



# Variance Application

Planning and Development Department

604 West Fairmont Parkway

La Porte, Texas 77571

281-470-5057

## OVERVIEW

A Variance is required for any deviation from the requirements of the city's Zoning Ordinance as outlined in Section 106-192 of the City of La Porte's Code of Ordinances. A Variance is only granted when strict conformity to the provisions of the code would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted. Variance requests are reviewed by the Zoning Board of Adjustment (ZBOA) after a public hearing. The ZBOA consists of residents of the community appointed by City Council. The ZBOA meets on the fourth Thursday of every month, as necessary.

## SUBMITTAL REQUIREMENTS

The following application package must be submitted to the Planning and Development Department at least three (3) weeks prior to the desired hearing date.

- Completed **application form**.
- Application fee** of Residential - \$150, Commercial - \$250; nonrefundable.
- Site plan or plot plan**, drawn to scale and dimensioned to show the location of the proposed Variance.
- Project description/justification letter** that thoroughly explains what is being requested and why such Variance should be approved by the ZBOA.
- Affidavit of posting** fully executed that ensures the applicant will post the required public hearing sign on the property for at least 10 days prior to the meeting date. Such sign will be provided by the Planning and Development Department.

## PROCESS

- Upon receipt of a complete application package by the Planning and Development Department, the Variance request will be scheduled for the next available ZBOA meeting date.
- The Planning and Development Department will provide a Notice of Public Hearing sign to the applicant that must be posted on the property where the Special Exception is being requested. The sign must be posted on the property visible and within 20 feet from the abutting street for a minimum of 10 days before the scheduled public hearing.
- The Planning and Development Department will publish notice of the public hearing in the Bay Area Observer and at City Hall in conformance with legal requirements. Additionally the city will send notice of the public hearing to all property owners within 200 feet of the subject property where the variance is being requested.
- The ZBOA meeting will be held in the City Council Chamber at City Hall (604 W. Fairmont Parkway). At the meeting, the ZBOA will conduct the public hearing and provide a ruling on the Variance request.



- In order for the ZBOA to approve a Variance, it must find all of the following criteria have been met:
  1. Granting the variance will not be contrary to the public interest.
  2. Enforcing the code provision will result in an unnecessary hardship due to the following situations that are unique to the property: irregularity associated with the size or shape of the lot, unique topography or some other unique physical situation associated with the property. An unnecessary hardship does not relate to convenience, financial consideration, or the applicant's own actions.
  3. Granting the variance will be consistent with the spirit of the city's Zoning Ordinance.
- If the ZBOA *approves* the Variance request, then the applicant will have 90 days from the date of the meeting to obtain any necessary building permits for construction. If the ZBOA *denies* the Variance request, then the applicant may file a petition to the court in accordance with Section 106-196 of the City of La Porte's Code of Ordinances.
- The following is an excerpt from the City of La Porte's Code of Ordinances pertaining to Variance requests.

### CODE REQUIREMENTS

#### Sec. 106-192. - Variance.

(a) *Application for variances.* All applications for a variance from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds thereof. Each such application shall be filed with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.

(b) *Findings of fact/definition of hardship.*

(1) The term "variance" shall mean a deviation from the literal provisions of this chapter which is granted by the board when strict conformity to this chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.

(2) Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement of this chapter when the board finds that all of the following conditions have been met:

a. That the granting of the variance will not be contrary to the public interest;

b. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions; and

c. That by granting the variance, the spirit of this chapter will be observed.

(3) The applicant shall have the burden of proving to the board that the foregoing conditions have been met.

(c) *Use variance prohibited.* No variance shall be granted to permit a use in a zoning district in which that use is prohibited.

(d) *Hearings on applications for variances.* The board of adjustment shall fix a reasonable time for the hearing of all applications for variances, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, as specified in [section 106-194](#) (Notice of public hearings before the board of adjustments). Upon the hearing any party may appear in person or by agent or by attorney.



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### PROJECT INFORMATION

Address where Variance is being requested: \_\_\_\_\_

Legal description where Variance is being requested: \_\_\_\_\_

HCAD Parcel Number where Variance is being requested: \_\_\_\_\_

Zoning District: \_\_\_\_\_ Lot area: \_\_\_\_\_

*A Variance request is hereby made to the Board of Adjustment of the City of La Porte.*

Description of Request: \_\_\_\_\_

Attached hereto is a complete listing of the reason(s) why such Variance should be granted.

### PROPERTY OWNER(S) INFORMATION

Name: \_\_\_\_\_

Company (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### AUTHORIZED AGENT (If other than owner)

Name: \_\_\_\_\_

Company (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### OWNER(S) & AGENT CERTIFICATION

I hereby depose and state under the penalties of perjury that all statements, proposals and/or plans submitted with/or contained in this application are true and correct and the application is complete to the best of my knowledge and belief.

Agent's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Owner(s)' Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_

#### **STAFF USE ONLY:**

Case Number:

\_\_\_\_\_

Date Application Received:



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## REASON(S) FOR VARIANCE REQUEST

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AFFIDAVIT OF POSTING
ZONING BOARD OF ADJUSTMENT HEARING

STATE OF TEXAS

COUNTY OF HARRIS

CITY OF LA PORTE

The undersigned hereby duly swears on oath and says:

- 1. A public hearing sign was provided to me by the City of La Porte's Planning and Development Department. I hereby attest that said sign will be posted on the following described property, which is subject to the application:

ADDRESS: \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

- 2. In accordance with the provisions of Section 106-194 of the city's Code of Ordinances, I hereby attest that said sign will be posted on the described property for no less than ten (10) days prior to the scheduled public hearing; starting at least on the following date: \_\_\_\_\_
3. Said sign shall be placed on the property within 20 feet of the abutting street.
4. Said sign shall remain legible and visible for the entire ten (10) day posting period. If sign is damaged or missing, I hereby attest that I will contact the City of La Porte for a replacement sign.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Applicant's Printed Name

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_ (Print Applicant's Name).

(Seal)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_