



GUIDE FOR ZONING VARIANCE APPLICATION

City of Conway, Arkansas - Planning & Development

1111 Main Street • Conway, AR • 72032 • 501-450-6105 • www.conwayarkansas.gov

Planning Commission acting as the Board of Zoning Adjustment Power and Duties, Procedures, Time Limits, and Appeals

Powers and Duties

In accordance with #O-11-97, as amended by #O-23-11, and as allowed by Arkansas State Code 14-56-416.B.1, The Board of Zoning Adjustment (Board) is established and shall consist of the membership of the Planning Commission. The officers of the Planning Commission shall hold the same offices on the Board. The Board shall have all the powers and duties prescribed by law and by this ordinance including the consideration of Administrative Review Appeals, Variances, and Special Exceptions.

1. Administrative Review

The Board may hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Administrative Official in the enforcement of the Zoning Code. The Board may affirm or reverse, in whole or in part, said decision by the Administrative Official.

2. Variances & Special Exceptions

The Board may hear and decide variance requests from the literal provisions of the Zoning Code in instances where strict enforcement of the Zoning Code would cause undue hardship because of circumstances **unique** to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the Zoning Code. The Board shall not approve a variance unless making a finding of fact that affirms the following:

- a. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, the strict application of this Zoning Code would result in an undue hardship to the owner, as distinguished from a mere inconvenience.
- b. The conditions causing the need for a variance are **unique** to the property and are not applicable, generally, to other property within the same zoning classification.
- c. The literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Code.
- d. The granting of the variance will not harm the public welfare, other property, or improvements in the area in which the property is located.
- e. The proposed variance complies with the spirit and intent of restrictions imposed by this code and is the **minimum** variance necessary to make reasonable use of the property. No variance may be approved that would allow a use that is not permitted or that is implicitly or expressly prohibited. The Board may provide conditions on the approval of a variance. Violation of these conditions shall be considered a violation of this Zoning Code.

In granting a variance, the Board may specify appropriate conditions and restrictions. Violations of such conditions and restrictions are a violation of the Zoning Code.

3. Administrative Waivers

The Administrative Official shall have the authority to grant administrative waivers with any application administered through this code for the following circumstances:

a. Area Requirements

Administrative waivers may be granted for any area requirements such as setbacks, height, lot size, or lot coverage established within Article III of this code, where such action will not be harmful to the public welfare. No administrative waiver may be granted for more than ten percent (10%) of the numerical standards, and no administrative waiver for a requirement that does not have a numerical standard.

b. Existing Structures

Administrative waivers may be granted where approval of a variance for any area requirements established within Article III of this code, excluding lot size, would be necessary to allow the approval of a minor subdivision. In such cases the waiver shall only apply to the existing structure any not any reconstructed or future structures. No

waiver may be approved that would result in a condition which could not meet setbacks required by the Arkansas Fire Prevention Code.

c. **Reporting**

Granting of all administrative waivers shall be reported to the Planning Commission within thirty (30) days of being approved.

Procedure

1. The applicant must pay a non-refundable filing fee of \$325.00 for any zoning variance request, including administrative waivers.
2. Every appeal or application shall refer to the specific provision of the Zoning Code involved and shall exactly describe (a) the interpretation that is claimed, (b) the use for which the variance is sought, or (c) the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
3. The application for zoning variance must be submitted to the Planning Department in accordance with the Planning Commission calendar (attached).
4. The application must include a scale drawing showing the requested variance along with any other relevant information, including the special condition or situation that causes the practical difficulty or undue hardship for which relief is being sought and a statement and/or diagram explaining why the proposed zoning variance will not conflict with the surrounding land use.
5. The applicant must place a notice of public hearing in the *Log Cabin Democrat* or *Arkansas Democrat-Gazette* appearing **at least once, 15 days prior to the public hearing**. The notice must include:
 1. The zoning variance being sought,
 2. The location (including legal description and address. If no address is available, a description, that is clear to the average person, will suffice) and
 3. The time, date, and place of the public hearing. (see attached Planning Commission calendar)The public notice must be headed "Public Notice" and include the name of the current chairperson of the Planning Commission.
6. The applicant must post one public hearing sign on each street frontage, and an additional sign every 500 feet. The sign(s) should be clearly visible and unobstructed to the passing general public. The sign(s) must be posted on or near the front property line **no later than 15 days prior to the public hearing** and must remain on the property until the public hearing before the Board. The disposable sign(s) is obtained from the Planning & Development Department. The cost is \$10.00 per sign.
7. The applicant must notify all property owners within 200 feet of the subject property via first-class mailing letter and/or petition **no less than 15 days prior to the public hearing**. The notification must include the date, time, and location of the public hearing. The postmarked certificates of mailing and/or return receipts and/or petition must be submitted to the Planning & Development Department no less than 15 days prior to the public hearing. A list/map indicating all property owners within 200 feet of the subject property and a letter from the petitioner, certifying that the list/map is complete, must also be submitted at this time. OR a list of property owners within 200 feet of the subject property may be obtained from the Planning and Development Department prior to the deadline.
8. At the public hearing, the proposed variance may be approved as presented, in modified form, or with conditions by a majority vote of total membership of the Board. The variance request does not go forward to the City Council for further review.

Lapse of Variance

A variance shall become lapse and void under the following:

- a. The use for which the variance is tied is not commenced within eighteen (18) months.
- b. The building or structure that caused the need for the variance has not begun construction within eighteen (18) months.

Appeals

Decisions of the Board may be appealed to the City Council in accordance with the Arkansas Code Annotated §14-56-416. Such appeals shall follow the procedures established in Article VII of the Conway Zoning Code.

Note: This is not an exhaustive guideline regarding the Board of Zoning Adjustment. Additional information is available in the City of Conway Zoning Code, Article VII.

Checklist of Items for Zoning Variance Application

- Application for zoning variance**- filed with the Planning & Development Department **in accordance with the Planning Commission calendar (attached).**
- Scaled drawing showing requested variance along with any relevant information** - filed with the Planning & Development as part of the application, in accordance with the Planning Commission calendar.
- Non-refundable Filing fee of \$325** - paid at the Planning & Development Department in accordance with the Planning Commission calendar. Make checks payable to City of Conway.
- Sign** - the disposable sign can be obtained at the Planning & Development department for \$10.00 and must be posted **no less than 15 days prior to the public hearing.**
- Proof of Publication** - The notice must appear at least once **no less than 15 days prior to the public hearing.** The proof of publication, obtained from the *Log Cabin Democrat* or *Arkansas Democrat-Gazette* after publication of public notice, is filed with the Planning & Development Department **no less than 10 days prior to the public hearing.**
- Certificates of Mailing and/or petitions to all property owners within 200 feet** - notifications to all property owners within 200 feet must be postmarked **no later than 15 days prior to the public hearing.** Completed certificates of mailings (issued by the USPS) and/or petition are filed with the Planning & Development Department no later than 10 days prior to the public hearing.
- Map/List showing all property owners within 200 feet** - a map/list (may be obtained from the Planning & Development department) including all names of property owners within 200 feet must be filed with the Planning & Development Department **no later than 10 days prior to the public hearing.**

VARIANCE CHECKLIST

Conway Planning Commission acting as the Board of Zoning Adjustment City of Conway, Arkansas

At least one checkmark should appear under each of the items 1, 2, and 3 below in order for the Board to have the power to grant a variance. **The Board shall not grant a variance to allow a land use not permissible in the zoning district involved.**

1. Exceptional condition of a specific property
 - Narrowness
 - Shallowness
 - Shape
 - Topographical conditions
 - Other extraordinary or exceptional situation or condition

2. Frequency of occurrence of exceptional conditions
 - Not generally prevalent in the area

3. Result of a strict application of the Zoning Code
 - Peculiar and exceptional practical difficulty to the Owner of the property
 - Exceptional and undue hardship on the Owner of the property

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Proposed Location

Address: _____

Subdivision Name: _____

Block Number: _____

Lot Number: _____

Property description if not in a subdivision: _____

Description of variance being sought: _____

Proposed Use: _____

Name of Applicant: _____

Signature of Owner/Applicant: _____

Home Address: _____

Email Address: _____

Daytime Telephone: _____

Date: _____

NOTICE OF PUBLIC HEARING AND NOTIFICATION LETTER FORMAT

The following information is to be included in the newspaper publication and notification letters.

