

INSTRUCTIONS FOR REQUIRED INFORMATION

NO APPEAL CAN BE ACCEPTED FOR FILING UNLESS ALL OF THE REQUIRED INFORMATION IS PRESENTED

1. **GENERAL INFORMATION.** The De Soto Board of Adjustment is empowered by Iowa law and by ordinance to hear requests and to make decisions on said requests in regard to certain appeals for variances to the Zoning Ordinance and for certain exceptions to the district regulations. The Board of Adjustment is a five member quasi-judicial body with authority to grant variance permits in exceptional cases and is limited to such cases that are consistent with the general purpose and spirit of zoning regulations. The Board has NO authority to allow a variance that would have the effect of establishing a non-conforming use of land or to change district boundaries except as outlined in the Zoning Ordinance. The Board has NO authority to allow a variance whose effect is not on harmony with the intended spirit and purpose of the Zoning Ordinance. Specifically the Board is limited to the powers and duties outlined in the De Soto Zoning Ordinance, §301.29 Board of Adjustment - Procedure, Power and Duties.
2. **MEETING DATES.** The Board of Adjustment meets at 7:00 p.m. on an as needed basis each month. Submittal of all the information does not in anyway assure that the application will be placed on the next available Board of Adjustment agenda. All Board of Adjustment meetings are normally held in the Council Chambers in City Hall, 405 Walnut Street, De Soto, Iowa. The meetings are open to the public. Agendas for all Board of Adjustment meetings may be obtained at City Hall.

Following review of the case by the Board of Adjustment, the case is placed on the next available City Council agenda. City Council meets the 3rd Tuesdays of each month at 7:00 p.m. in the Council Chamber in City Hall. Council reviews the Board of Adjustment minutes and may, at their discretion, remand the case back to the Board of Adjustment for further study. If remanded, the case will be placed on the following Board of Adjustment agenda for further review. Once the case is remanded back to and reviewed by the Board of Adjustment, the decision of the Board is final unless the case is appealed in a court of law.

3. **FILING DEADLINE:** The deadline to file an application or an appeal with the Board of Adjustment is 5:00 p.m., 18 days prior to the Board of Adjustment meeting. All materials must be filed at De Soto City Hall.
NOTE: Be sure that you have all required material at that time. Failure to do so may result in your appeal being delayed to the next scheduled meeting one month later.

4. **FILING FEE:** A filing fee is required at the time the materials are filed with the Code Compliance Office. The fee helps cover administrative expenses and legal notification of surrounding property owners within 200 lineal feet of the property in question. The Board of Adjustment rules state that no appeal is to be considered filed until this fee is received. The fee schedule for planning, subdivision and zoning are as follows:

CITY OF DE SOTO PLANNING/SUBDIVISION/ZONING FEES	
All Site Plans	\$65.00 plus costs < 1 acre \$90.00 plus costs > 1 acre
Auditor's Plat	\$30.00 plus costs
Preliminary Plat without Streets	\$50.00 + \$2.00/Lot plus costs
Preliminary Plat with Streets	\$60.00 + \$2.00/Lot plus costs
Final Plat without Streets	\$30.00 + \$2.00/Lot plus costs
Final Plat with Streets	\$40.00 + \$2.00/Lot plus costs
Zoning Changes	\$150.00 + \$3.00/letter
Zoning Changes – PD(PUD)	\$200.00 + \$3.00/letter
Construction Inspection	\$45.00/Hour
Construction Plans	\$150.00 plus costs
Board of Adjustments - Residential	\$35.00 + \$1.00/letter
Board of Adjustments- Commercial/Industrial	\$70.00 + \$1.00/letter

Revised 06-16-03

PLUS:

All additional costs incurred by the City of De Soto for review by the City Engineer and/or City Attorney; and reimbursement for publication charges when warranted due to excessive costs, shall be reimbursed to the City of De Soto by the subdivider, person or persons or agent of the person who filed the site plan, or by the party who filed the petition, or his agent.

Payment of said fees must be submitted with the application processing procedures. The fee shall be paid at City Hall, 405 Walnut, De Soto, Iowa. Make all checks payable to the City of De Soto. The fee is non-refundable unless the appeal is withdrawn prior to staff starting its review.

5. **SITE PLAN.** The applicant must submit a site plan which clearly shows the Variance that is sought. The site plan should be drawn to scale, and should be a reproducible, black line drawing or free hand drawing on a sheet of paper no larger than 11" x 17". (*Use of actual property survey is suggested but not required.*) The applicant may submit the same site plan that was submitted for a Building Permit.

The site plan shall include the following information: (a) property lines and dimensions; (b) abutting rights-of-way; (c) location and size of all existing and proposed property lines; (d) structures; (e) driveways and parking areas fully dimensioned; and (f) any other pertinent information necessary to fully understand the need for a Variance (*e.g., significant change in topography, location and size of mature trees, etc.*).

NOTE: If the appeal is for a sign, the appeal must be accompanied by: (a) a fully dimensioned, elevation drawing (to scale) of the sign; and (b) a fully dimensioned site plan (to scale) showing the exact location of the sign, including whether it is a free standing or a building-mounted sign.

