



**City of Merriam, Kansas  
Community Development Department**

**Application Guidelines for  
Variance or Appeals to the  
Board of Zoning Appeals**

The City of Merriam has adopted a Zoning Ordinance regulating the use of land within the City limits. All property in the City has been classified within one of the Zoning Districts for which requirements have been established in the Zoning Ordinance. The Zoning Ordinance specifies what uses of land are allowed within each Zoning District and establishes standards for the placement of structures, accessory uses, lot sizes, yards, fences, signs, off-street parking and other requirements.

In certain circumstances where unique conditions exist and where the strict application of the regulations would impose an undue hardship, a Variance may be requested from the Board of Zoning Appeals. Where a person believes that an error has been made in the enforcement of the regulations, an Appeal may be made to the Board of Zoning Appeals.

**APPLICATION**

An application for a Variance or an Appeal is included with these instructions. The Applicant Information and Property Information sections must be filled-in completely. The complete correct legal description of the property must be provided. If the legal description requires more space than provided on the form, it may be provided on a separate sheet attached to the application. The section titled Standard of Variances must be answered completely. The application must be signed by the owner(s) of the property, or a properly executed document that authorizes action on behalf of the owner(s) must be filed with the application.

**FEES**

Fees are charged per the approved Schedule of Fees. The current fee is \$100. The application will be accepted for processing by the Community Development Department only after the fee has been paid.

**PUBLICATION OF NOTICE**

City ordinance requires that a notice of Public Hearing be published one time in the official City newspaper at least 20 days prior to the date the Board of Zoning Appeals will hold a public hearing on the application. The City will prepare and place the Notice of Public Hearing in the newspaper.

## NOTIFICATION OF SURROUNDING PROPERTY OWNERS

- City ordinance requires that owners of all property located within 200 feet of the property for which a Variance is sought be notified no less than 10 days prior to the date of the hearing.
- The Community Development Department will provide the applicant a copy of the Notice of Public Hearing. Copies of this notice must be mailed to the surrounding property owners.
- The applicant must obtain a list of the owners of all of the property located within 200 feet. This list must be obtained from the **Johnson County Records and Tax Administration, County Square, Administration Building, 111 S. Cherry Street, Olathe, Kansas**, or may be provided by a Title Company.
- The applicant must mail, by **Certified Mail - Return Receipt Requested (green card Form #3811)**, a copy of the Notice of Public Hearing to each owner of property located within 200 feet of the applicant's property. These notices must be mailed no later than 10 days prior to the date of the public hearing. The applicant may include a cover letter explaining the request with the notice. The list of property owners obtained from the Records and Tax Administration Office and the proof of mailing provided by the Post Office must be provided to the Community Development Department prior to the hearing.

## NOTICE PLACED ON THE PROPERTY

The Community Development Department will provide a poster to the applicant that provides notice that an application has been filed. This poster must be posted on the property no later than 10 days prior to the date of the public hearing, facing the street so as to be visible to the public.

## SCHEDULE

The process of considering an application for a Variance or Appeal use requires a minimum of two (2) months. The Board of Zoning Appeals meets the third Wednesday of each month when it has business to conduct. Applications must be filed by the second Monday of any month to be considered by the Board of Zoning Appeals at their meeting the following month. The Community Development Department can provide a complete schedule for the processing of applications.

## VARIANCE POWERS

The ability for the Board of Zoning Appeals to grant variances are contained in the Kansas State Statutes at K.S.A. 12-759(e) and in Section 50-77(c) of the Merriam Code.

Section 50-77(c) of the Merriam Code states:

"When deemed necessary by the board of zoning appeals, the board may grant variances and exceptions from the zoning regulations on the basis and in the manner hereinafter provided: (1) to authorize in specific cases a variance from the specific terms of the regulations which will not

be contrary to the public interest and where due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, result in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district”.

“A request for a variance may be granted in such case, upon a finding by the board the all of the following conditions have been met;

- that the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant;
- that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- that the strict application of the provisions of the zoning regulations of which variance is requested will constitute undue hardship upon the property owner represented in the application;
- that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity , or general welfare; and,
- that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations...”

#### **ADDITIONAL INFORMATION**

Additional information is contained in the Zoning Ordinance. A copy of the Zoning Ordinance may be purchased from the City Clerk's office. If you have questions or wish to file an application for a Variance or Appeal, contact:

The City of Merriam  
Community Development Department  
9001 W. 62<sup>nd</sup> St.  
Merriam, Kansas 66202  
Phone(913)322-5520 Fax (913)322-5505

**All property owners are encouraged to review the Zoning Ordinance and discuss their specific situation with the Community Development staff prior to filing an application.**



City of Merriam, Kansas  
Community Development Department

Board of Zoning  
Appeals Application

APPLICANT INFORMATION			
Name			
Street Address			
City/State/Zip			
Business Phone		Home Phone	
Email Address			
PROPERTY INFORMATION			
Street Address of Property:			
Legal Description:			
Present Zoning Classification of the Property:			
VARINACE OR APPEAL INFORMATION			
Request:			
Reason for Request:			

**STANDARD OF VARIANCES**

Pursuant to the requirements of KSA 12-759 as amended, the Board of Zoning Appeals may grant a variance from the Zoning Ordinances, provided the board finds that all of the following conditions have been met. (Note: We have re-worded the conditions so that the applicant can respond to them to allow the board to more easily determine if these findings can be made).

**1-Does the variance requested arise from such condition which is unique to the property in question and which is NOT ordinarily found in the same zone or district; and is NOT created by an action(s) of the property owner or the applicant? YES  NO**

Explain:

**2-Will the granting of the permit for the variance NOT adversely affect the rights of adjacent property owners or residents? YES  NO**

Explain:

**3-Will the strict application of the provisions of the Zoning Ordinance of which variance is requested constitute unnecessary hardship upon the property owner represented in the application? YES  NO**

Explain:

**4-Will the variance desired NOT adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare? YES  NO**

Explain:

**5-Will granting of the variance desired NOT be opposed to the general spirit and intent of the Zoning Ordinance? YES  NO**

Explain:

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

**FOR OFFICE USE ONLY**

Application Number#:

BZA Fee \$100

Publication of Notice Date:

Public Hearing Date: