

APPLICATION FOR DIMENSIONAL VARIANCE AND/OR APPEAL

(City of Meridian Zoning Ordinance excerpts)

1700.01 Dimensional variances: Where the strict application of this ordinance would result in unnecessary hardship upon the owner of such property, the Zoning Administrator is empowered to grant, upon an application relating to such property, a dimensional variance from such application so as to relieve such hardships. Examples of such difficulties or hardships include exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of this ordinance; or by reason of the location of trees, natural drainage course, lakes, or other desirable or attractive features, which condition is not generally prevalent in the neighborhood.

1700.02 Application requirements for granting variances:

- (1) Any person desiring a dimensional variance from the terms of this ordinance shall submit a written application on a form furnished by the Zoning Administrator and include a location map, a site plan, the exact nature of the requested variance conforming to the procedures noted below so that the Zoning Administrator can make an informed decision.
- (2) In order to authorize any variance from the terms of the ordinance, the Zoning Administrator must find:
 - (a.) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
 - (b.) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance and would work an unnecessary and undue hardship on the applicant;
 - (c.) That the special conditions and circumstances do not result from the actions of the applicant;
 - (d.) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same zoning district;
 - (e.) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;
 - (f.) That the granting of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest;
 - (g.) That the reduced setback will not substantially reduce the amount of privacy that would be enjoyed by nearby residences;
 - (h.) That traffic visibility on adjoining streets will not be adversely affected;
 - (i.) That drainage from proposed buildings and structures will not adversely affect adjoining properties and public rights-of-way.
- (3) In granting any variance, the Zoning Administrator may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the ordinance.
- (4) The Zoning Administrator may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.
- (5) Under no circumstances, except as permitted above, shall the Zoning Administrator grant a variance to permit a use not otherwise allowed in the zoning district involved. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance. A distance of at least ten (10) feet between buildings must be maintained at all times for fire protection.
- (6) A response will be provided within thirty (30) days.
- (7) The Zoning Administrator must make findings that the requirements of sections 1700.01 and 1700.02 have been met by the applicant for a variance.
- (8) The Zoning Administrator must further make a finding that the reasons set forth in the application justify the granting of the variance.

1700.03. Application procedures:

- (1) Any person requesting a dimensional variance from the terms of this ordinance shall submit a written application on forms provided by the Zoning Administrator with the following:
 - (a.) Application forms indicating the exact nature of the variance, demonstrating the grounds upon which it is requested and addressing each of the standards;
 - (b.) A plot plan or sketch plan showing existing and proposed buildings and structures, access, parking, and distances from buildings and structures to property lines and to other buildings and structures;
 - (c.) An elevation drawing, if determined necessary by the Zoning Administrator, showing existing and proposed building or structure;
 - (d.) Notarized signature(s) of the affected adjoining property owner(s) of record not objecting to the proposed variance;
 - (e.) A variance fee according to the fee schedule;

(f.) Any other information reasonably necessary to evaluate the application which is required by the Zoning Administrator.

(2) Action by the Zoning Administrator:

- (a.) The Zoning Administrator shall review all the submitted information and provide a written response to the applicant for the variance;
- (b.) The response shall state the reasons for the decision if the request is denied;
- (c.) The applicant or the owner of any affected property may appeal the decision of the Zoning Administrator to the Commission in the manner of other appeals.

Section 16. Nonconformities

16.01. Within the districts established by this ordinance or amendments thereto there are sites, structures, and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are eventually removed, but not to encourage their continuation. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for placing additional signs, adding other structures or uses except in conformance with this ordinance.

16.02. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently.

16.03. Definitions:

16.03.01. Nonconforming building or structure: Any building or structure that does not meet the limitations on size and location on a site for the district in which such is located, or the use to which such is being put.

16.03.02. Nonconforming lot or site: A lot or site the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

16.03.03. Nonconforming use: A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

16.03.04. Discontinuance: As it applies to nonconforming uses, discontinuance results from the occurrence of one of the following conditions:

- (1) Willful vacancy of a structure designed or arranged for the nonconforming use for a continuous period of one (1) year; or
- (2) Willful vacancy of land for a period of ninety (90) days; or
- (3) Willful vacancy of any structure other than in #1 for a period of six (6) months; or
- (4) Clear intent on the part of the owner to abandon the nonconforming use.

16.04. For nonconforming structures, uses of structures or of premises, or of structures and premises in combination; to the degree that a nonconformity exists on the effective date of adoption or amendment of this ordinance, the nonconformity may be continued so long as it remains otherwise lawful and subject to the following requirements:

16.04.01. No nonconformity shall be enlarged, extended, constructed, moved, or structurally altered except when changed to a use permitted in the district in which it is located; or altered to decrease the nonconformity; or reconstructed after being damaged to an extent of less than fifty (50) percent of total replacement cost.

16.04.02. If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Zoning Administrator shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use pursuant to Section 1000.

16.04.03. Any premises in or on which a nonconforming use is A) superseded by a permitted use; or B) discontinued for twelve (12) consecutive months; or C) removed or destroyed by damage exceeding fifty (50) percent of the total replacement cost, shall thereafter conform to the regulations for the district and this ordinance generally.

16.04.04. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-load bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty-five (25) percent of the total replacement cost of the nonconforming structure provided that the cubic amount existing when it became nonconforming shall not be increased.

16.05. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized safety official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located except that the safety official may mitigate hazards.

1000.01. Designation of responsibilities: The Planning Division of the department of community development is hereby designated as the authority whose duties in accordance with the provisions herein shall include responsibility for the administration of this ordinance. The Planning Division Manager, is the administrative official of the zoning ordinance and is hereby designated as the Zoning Administrator whose responsibilities shall include but not necessarily be limited to:

- (1) To give administrative interpretations of the terms and provisions of this ordinance and to keep written records of all administrative interpretations of this ordinance;
- (2) To coordinate matters before the site plan review committee and to act as chairman of the committee;
- (3) To coordinate matters before the Commission, to provide support services, to act as secretary and to set public hearing times, dates, and place;
- (4) To process rezoning applications, special use permit applications, comprehensive plan amendments, applications to vacate rights-of-way and, easements, and plats;
- (5) To implement procedures and to make periodic checks to assure compliance with the requirements of the zoning ordinance;
- (6) To keep informed on planning and zoning matters through seminars, workshops, conferences and publications;
- (7) To maintain the comprehensive plan, zoning ordinance, and other land use regulations through annual review, evaluation and amendments, if needed;
- (8) To make recommendations through staff reports to the Commission;
- (9) To make certain zoning map amendments are made on all zoning maps;
- (10) To provide the public with planning and zoning information as well as application forms;
- (11) To grant only such variances as permitted by this ordinance.

1000.02. Administrative interpretation of ordinance:

- (1) In the event there is a question concerning the general intent or meaning of any provision of this ordinance text, or the positioning of district boundaries, or of district designation, or interpretation of allowable and new and unclassified uses, or other matters relating to the official zoning map, the Zoning Administrator has the right to make such administrative decisions and interpretations.
- (2) Administrative interpretation shall take into consideration comprehensive plan goals, objectives, and policies; zoning ordinance purposes and the intent and purpose for each zoning district. Administrative interpretation must in no manner be construed as permitting or granting a variance to the provisions of this ordinance. Administrative interpretation may be appealed to the Commission.
- (3) Questions concerning any new or unlisted use shall be referred to the Zoning Administrator requesting an interpretation as to the zoning classification into which the use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves such characteristics as dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated, the general requirements for public utilities such as water and sanitary sewer, and the degree of compatibility of the use.
- (4) The Zoning Administrator shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within such use should be permitted.
- (5) Decisions of the Zoning Administrator shall be deemed final unless a written appeal is filed in the manner of other appeals.
- (6) Upon making his determination, and if there is no appeal, the Zoning Administrator shall notify any other officer or agency of the city likely to be affected by such ruling.
- (7) Such determinations are binding on all officers and agencies of the city as an administrative ruling, and may be included as an amendment to the zoning ordinance when subsequent amendment items are considered and if the proposed use is sufficiently common to justify a text amendment.
- (8) The Zoning Administrator shall keep a permanent record of the findings and determination for future reference.

1400.01. Purposes of special uses, standards and special use permits:

- (1) The development and implementation of this zoning ordinance is based upon the division of the community into districts, within which the use of land and buildings, and the bulk and location and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics or nature, require special and intensive review to determine whether they should be permitted in specified locations.
- (2) These special uses also require review based upon standards and the application of special conditions and safeguards if permission is granted in such locations. Special use procedures and standards as provided herein are intended to assure that such review is made and that appropriate conditions and safeguards are attached. Special use procedures and standards shall be applied, and special permits granted, only in cases authorized under this ordinance.