6. **SUPPORTING INFORMATION FORM.** The Board of Adjustment may grant a Variance provided that: 1) “unnecessary hardship” exists; 2) that the Variance is not contrary to the public interest; and 3) that the spirit of the Zoning Ordinance is upheld. The “Supporting Information” form addresses these issues and asks for responses to each of the “tests” in order to grant a Variance. The “Supporting Information” form must be completely filled out in order to process the application for a Variance.
7. **ADDITIONAL INFORMATION.** If you have questions about this form, or should you require additional information regarding the Variance process, please contact Marcia Thomas, City Clerk, at (515) 834-2233 or FAX (515) 834-2131.
8. This appeal cannot be processed until all required materials are submitted. In addition to this Application, the following information is required to be submitted:
- _____ a. **A site plan, drawn to scale.** This plan should not be larger than 11” x 17”; use of graph paper is highly recommended.
 - _____ b. **A completed “Support Information Form”.** This form is included in this packet of information.
 - _____ c. **Application fee.** An application is not considered filed until the filing fee is paid.

The Board of Adjustments may grant a Variance provided the Board can make a finding of Unnecessary hardship and can determine that the Variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

CITY OF DE SOTO
BOARD OF ADJUSTMENT
APPLICATION FOR VARIANCE HEARING

HEARING # _____-200__

DATE OF HEARING ___/___/___

NAME OF PROPERTY OWNER _____

ADDRESS OF PROPERTY _____

Have you reviewed the Board of Adjustment Information Packet? ___ YES ___ NO

Have you talked with a City Administrative Official about your request? ___ YES ___ NO

Is this application for:

1) Administrative Review? **Section 165.30**

To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an Administrative Official in enforcing this Ordinance. **Explain in detail what is being appealed and the grounds therefore:**

2) A Special Exemption? **Section 165.28**

To permit exceptions to the District regulations set forth in this Ordinance subject to the requirements of this Section. ___1 ___2 ___3

Section number for which exception is sought: _____

Grounds for exemption: _____

3) Variance?

To authorize upon appeal in specific cases such Variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. **A Variance from the terms of the Zoning Ordinance shall not be granted unless and until all four criteria listed below are proven to be capable of being answered “yes.”**

- A. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structure, or buildings? YES NO

Explain in detail: _____

- B. Does a literal interpretation of the provisions of this Ordinance deprive the applicant rights commonly enjoyed by other properties in the same district? YES NO

Explain in detail: _____

- C. The special conditions and circumstances **are not** the result of the actions of the applicant. YES NO

Explain in detail: _____

D. Granting the Variance request **will not** confer on the applicant any special privilege that is denied by this Ordinance on other land, structure, or buildings in the same district. ___YES ___NO

Explain in detail: _____

Have you paid your fee for appeal? ___ YES ___ NO

Have you submitted a detailed site plan? ___YES ___NO ___N/A

Applicant – In order to ensure a timely appeal and a smooth hearing, please attach any and all relevant information, documents, permits, site plans and correspondence that the Board may consider for your appeal.

SIGNATURE OF APPLICANT

____/____/____
DATE

SUPPORTING INFORMATION

The Board of Adjustment is authorized to grant a Variance, provided all the following tests are satisfied. Please provide information in the spaces below to address each of these tests. Additional supporting information may be attached.

I. The Board of Adjustment must make a finding of unnecessary hardship. The hardship must be related to the physical aspects of the property and not a personal hardship. To support a finding of unnecessary hardship, the Board must find, based upon competent evidence that:

A. The land in question cannot yield a reasonable return or use if used only for the purpose allowed in the zone. To meet this test, the applicant must show that all beneficial use and/or enjoyment of the property will be lost if the Variance is not granted. Supporting evidence from a professional appraiser, realtor, or other professional, may be necessary to support your appeal. The Board of Adjustment may require additional documentation in order to grant this Variance.

II. *Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and are not applicable to other, lands, structures, or buildings.*

A. To meet this test, please describe the special conditions and circumstances, and how these make a Variance necessary.

B. Would a literal interpretation of the provisions of this Ordinance deprive you of rights commonly enjoyed by other properties in the same district? **NOTE: The existence of a similar non-conforming use or past similar decisions by the Board approving similar Variances is not justification for this section.**

The appellant must show that the physical circumstances on his/her property are unique and unlike properties in the vicinity or elsewhere in the City.

C. The special conditions and circumstances are not the result of your actions. Please describe how this hardship is being caused by the strict interpretation of the Zoning Ordinance and not self-imposed by the applicant.

D. The granting of this Variance will not confer on you any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

III. The Variance will not be contrary to the public interest or overall neighborhood integrity. The appellant must present information to indicate that the Variance will not result in injury or endangerment to other property or persons, nor will it devalue nearby property.

IV. The spirit of the Ordinance is protected. The appellant must show that the Variance is consistent with the intent of the Zoning Ordinance and the Land Use Plan. A Variance would not be consistent with the intent if alternatives for development exist that do not require a Variance.

V. That this request for a Variance is the minimum Variance that will make possible the reasonable use of the land, building, or structure. The applicant should list other options that have been considered in lieu of granting a Variance.

This appeal will not be granted unless sufficient facts are presented in this application and at the Board hearing to support a positive finding by the Board. In support of this appeal, a "Supporting Information" form shall be completed by the appellant(s).

Approval of this appeal for a Variance by the Board of Adjustment in no way absolves the applicant from subsequently obtaining the necessary Building Permit(s) or other Permits from the City of De Soto or any other applicable agency.

I (We) certify that I (we) have been denied a Building/Zoning Permit, and I (we) have submitted all the required information to appeal for a Variance and that information is factual.

Signed by: _____ Date: ____/____/____
(Owner)

Or: _____ Date: ____/____/____
(Owner's Agent)

(CITY OFFICE USE ONLY)

HEARING DATE: _____

FEE PAID: _____ RECEIPT NO: _____

DATE FILED: _____

BOARD OF ADJUSTMENT ACTION:

APPROVED: _____ DENIED: _____
(DATE) (DATE)

COUNCIL ACTION:

APPROVED: _____ DENIED: _____
(DATE) (DATE)