

THE BOARD OF ADJUSTMENT OF THE CITY OF TAYLOR LAKE VILLAGE, TEXAS

Function of the Board of Adjustment

The Board of Adjustment of the City of Taylor Lake Village, Texas (the “City”), is a legally-created entity which enables you, under certain circumstances, to seek relief from decisions of the City’s Building Official or the application of the City’s Zoning Ordinance to you or your property.

The Board consists of five (5) regular members. There are two (2) alternate members who are available to serve in the absence of a regular member. One member serves as Chairman of the Board and presides over the meetings. All are City residents and property owners with varied backgrounds. They are appointed by the City Council and donate their time and effort to conduct the affairs of the Board in a fair and impartial manner.

It is important for you to understand that the Board of Adjustment cannot approve an application simply because the Board’s members may personally like the goal pursued by the applicant or question the wisdom of the zoning regulation in question.

Role of The Building Official

The key person you will deal with in your activities related to the City’s Zoning Ordinance is the Building Official. He is appointed by the City Council, is charged with the duty of issuing permits and certificates of occupancy, and he carries the primary responsibility of enforcing the Zoning Ordinance in the manner in which it has been enacted by the City Council. He is well-experienced in these matters, from both a technical and a community relations viewpoint. In carrying out his duties, he has available to him the services of the City’s legal counsel and other City officials.

When to Request a Board of Adjustment Hearing

You can request the Board of Adjustment to receive your application and to conduct a hearing in one of the following areas:

(1) You can request the Board to consider your appeal wherein you allege the Building Official has made an error in an order, requirement, decision, or determination in enforcement of the City’s Zoning Ordinance. For example, if you believe the Building Official has wrongfully denied you a permit or has wrongfully determined that you have violated the Zoning Ordinance because he incorrectly interpreted the requirements of the Ordinance, then you can appeal this alleged error to the Board;

(2) You can request the Board to grant a variance from the terms of the Zoning Ordinance. As part of your request for a variance, you must show that:

(a) the variance will not be contrary to the public interest of the other citizens of the City;

(b) due to special conditions peculiar to your property, a literal enforcement of the Ordinance would cause you an unnecessary hardship; and

(c) the spirit of the Ordinance will still be observed and substantial justice will be done if your variance is granted.

One of the key elements to be considered is “unnecessary hardship.” Unless you can show an “unnecessary hardship,” the Board is not entitled to grant a request for a variance. An “unnecessary hardship” does not exist unless you will be deprived of a reasonable use of your property if the request for the variance is not granted. If no “unnecessary hardship” exists, you are not entitled to a variance. Keep in mind when making your application that your personal choice, your preferred construction plan, a more pleasing construction project, or cheaper construction costs are not considered “unnecessary hardships.” Pecuniary loss, standing alone, does not constitute an “unnecessary hardship.” The hardship cannot be self-imposed. The Board does not have legal authority to grant a request for a variance unless it can be shown that an “unnecessary hardship” will be the result if the request is not granted.

Procedure for Requesting a Board of Adjustment Hearing

First, thoroughly discuss the matter with the Building Official, and try every way possible to work things out at this level.

If you cannot work things out, prepare and submit the completed Application for a Board of Adjustment Hearing which is attached. It must include:

(1) A thorough site plan, drawn to scale, showing the dimensions of your lot and the location and dimensions of all your existing and proposed lot improvements. If applicable, include the proposed floor plans and elevations.

(2) If applicable, a copy of the Building Official’s letter of denial.

(3) If applicable, your statement explaining why literal enforcement of the Zoning Ordinance should not be applied and how the standards which govern the Board’s actions could be satisfied. If requesting a variance, you should thoroughly address how application of the Zoning Ordinance will specifically impose an “unnecessary hardship” on you.

(4) Add any other information which would enhance your application such as additional narrative information, drawings, photographs, or other details which can better inform the Board about the exact nature of your request.

(5) If you plan to have an agent to speak for you, include with your application a notarized letter designating such agent.

(6) Your application fee will be \$120.00, and is payable at the time you submit your application. This is the City's break-even cost to handle the required legal notices, certified mailing, etc.

(7) After all material has been accumulated and the application has been completed, 8 copies must be submitted to the City Secretary no later than fifteen (15) days after the date you were notified of the decision of the Building Official. The City Secretary will arrange for the copies of your application to be distributed to the proper parties.

The Hearing

After the administrative procedures have been completed and proper notice has been given to all affected parties, your hearing will be conducted at a designated date and time at City Hall. The hearing fee is one hundred twenty dollars (\$120.00). The hearing will be open to the public, will be conducted in a respectful, non-adversarial manner, and in a way which is intended to allow you to present your best case. No questioning or arguments between individuals appearing before the Board will be permitted. At the hearing, the Chairman will preside and:

- (1) all interested parties appearing before the Board will be sworn;
- (2) you will be called upon to present your case under oath and all evidence which you want to use to support your application;
- (3) all other persons that support your application will be given an opportunity to speak under oath in favor of your application;
- (4) anyone who opposes your application will be given an opportunity to speak under oath or present evidence;
- (5) you may rebut any opposing statements or add to what you have previously presented;
- (6) members of the Board may question you or any of the people who speak for or against your application; and
- (7) the Chairman will solicit comments or questions from the Board members, the Building Official, the Board's legal counsel, or anyone else who might be appropriate.

Ruling of the Board

After your application has been presented, and after proper deliberation among the Board's members, the Board will make a ruling on your application. The approval of four (4) Board members is required by law to grant approval to an application; a simple majority is not sufficient. There are four (4) options available to the Board.

- (1) Grant the relief you have requested in your application;
- (2) Grant the relief you have requested, upon satisfaction of whatever conditions might be imposed by the Board;
- (3) Deny the relief you have requested, but grant some sort of modification of the relief requested; or
- (4) Deny the relief you have requested.

Action After the Hearing

Any approval granted by the Board will expire ninety (90) days after the date of the Board's decision unless proper permits and approvals have been obtained from the Building Official, or unless more time has been approved by the Board prior to the expiration of the original ninety (90) day period. If you need additional time, you should promptly contact the Building Official.

If the Board has made a ruling which you choose not to accept and you want to proceed to formal court action, you must present to a court of record (Harris County) a verified petition which states that the decision of the Board is illegal in whole or in part and specify the grounds of the illegality. The petition must be presented within ten (10) days after the date the decision is filed by the Board. The matter is then under the court's jurisdiction and will proceed accordingly.

Additional Assistance

If you need any additional explanation or assistance in this matter, you are welcome to contact the Building Official, or other personnel at City Hall, who will attempt to help you in every way possible.

BOARD OF ADJUSTMENT
CITY OF TAYLOR LAKE VILLAGE, TEXAS

March, 2004