- (3) Special use permits are required for specified uses which must satisfy standards in addition to those generally applicable in a zoning district to eliminate or minimize the potentially harmful characteristics or impact of such special uses on the character of the zoning district in which they will be located.
- (4) In addition to zoning procedures and requirements relating generally to issuance of building permits and certificates of occupancy/zoning compliance, a special use permit system is hereby established. It is intended that this system shall assure special examination, review, and findings by appropriate agents, agencies or bodies in connection with proposed actions particularly specified in this ordinance.
- (5) Special use permit procedures and standards as set forth herein are intended to apply in relation to use, occupancy, location, construction, design, character, scale, manner of operation, or necessity for making complex or unusual determinations, and to assure consideration of the particular circumstances of each case and the establishment of such conditions and safeguards as are reasonably necessary for protection of the public interest generally, and of adjacent properties, the neighborhood, and the jurisdiction as a whole.
- (6) For the purposes of this ordinance, the term *requirements* refers to the restrictions which apply to all uses in a district, whether permitted as of right or only through a special use permit. They apply automatically to all uses in a zone. *Standards* are the guidelines for use by administrators in making decisions such as for rezonings, or variances. They involve the application of stated criteria to given situations. *Conditions* are additional restrictions beyond the stated standards, applied to a particular use, which might govern, for example, hours of operation or the location of exits and entrances or the type of screening. The violation of the conditions is a violation of the ordinance. The above distinctions help to define the way discretion is to be exercised in making the provisions of this ordinance flexible to meet the needs of different situations in particular locations.

1400.02. Application for special use permits: Applications for special use permits shall be filed on forms and with supporting material as required by this ordinance. The following supporting materials are required for applications:

- (1) Site plan showing these elements:
 - (a.) Ground floor coverage on the site of all buildings and structures (building footprint)
 - (b.) Intended use of buildings
 - (c.) All driveways, curb cuts
 - (d.) Parking areas and number of parking spaces provided
 - (e.) Landscape screens, walls, and open buffer space; and
 - (f.) Landscape planting plans for critical screens.
- (2) A narrative to describe development proposals difficult to show on the site plan. These may include: staging schedule for project construction; site calculations and tables; architectural design of the project of buildings as they relate to permit conditions, soundproofing, lighting, fencing, walls, trash storage and loading areas and docks.

1400.03. General standards: No special use permit shall be approved unless **all** of the following findings are made:

- (1) The special use is in conformity with the city's comprehensive plan generally or the *Future Land Use map* specifically; and with the purpose, intent and applicable standards of this ordinance;
- (2) The proposed special use is designated by this ordinance as a special use in the zoning district in which the property in question is located;
- (3) The proposed special use will comply with all applicable regulations in the zoning district in which the property in question is located;
- (4) The proposed use will comply with all special regulations established by this ordinance for such special use;
- (5) The establishment or maintenance of the special use shall not be detrimental to the public health, safety, or general welfare;
- (6) The special use shall be located, designed, maintained, and operated to be compatible with the existing or intended character of the zoning district;
- (7) The special use must not depreciate property values;
- (8) The special use must not be hazardous, detrimental, or disturbing to present surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, erosion, vibration, general unsightliness, electrical interference, or other nuisance;
- (9) The special use must generate only minimal vehicular traffic on local streets and must not create traffic congestions, unsafe access, or parking needs that will cause inconvenience to the adjoining properties;
- (10) The special use must be served adequately by essential public services such as streets, police, fire protection, utilities, schools, and parks;
- (11) The special use must not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the city;
- (12) The special use shall preserve and incorporate the site's important natural and scenic features into the development design;
- (13) The special use shall cause minimal adverse environmental effects;
- (14) No conditions imposed on a special use as a result of these standards will be so unreasonably difficult as to preclude development of the use.

1400.04. Conditions, safeguards, and assurances: The Zoning Administrator may impose such conditions relating to the Special Use Permit as necessary in the particular case to protect the public interest, in relation to the items listed in *General Standards* above and as may otherwise be reasonably necessary, and may require a guarantee or bond to insure continued compliance with such conditions and continued maintenance of such safeguards. Violation of conditions or safeguards lawfully attached to any special use shall be deemed violations of this ordinance. The Special Use Permit may be revoked until all violations are corrected.

1400.05. Special uses apply to property, not person: When granted, a Special Use Permit, together with any conditions or safeguards attached, shall apply to the land, structure or use for which it was issued, and not to a particular person, however, a change in ownership of a use is grounds for review and issuance of a new permit.

