

**ZONING BOARD OF ADJUSTMENT
APPLICATION**

Lincoln County
Office of Planning and Zoning
Courthouse 104 North Main
Canton, SD 57013
Phone: 605-764-2938
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Email: pandz@lincolncountysd.org

Petition No.: _____
Date: _____
Filing Fee: _____ \$250 _____
(Non-refundable)

I/We the undersigned, do hereby request action by the Board of Adjustment for the following:

- _____ Appeal of Administrative decision
- _____ Variance

Legal Description: _____

Size of Parcel: _____

Address or General Location: _____

Existing Zoning District: _____

Reason for appeal or variance: _____

Site Plan Required:

Petitioner (Print): _____

Signature: _____

Date: _____ Phone: _____

Address: _____

City State Zip

Owner (Print): _____

If different than above

Signature: _____

Date: _____ Phone: _____

Address: _____

City State Zip

Property must be posted for 10 days prior to the meeting.

WHAT IS A VARIANCE?

State law recognizes that at times the strict enforcement of the zoning ordinance may impose a specific economic hardship on a citizen. In such situations the citizen may apply for a variance. A variance is a case-specific relaxation of the ordinance requirements.

A variance may be appropriate if there is an economic hardship as opposed to an inconvenience. Variances, however, are not appropriate when the hardship results from a mistake by the petitioner rather than directly from the ordinance requirements.

- The Board of Adjustment hears requests from landowners for special exceptions and variances. It also interprets the Zoning Ordinance. Without the Board, the only recourse a landowner would have in the interpretation of the ordinance or for situations not specifically covered by the ordinance would be the courts, a sometimes costly and lengthy procedure. The Board consists of six (6) citizens from the Planning and Zoning Commission and 1 County Commissioner.

HOW DO I PETITION FOR A VARIANCE?

A person wishing to petition for a variance must submit a variance application form, filing fee, and comprehensive site plan to the Lincoln County Planning Office approximately two weeks prior to a regularly-scheduled planning commission meeting. The site plan should show all appropriate features of the site and should detail why the variance is necessary.

THE BOARD OF ADJUSTMENT MEETING

When a complete petition for a variance has been submitted to the Planning Department the Lincoln County Planning Commission serves as a Board of Adjustment to consider the application. All meetings are held during regularly scheduled Planning Commission meetings and are public hearing. Meetings are normally scheduled for the third Monday of each month at 7:00 p.m. The Board, in considering a request for a variance or special exception, should assure themselves that the hardship is not self-created and that the hardship is not applicable to the other property in the area. The burden of proof rests upon the applicant.

FINDINGS, CONCLUSIONS, AND ORDER

The Board will make its decision at the hearing based on the testimony presented. This order will expire without notice in two years, unless the project is substantially completed.

APPEAL BOARD'S DECISION

Anyone aggrieved by a decision of the Board may appeal that decision to a court of record.

POSTING OF THE PROPERTY

Public notification of the petition will occur by the posting of the property at least 10 days prior to a public hearing. After considering the evidence presented at the meeting, The Board may approve a variance if they find that all of the following conditions are present:

- The physical features, shape or topography of the property would result in a particular hardship upon the owner as distinguished from a mere inconvenience. If it is a privilege it will not be granted.
- The site-specific conditions of the variance request would not generally apply to other property with the same zoning or to other similar land uses.
- The granting of the variance will not be detrimental to the public welfare or to other property in the area.
- The proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property; increase the congestion in the public streets; increase the danger of fire; endanger the public safety; or diminish property values within the area.
- There is no possibility that the property can be developed in strict conformance with the zoning regulations and that a variance is necessary to enable the reasonable use of the property.
- That the variance, if authorized, is the minimum variance that will afford reasonable relief and the least necessary modification of the zoning regulations. Does not create a variance for special exceptions.