

Town of Bayside  
P.O. Box 194  
Bayside, TX. 78340  
Phone: 361-529-6520 Fax: 361-529-6409

## APPLICATION FOR A VARIANCE OR SPECIAL USE PERMIT

It is not intended by this Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties, except that if this Ordinance imposes a greater restriction, this Ordinance shall control.

**INTRODUCTION:** A request for a variance requires review by various agencies. First, your request must be referred to the Town of Bayside Planning Commission for recommendations and then to the city council for their review. In order to minimize delays, and process your application as expeditiously as possible, we ask that you carefully fill out the attached application for a variance, and submit the required exhibits listed in the application. Please note that the Planning Commission and City Council may conduct their public hearings over one or more meetings.

**APPLICATION FOR:** Residential \_\_\_ Business \_\_\_

Area variance\_\_\_

Height variance \_\_\_

Front yard \_\_\_ Rear yard \_\_\_ Side yard \_\_\_ Lot size \_\_\_

Accessory Apartment \_\_\_

Parking and Loading \_\_\_

Other \_\_\_ Specify: \_\_\_\_\_

Conditional Use Variance \_\_\_ Conditional Use Applied For: \_\_\_\_\_  
\_\_\_\_\_

### Property Information

Block # \_\_\_\_\_ Lot # \_\_\_\_\_ Zoning District: \_\_\_\_\_ Lot Area: \_\_\_\_\_

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

### Applicant Information

Applicant's Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

Corporation/Partnership/Other: \_\_\_\_\_

Mailing Street Address: City: State: Zip: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_ Other Contact #: \_\_\_\_\_

### Property Owner Information (if same as applicant, write "same")

Owner's Last Name \_\_\_\_\_ First Name: \_\_\_\_\_

Mailing Street Address: City: State: Zip: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_ Other Contact #: \_\_\_\_\_

Has an application with reference to this property been previously before this City Council? Yes No

If yes, give dates and details: Date: \_\_\_\_\_

Details: \_\_\_\_\_  
\_\_\_\_\_

**Instructions to Applicants for Variance Application:**

Submit the following information

- A. Variance application form with all questions answered.
- B. Submit 7 copies of the following information: Scale drawings with accurate measurements and dimensions of the subject area must be submitted with the application showing all dimensions and its exact location on property and any other information as may be necessary for determination.
- C. A copy of the deed to property.
- D. If applying for a Special Permit for an Accessory Apartment, the completed Compliance Checklist and Accessory Apartment Application.
- E. (1) Copy of the list of adjacent property owners within 200 feet. The Applicant must generate this list from the Assessor's office.

**When to Apply.** The application and materials must be submitted to the City Council **four (4) weeks prior** to the meeting date. The City Council meetings are the second (2nd) Tuesday of each month. The meetings are subject to change so please verify meeting schedules with the City Secretary.

**Attendance at the Hearing.** The Applicant, the Applicant's Attorney, Engineer or Architect or a duly authorized person must attend the public hearing.

**NOTE:** Fill in Sections 1 - 7 as appropriate. This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate sheet if the space provided is inadequate. Full names and addresses of all abutters shall be supplied on a separate sheet. Facts supporting the request:

1. A variance is requested from Article \_\_\_\_\_, Section \_\_\_\_\_ of the Zoning Ordinance to permit:  
\_\_\_\_\_  
\_\_\_\_\_
2. The proposed use would not diminish surrounding property values because:  
\_\_\_\_\_  
\_\_\_\_\_
3. Granting the variance would not be contrary to the public interest because:  
\_\_\_\_\_  
\_\_\_\_\_
4. Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property that distinguish it from other properties similarly zoned:  
\_\_\_\_\_  
\_\_\_\_\_
5. Applicants for a variance may establish unnecessary hardship by proof that: (1) a zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment; (2) no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; and (3) the variance would not injure the public or private rights of others. It is not sufficient that compliance with the ordinance would cause the landowner to suffer some financial loss. Granting the variance would do substantial justice because:  
\_\_\_\_\_  
\_\_\_\_\_

6. The use is not contrary to the spirit of the ordinance because:

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7. Describe any easements or Deed restrictions: \_\_\_\_\_

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TO APPLICANTS:

It is suggested that each applicant purchase a Zoning Ordinance. Before investing your time and money (and the city council's time), on an Application for Variance, you should pause to concern yourself with the laws and conditions under which the city council operates. The following points are brought out to guide your decision in whether or not to make an appeal.