1400.06. Issuance of special use permits: Special Use Permits must be issued upon certain conditions, such that if an applicant meets the requisite standards specified in the ordinance, then the permit must be allowed. Conditions other than those delineated in the ordinance must not be arbitrarily imposed but must be related to the purposes of zoning. Applications may be denied only on proof that the use is detrimental to the public health, safety and welfare. Reasons for denial must be specific. The permit will be signed and issued by the Building Official with the Zoning Administrator's signature of approval.

1400.07. Decision of Zoning Administrator deemed final; filing of an appeal: Decisions of the Zoning Administrator shall be deemed final, unless an appeal is filed to the Commission in the manner of other appeals.

1400.08. Appeals from the Zoning Administrator: Any person or persons, aggrieved by any decision of the *Zoning Administrator*, may appeal such decision to the Commission in the manner of other appeals. A notice of appeal must be filed with the Zoning Administrator within not more than ten (10) working days of the date such decision was rendered. Such notice of appeal, must specify the grounds for the appeal, and the case files must be forwarded to the Commission and docketed on the next available meeting. A nonrefundable appeal fee per latest fee schedule must accompany the appeal.

1400.09. Appeals from the Commission: Decisions of the Commission shall be deemed final, unless an appeal to City Council is filed pursuant to Section 1500.08. Further appeals must be made to the courts in a manner prescribed by law.

**Verification of Consent for Dimensional Variances Allowed Pursuant to
Section 1700 of the Zoning Ordinance
City of Meridian, MS**

DATE: _____

I, _____, owner of the property being
(Name of neighbor)

addressed as _____, agree and
(Neighbor's Address)

consent to a variance request to allow a reduction in the required yard width
along my common line with property addressed as _____
(Applicant's address)

and do hereby give my permission to construct a building or other structure
_____ feet from our common property line. I understand that current
City Code requires a minimum of ten [10] feet between buildings.

Signature of Adjoining Property Owner

Notary

**Verification of Consent for Dimensional Variances Allowed Pursuant to
Section 1700 of the Zoning Ordinance
City of Meridian, MS**

DATE: _____

I, _____, owner of the adjacent property being
(Name of neighbor)

addressed as _____, agree and
(Neighbor's Address)

consent to a variance request to allow a reduction in the required driveway
setback width along my common line with property addressed as

_____ and do hereby give my permission to construct a
(Applicant's address)

driveway at a distance of _____ feet from our common property line. I
understand that current City Code requires a minimum of twenty [20] feet
between driveways.

Signature of Adjoining Property Owner

Notary

**APPLICATION FOR
DIMENSIONAL VARIANCE AND/OR APPEAL
FILE NUMBER: _____
DATE: _____**

****PLEASE FILL OUT EVERY BLANK AND PROVIDE REQUESTED ATTACHMENTS.
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED AS VALID****

=====

1. OWNER/ APPLICANT: _____

2. MAILING ADDRESS: _____

3. TELEPHONE NUMBER/S: _____

4. ADDRESS OF SUBJECT PROPERTY: _____
(Number Street)

5. ZONING DISTRICT: _____

6. TYPE OF APPLICATION: (Check one or more, as needed)

- () Variance from dimensional requirements of the Zoning Ordinance [Z.O. Sect. 1700]
- () Change a non-conforming use to another non-conforming use [Z.O. Sect. 16]
- () Appeal Zoning Administrators decision [Z.O. Sects. 1000 and 1400]

7. DESCRIBE THE ACTION NEEDED: For example, on buildings, do you need a variance from the setback requirements? If so, how much? Is it on the front, back or side? For appeals, what are the special circumstances, nature of error, or grounds for such appeal?

A. Nature of the variance, appeal, or decision needed:

B. Extent of variance or appeal needed (feet, square feet, etc.) and location (side yard, front yard, etc.):

8. JUSTIFY THE ACTION NEEDED: How would complying with the requirements of the ordinance or decision of the Zoning Administrator impose an undue hardship or practical difficulty upon the use of this property?

9. GRAPHIC REPRESENTATION: For sites, show size and location of buildings, driveways, parking, setbacks, and other features relative to property lines. Give us all pertinent information so that we may understand exactly what it is you want to do and why you need to do it.

10. ADJACENT OWNER CONSENT FORM: If the dimensional variance request creates development which impacts an adjacent, non-City property, then a consent form [provided by the Zoning Administrator] notarized and signed by all affected owners shall be submitted with this application.

SIGNATURE of Owner / Applicant

NOTE: Review fee = \$50.00