

*The City of Roeland Park,
Kansas*



APPLICATION FOR VARIANCE

**Ordinance
and
Application Form**



The City of Roeland Park, Kansas

4600 West Fifty-First Street
Roeland Park, Kansas 66205
City Hall (913) 722-2600 – Fax (913) 722-3713

To be filled in by City:
Date filed: _____
Case no.: _____

Application for Variance, Section 16-335.

Fee: \$100. (Free for residents/home owners in April and August) *Proof of residency required.*

Applicant _____ Phone _____

Address _____

If different from above:

Property Owner _____ Phone _____
Address _____

Location of Property : Subdivision _____ Lot _____ Block _____

Section of the zoning regulations for which variance is sought: _____

Present use of property: _____

Description of requested variance(s) _____

_____ (The application shall be accompanied by a sketch map showing proposed and existing structures and uses of the property and of immediately adjacent properties.)

Reasons for requested variance(s) _____

Utility lines or easements that would restrict proposed development _____

Adjacent zoning and land use:

	Land Use	Zoning
North	_____	_____
South	_____	_____
East	_____	_____
West	_____	_____

I acknowledge receipt of the variance criteria and that the above information is true and accurate.

Applicant signature: _____ Date: _____

Fee Paid \$ _____	Date _____	Received by: _____
Date of Publication: _____	Date of Public Hearing _____	
Date Proof of Ownership and/or Authorization of Agent affidavit(s) submitted _____		
Written comments from City Engineer submitted: _____		
Surrounding Property Owners Notified _____		Planning Commission/BZA Notified _____

Section 16-335. **VARIANCES. (CRITERIA)**

(a) When an applicant feels that the strict application of the requirements of the zoning regulations have created an undue hardship, such applicant may request a variance from the Board of Zoning Appeals.

(b) A variance should be issued only to the specific restrictions on physical construction; not to permissible land uses within a given district, and only if it reasonably constitutes the minimum variance necessary and the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

(c) To initiate a request for a variance the applicant or his authorized agent shall submit a completed application on the form provided by the City to the City Engineer and pay the appropriate fee as set forth in Section 16-333. The application shall be accompanied by a sketch map showing proposed and existing structures and uses of the property for which the variance is being requested and of immediately adjacent properties. The City Engineer may require applicant to submit photos of the subject property. No application shall be processed until it has been deemed completed by the City Engineer, the fee paid and all additional information submitted.

(d) When all requirements established in Subsections B and C have been complied with, the City Engineer shall notify the Chairman, and the Chairman shall schedule a regular meeting of the Board and send to the Board members copies of the application and all additional information submitted. At least 20 days prior to the Board meeting, an official notice to the public shall be published in the official City newspaper explaining the variance request and the time and place of the scheduled hearing, and a copy of the notice shall be mailed to the applicant, the Planning Commission, and to all owners of record of lands located within 100 feet of the property which is the subject of the application for variance. The form of the notice and the procedure for providing such notice shall be in accordance with Subsection 16-250(A).

(e) At the scheduled meeting of the Board, it shall hear all facts and testimony from all parties wishing to be heard concerning the requested variance. In each case, the Board shall not grant a variance unless it finds, based upon the evidence presented, facts which conclusively support all the following findings.

- (1) Uniqueness. The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by the action of the property owners or applicant. Such conditions include the particular physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.
- (2) Adjacent Property. The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents
- (3) Hardship. The strict application of the provisions of the zoning regulations from which a variance is requested will constitute unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.
- (4) Public Interest. The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- (5) Spirit and Intent. Granting the request for variance should not be opposed to the general spirit and intent of the zoning regulations.

(f) The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and the vote upon each question. Records of all official actions of the Board shall be filed in City Hall and shall be public record.

(g) The Board may either grant, grant conditionally, or deny the application for a variance. If the decision of the Board is not made at the meeting at which the hearing was held, a written decision shall be sent to affected parties and the Planning Commission.

16-334. APPEALS TO THE BOARD OF ZONING APPEALS.

(a) Appeals may be taken by any person aggrieved, or by any officer of the city or any government body or agency affected by any order, requirement, decision, or determination made by any administrative official of the City in the enforcement of Chapter 16, or of any ordinance adopted pursuant thereto.

(b) No appeal, pursuant to this Section, shall be heard by the Board until the individual appealing the order, requirement, decision or determination has met with the administrative official who made such determination to receive a full explanation of the zoning requirements in question as currently interpreted. No notice of appeal shall be processed until it has been deemed complete by the City Engineer, the fee paid, and all required additional information submitted.

(c) The appeal shall be taken within a reasonable time as provided by the rules of the Board. An appeal shall be initiated by filing with the person whose decision is being appealed and with the Board a notice of appeal specifying the decision being appealed from and a statement as to the reason of the appeal. The notice must be accompanied by the fee set by the Governing Body, pursuant to Section 16-333. City Engineer or the Board may require that drawings or photos of the property in question and a list if all surrounding property owners be submitted to the Board prior to consideration of the appeal by the Board.

(d) When all requirements established in Subsections b and c have been complied with, the City Engineer shall notify the Chairman and the Chairman shall schedule a meeting of the Board and shall send copies of the notice to the Board members. At least twenty days prior to the Board meeting, an official notice to the public shall be published in the official city newspaper explaining the appeal and the time and place of the scheduled hearing. A copy of the notice shall be mailed to each party to the appeal and to the Planning Commission. At the hearing, any party may appear in person or by an agent or by an attorney.

(e) An appeal stays all proceedings and furtherance of action appealed from unless the City Engineer certifies to the Board, after the notice of appeal has been filed, that, by reason of facts stated in the notice, a stay would cause imminent peril to life or property.

(f) At its next meeting, the Board shall hear all facts and testimony from all parties wishing to be heard concerning the appeal. The appeal shall be heard by the Board at the next meeting following compliance with the requirements established in Subsections b, c and d.

(g) In its deliberations, the Board must only consider whether or not the interpretation in question conformed to the specific language of the ordinance being enforced. The Board may not declare the zoning regulations unfair or attempt to act contrary to their purpose. The Board may clarify ambiguities or resolve conflicts between opposing sections. Since the Board's decisions will affect future application of the regulation in question, the specific hardship of the applicant should not be considered when reaching a determination on an appeal filed pursuant to this Section.

(h) The Board may either affirm, reverse, or modify the order, requirement or interpretation at issue. If the decision of the Board is not made at the meeting where the hearing was held, a written decision shall be mailed to affected parties.

16-336. APPEALS FROM BOARD OF ZONING APPEALS. Any person or an official of a government agency dissatisfied with any order or determination of the Board may bring an action to determine the reasonableness of any such order or determination within thirty days after the making of such order or determination, in the District Court of Johnson County, Kansas