Planning Division web site: [www.co.weber.ut.us/planning](http://www.co.weber.ut.us/planning). Copies of the applicable Weber County Land Use Code and other helpful information are also available at this web site.