Notice is hereby given that _____ has filed an application with the Conway Planning Commission requesting that they be allowed _____
name of applicant variance requested

at the following described property:

[insert physical address or a description clear to the average person if no physical address is available]

more particularly described as **[insert legal description]**

A public hearing on said request will be held at 6:30 pm on _____ in the City of Conway Municipal Building, 1111 Main Street. All persons are called upon to show cause for or against the granting of said permit.
meeting date

For further information regarding this item please visit www.conwayarkansas.gov or contact the Planning & Development department at 501-450-6105.

Rebekah Fincher
Chairman, 2024
Board of Zoning Adjustment

This notice must appear in the legal notices section of a publication of general circulation within the City of Conway, such as the Log Cabin Democrat or Arkansas Democrat-Gazette, no less than 15 days prior to the public hearing.

There is no timeline on how early your legal notice must be published.

Please contact the Log Cabin Democrat at legals@thecabin.net or by phone at (501) 327-6621 (or) the Arkansas Democrat-Gazette at classifieds@arkansasonline.com or by phone at (501) 372-3733 to:

1. confirm submission deadline [usually 24-48 hours prior to publication] and
2. confirm format requirements [typically a copy and paste format such as Microsoft Word or RTF file].

LETTER OF AUTHORIZATION

I/We, the undersigned property owner(s), do hereby name and authorize _____
authorized representative
to act as agent of owner in my/our behalf in the matter of the application filed for zoning variance before the Planning Commission of Conway, Arkansas.

Executed this _____ of _____, 2024.
day of the month month

Owner Name (please print)

Owner Name (please print)

Owner Signature

Owner Signature



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2024 Conway Planning Commission Schedule

Application Deadline	Review Comments Available to Applicant	Revisions Deadline	Staff Report Published	Planning Commission Meeting
December 14, 2023 ¹	December 27, 2023	January 4, 2024	January 11, 2024	January 16, 2024 ²
January 19, 2024	January 31, 2024	February 8, 2024	February 15, 2024	February 20, 2024 ³
February 16, 2024	February 28, 2024	March 7, 2024	March 14, 2024	March 25, 2024 ^{4,5}
March 15, 2024	March 27, 2024	April 4, 2024	April 11, 2024	April 15, 2024
April 19, 2024	May 1, 2024	May 9, 2024	May 16, 2024	May 20, 2024
May 17, 2024	May 29, 2024	June 6, 2024	June 13, 2024	June 17, 2024
June 14, 2024	June 26, 2024	July 5, 2024	July 11, 2024	July 15, 2024
July 19, 2024	July 31, 2024	August 8, 2024	August 15, 2024	August 19, 2024
August 16, 2024	August 28, 2024	September 5, 2024	September 12, 2024	September 16, 2024
September 20, 2024	October 2, 2024	October 10, 2024	October 17, 2024	October 21, 2024
October 18, 2024	October 30, 2024	November 7, 2024	November 14, 2024	November 18, 2024
November 15, 2024	November 27, 2024	December 5, 2024	December 12, 2024	December 16, 2024

- Conway Planning Commission meetings are held the 3rd Monday of each month at 6:30pm.⁵
- All meetings are held in the City Council Chambers of Conway City Hall, 1111 Main Street.
- All applications/submissions are due by 3:00pm on the submission deadline date. The Planning & Development Department receives submissions for planning and subdivision review via the Civic Access Portal at the following link. [APPLY ONLINE](#).
- Incomplete applications will be deferred to another month's agenda. (*refer to applications checklists*)
- The Planning Commission Meeting date associated with the Application Deadline is the earliest an item can be considered by the Planning Commission if Staff determines that all comments have been addressed.
- All comments on public hearing items, received by 4:30pm on the day of the meeting, will be forwarded to the Planning Commission via email. To submit a comment or if you have questions please contact Planning Staff by email at planning@conwayarkansas.gov or by phone at (501) 450-6105.

¹ Submission deadline moved due to City Employee Appreciation Event

² Meeting moved due to Martin Luther King Jr. Day observance

³ Meeting moved due to Presidents' Day observance

⁴ Meeting date moved at the request of the Planning Commission

⁵ Meeting date and time for the March 25, 2024, Planning Commission meeting is set for 7:00pm at the discretion of the Planning Director by request of the Planning Commission