Variances: A variance is permission granted to use a specific piece of property in a manner not otherwise allowed by the Zoning Ordinance. Variances are included in a zoning ordinance to prevent the ordinance from becoming confiscatory or unduly oppressive as applied to individual properties with unique situations. A variance may be granted by the City Council only if all of the following five standards are met:

1. Extraordinary Conditions. That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Ordinance will deprive the applicant of the reasonable use of their land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.
2. Substantial Detriment. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Ordinance.
3. Other Property. That these conditions do not generally apply to other property in the vicinity.
4. Applicant's Actions. That the conditions are not the result of the applicant's own actions.
5. General Plan. That the granting of the variance would not substantially conflict with the General Plan and the purposes of this Ordinance.
6. Utilization. That because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Special Exceptions: A special exception is an allowable use of the property expressly permitted by the Zoning Ordinance when the conditions appurtenant to it are met. Under this authority, the City Council has the power to grant those exceptions which are clearly specified in the Bayside Zoning Ordinance. These exceptions are listed as "Special Exceptions" and the criteria for granting them are also outlined in the Ordinance.

Insufficient Findings. The following types of possible findings do not constitute sufficient grounds for granting a variance:

1. That the property cannot be used for its highest and best use.
2. That there is a financial or economic hardship.

3. That there is a self-created hardship by the property owner or his or her agent.
4. That the development objectives of the property owner are or shall be frustrated.

Limitations. The City Council may not grant a variance when the effect of which would be any of the following:

1. To allow the establishment of a use not otherwise permitted in the applicable zoning district.
2. To increase the density of a use above that permitted by the applicable district.
3. To expand a nonconforming land use.
4. To change the zoning district boundaries shown on the Official Zoning Map.
5. Profitability Not to Be Considered. The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.

Applicants may withdraw an application (in writing) at any time during the process. Applications withdrawn after the notices for the Planning Commission and City Council public hearings are mailed are not eligible for a refund.

If an action on the application is made by the City Council, no further applications for a variance on all or part of the subject property may be considered for a period of twelve (12) months unless a waiver is granted by the City Council.

Fee Schedule: Variance: \$250.00 Checks to be made payable to Town of Bayside.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this permit will be complied with whether specified herein or not. The granting of a variance does not presume to give authority to violate or cancel the provisions of any state or local law, ordinance, or regulation. The issuance of a variance neither exempts nor modifies any covenants, deed restrictions, city ordinances and or state or federal laws, whether herein specified or not. The building official or city council may, in writing, suspend or revoke a variance whenever it is determined that the variance was issued in error, or on the basis of incorrect information supplied, or when it is determined that the building, a portion of the building or structure is in violation of any ordinance, regulation, or provision of the building codes.

Signature of Applicant \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Owner (if other than Applicant) \_\_\_\_\_  
Date: \_\_\_\_\_

**Authorization for filing application**

This section must be executed if anyone other than the owner is making this application and signature must be notarized. \_\_\_\_\_ is hereby authorized to make the within application.

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Sworn to and subscribed, before me, on this day of \_\_\_\_\_, 20\_\_\_\_

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

**Site Inspection Authorization.**

I the under signed hereby give permission for the Town Of Bayside Town Officials and/or

designated employees to come on and inspect the premises with respect to this application.

Site Address: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner's Signature \_\_\_\_\_ Date: \_\_\_\_\_

**Office Use Only.**

Case No. \_\_\_\_\_ Planning Commission Hearing Date \_\_\_\_\_

City Council Hearing Date \_\_\_\_\_

Variance approved: \_\_\_\_\_ Variance denied: \_\_\_\_\_

Reason for approval or denial: \_\_\_\_\_

Fee \$250.00

Fee Paid: \_\_\_\_\_

Date: \_\_\_\_\_

## CERTIFIED ABUTTERS LIST

Applicants must supply the names and addresses of all abutters within a 200 feet radius along with an application. Names and complete mailing addresses of abutters are to be taken from the most current records of the Tax Assessor.

[illegible]

[illegible]

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
PROPERTY ID# \_\_\_\_\_

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
PROPERTY ID# \_\_\_\_\_

Additional comments, if any: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THE CERTIFICATION MAY TAKE UP TO 10 WORKING DAYS:**

If there are more than 3 major mistakes (i.e. missing lots, wrong names or addresses), the contact person will be notified to make corrections. Please remember that you are responsible to make your own corrections. Once the corrections are made and the list is resubmitted, the 10 working days for certification will begin again and the list will be certified within that time frame.

**\*\*NO LIST WILL BE CERTIFIED WITHOUT CORRECTIONS BEING COMPLETED.**

Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in a newspaper of general circulation in the municipality.

**Notarized Statement**

I, the undersigned \_\_\_\_\_, swear that to the best of my knowledge, the above is an accurate and complete abutters list and the owner information is derived from the most current records of the City Tax Assessor.

\_\_\_\_\_  
Signature

STATE OF TEXAS}

} SS.

COUNTY OF \_\_\_\_\_}

On this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared \_\_\_\_\_ to known as the individual(s) described in and who executed the foregoing instrument, and acknowledged to me that they signed and sealed the said instrument, as their free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they authorized to execute said instrument.

WITNESS MY HAND AND OFFICIAL SEAL, hereto affixed the day and year in this certificate above written. The \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas