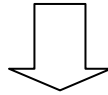
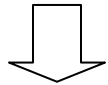


Zoning Board of Appeals Variances Temporary Permits

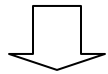


Complete the 3 Applications
Complete the 2 Affidavits and Submit 3 Surveys
Prepare Written Justification (Prerequisites)
Determine Appropriate Fee

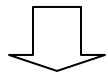
Very Important to Read All Instructions



MUST make Appointment to Submit Application (954-786-5554)
Appointment MUST be at Least 48 Hours (2 business days) before
Deadline for Filing. Deadline is third Monday of Preceding Month
Meeting is third Thursday of Each Month*



Applicant Presents Case to Board
After Case Hearing is Closed the Board Votes on Request
Request is granted If at Least 4 Board Members Vote to Approve
Approval Does Not Become Effective for 15 Days



Approval Becomes Null and Void if,
(1) Conditions Imposed by the Board are not met or maintained or,
(2) All Permits and /or Approval are not obtained within 180 Days or,
(3) If no permit/Approval required the use must commence within 180
days

* Actual Meeting Days May Vary

4/26/2007

THE CITY OF POMPANO BEACH'S
ZONING BOARD OF APPEALS

Welcome to the Zoning Board of Appeals (ZBA) for the City of Pompano Beach. This short introduction is intended to assist you in preparing for your hearing before the ZBA. This document is for informational purposes only and is not intended to provide legal guidance, nor does it replace or supplement any written or unwritten rules or procedures adopted and practiced by the ZBA. If you have questions regarding specifics of your case, you may wish to consult with an attorney. In case of any discrepancy between information in this document and anything within the City Ordinances, the Ordinances take precedence.

A. Membership.

The ZBA is made-up of five residents of Pompano Beach who receive no pay or benefits from the City, yet have volunteered their time and efforts to assist the City and its citizens in the enforcement of the zoning code. Each member has been appointed by a City Commissioner and serves a three-year term.

B. Purpose.

The ZBA hears appeals from property owners who have been refused building permits, or from those who seek special exceptions, temporary permits for a nonconforming use, or variances from the City's Zoning Code (Chapters 151 and 155).

C. Application Procedures.

1. The applicant for a variance, special exception or temporary permit should submit an application with the Zoning Department. Application forms are available at the Zoning Department office in City Hall. The application should be completed as fully as possible. Failure to complete the application as directed may result in its rejection, or at a minimum, it will delay the hearing before the ZBA.

2. A fee must be paid by the applicant, the purpose of which is to cover the City's costs for administrative and advertising services performed.

3. A hearing date is assigned to the applicant. The ZBA usually meets on the third Thursday of every month at 7:00 p.m., in the City Commission Chambers located adjacent to City Hall.

D. Conduct of Hearings.

1. After the ZBA Chairman calls the case, all potential witnesses must be sworn prior to testifying. The applicant will then go first and should present the ZBA with sufficient "competent, substantial evidence" (defined by the Florida Supreme Court as "such relevant evidence as a reasonable mind would accept as adequate to support a conclusion."). This presentation of evidence may be in the form of sworn testimony, written documents, photographs, charts, diagrams, etc. **Please note that any written or documentary evidence presented will be collected and kept by the ZBA secretary, and will constitute part of the record of the proceedings. You may wish to bring sufficient copies of any evidence for the five ZBA members, as well as an extra copy to file with the secretary (large maps, photos, diagrams, etc. should be reduced in size in order to be placed in the file).**

2. The applicant **MUST** present the ZBA with evidence which supports those prerequisites applicable to the relief sought. For example, an applicant who seeks a variance must present the ZBA with factual testimony or

documentary evidence which tends to prove that each of the four prerequisites have been met. A simple restating of the prerequisites is insufficient, e.g. “the existing conditions and circumstances are not the result of my actions” (prerequisites no.2 for a variance), provides no factual evidence and is simply an opinion or conclusory statement which provides the ZBA with absolutely no “competent, substantial” evidence. The burden to present competent, substantial evidence sufficient to prove all applicable prerequisites, is on the applicant. Once the applicant has done so, and presented all evidence in favor of the requested action, the ZBA will hear from a City representative, usually a member of the Zoning Department, who will present their case, including a recommendation for or against the relief requested by applicant. All interested persons will also be invited to speak, under oath, either for or against the applicant. Either side may ask questions or “cross-examine” any witness who chooses to testify. If the applicant has successfully presented proof as to all prerequisites, then the burden of proof shifts to the City or any other party opposing the application, to show that the requested action would be adverse to the public’s interest, or that the evidence presented on behalf of the applicant is insufficient or wrong.

3. Following the presentation of all evidence, the applicant (or his/her attorney) will be invited to make a closing statement, summarizing the evidence and indicating how such facts may be applied to prove the applicable prerequisites.

4. At that point, the public hearing portion is over, and the ZBA members will discuss the case, consider the evidence, and apply it to the prerequisites. Finally, one member will make a motion to approve the requested relief, another member will “second” the motion, and the ZBA will vote. All motions are made in the affirmative, that is, the motion will always be to approve your request, even if that member does not believe you have proved your case. The reason for this is that the **ZBA rules require a “supermajority” of four (4) concurring votes to approve any appeal.** Even where an applicant receives a 3-2 majority in favor of approving the relief requested, the application is still denied. Unless the vote is 4-1 or 5-0 in favor of the motion to approve, your application has been denied.

5. If the request is approved, you must wait fifteen (15) days for it to be effective, as a City Commissioner, the City Manager, or any interested person entitled to receive notice of the hearing may bring an appeal of the ZBA approval to the City Commission for their review (this does not apply to approval of temporary permits.) If however, you application is denied, you may either accept it, file a Petition in state Circuit Court within thirty days for issuance of a Writ of Certiorari, or, if you discover new and additional evidence which was not available at the time of the hearing and which has a strong likelihood of affecting the results of a new hearing, you may apply for a re-hearing within ten (10) days of the decision. You may wish to bring a court reporter to the ZBA hearing in order to record and transcribe the ZBA proceedings in case you decide to appeal, as the appellate court requires a “record”.

E. *Reminder Regarding Prerequisites.*****

*****The prerequisites which are provided to each applicant at the time of application, and which are also found in the Agenda package at the meetings, are the minimum factual showings an applicant must make. It is these prerequisites which the ZBA members are interested in, and they are looking for **facts** which prove or disprove each applicable prerequisite. The only evidence which is relevant, and which should be submitted to the ZBA, is factual evidence which relates to these prerequisites. **It is suggested that the applicant, particularly those not represented by an attorney, organize their presentation to the ZBA by taking each prerequisite in order, and present any and all factual evidence tending to prove that prerequisite, then pointing out to the ZBA members how this information, be it testimonial or documentary, lends support to a particular prerequisite.** Applicants who fail to make an orderly presentation in this fashion risk denial of the application because of confusion, disorganization, and a resulting lack of competent substantial evidence offered for each and every prerequisite applicable to the relief sought. **Remember, it is your initial burden to convince the ZBA that you are entitled to the relief sought, and it is not the ZBA members’ duty to assist you by asking the questions necessary to obtain this evidence. Please, for your own sake, and to allow for an efficient ZBA meeting, come prepared and organized, and most of all, be familiar with the prerequisites applicable to your case!*******



CALL (954) 786-5554 TO SCHEDULE AN APPOINTMENT FOR REVIEW FOR COMPLETENESS. NO APPLICATIONS WILL BE ACCEPTED WITHOUT AN APPOINTMENT. APPOINTMENTS MUST BE SCHEDULED 48 HOURS IN ADVANCE OF THE SUBMITTAL DEADLINE.

**** ATTENTION ****

The Zoning Board of Appeals and the City Commission have adopted certain requirements for the filing of variances, special conditions and temporary permits. In accordance with those requirements, no applications will be accepted unless they meet all the following prerequisites:

1. All applications must be typed or legibly printed in “black” ink. All signatures must be done in “blue” ink.
2. The applicant shall retain one of the four applications, the other three applications are presented at time of submittal .All applications must have original signatures.
3. Written documentation which provides evidence that the petition meets the prerequisites must be submitted with the applications.
4. Competition of the two affidavits, signed and notarized.
5. Three (3) legible complete surveys with complete legal description. Surveys to be recent and must show all improvements on the property.
6. Payment of the appropriate filing fee.
7. Where the petitioner, and/or owner of record, is other than an individual, the petition shall state whether the petitioner, and/or owner of record, is a partnership, corporation, proprietorship, or other legal entity, and:
 - a) if a partnership, a partner must execute the petition and indicate his interest;
 - b) if a corporation, an officer authorized to bind the corporation must execute the petition and indicate his title; and
 - c) if a proprietorship, the proprietor must execute the petition, indicate his interest and state the business name, where applicable.
8. In addition to the above requirements, the petition for variance shall comply with the following rules:
 - a) for additions to existing single-family dwellings, the petition shall be accompanied with ten (10) legible copies of a site plan indicating the existing and proposed layout of buildings or structures on the lot with reference to lot lines.
 - b) for all two-family, multiple-family, business (commercial) and industrial buildings, the petition must be accompanied with ten (10) legible copies of the proposed site plan drawn to scale and reduced to a size measuring eleven (11) inches by seventeen (17) inches.
 - c) for petitions involving off-street parking, the petition must be accompanied with ten (10) legible copies of the existing conditions (where applicable) and the proposed site plan indicating the number and dimensions of parking spaces, ingress and egress to and from parking areas, landscaping, and any other relevant matters.
 - d) must provide 10 copies of all documents, photographs, and other evidence submitted for the Board’s consideration. **Note:** All documentation submitted as evidence, including photographs, display boards, etc. shall become the property of the City and must be retained in the case file. Large displays must be reduced to a manageable size which can be filed and copies must be provided to the Advisory Board Secretary at the time of Public Hearing before the Board.

4/26/2007



Filing Fee Schedule

1. The application fee of a single-family dwelling that does not have any outstanding violations of the Zoning Code of the City of Pompano Beach, for variance, temporary permits for nonconforming use of buildings or lands, and appeals from alleged error. **\$275.00**
2. The application fee of a single-family dwelling, with outstanding violations of the Zoning Code of the City of Pompano Beach, for variance, temporary permit for nonconforming use of buildings or lands, and appeals from alleged error. **\$1000.00**
3. The application fee for applicants other than single-family dwellings, which do not have any outstanding violations of the Zoning Code of the City of Pompano Beach, for variance, temporary permit for nonconforming use of buildings or lands, and appeals from alleged error. **\$730.00**
4. The application fee for applicants other than single-family dwellings, that have outstanding violations of the Zoning Code of the City of Pompano Beach, for variance, temporary permit for nonconforming use of buildings or lands, and appeals from alleged error. **\$1460.00**
5. The application fee for a special exception use. **\$910.00**
6. The application fee for a request for an extension of time on a previously granted variance or special exception. **\$200.00**

PETITION TO THE ZONING BOARD OF APPEALS

DATE: _____

THE UNDERSIGNED HEREBY PETITIONS FOR A: VARIANCE: _____; TEMPORARY PERMIT: _____;
UNDER THE ZONING REGULATIONS OF THE CITY OF POMPANO BEACH, SECTION _____, AND
LOCATED IN _____ (ZONING DISTRICT) AT:

(STREET ADDRESS) (LOT #) (BLOCK #) (SUBDIVISION)

1. Name of Petitioner: _____
2. Petitioner's interest in property: Owner _____ Lessee _____ Other: _____
3. Has any previous petition(s) been filed? Yes _____ No _____
4. This petition related to: SETBACK _____, SIDE YARD _____, REAR YARD _____,
LOT AREA _____, LOT WIDTH _____, FLOOR DEPTH _____, PARKING
SPACE _____, USAGE _____, or OTHER _____

5. Briefly state the specific relief that is requested: _____

6. Describe the use to be made of the property if the Petition is granted: _____

7. **VERY IMPORTANT!** On a separate sheet of paper, you must explain **IN DETAIL**, how each of the prerequisites established by Code, will be met by the Petitioner. Presentation of evidence to the ZBA, proving that Petitioner has met all applicable prerequisites, must be made prior to the granting of the Petition. You should provide the City and its ZBA with a written description of all facts which tend to prove each prerequisite, and you must be prepared to present this evidence to the ZBA when attend your hearing. Witnesses and Exhibits should accompany your presentation.

Type or Print Petitioner's Representative's Name and Title

Representative's Signature

Representative's Address

Phone No.:

Fee Paid:

Receipt No.:

Type or Print Property Owner's (Petitioner's) Name and Title

Property Owner's (Petitioner's) Signature

Property Owner's (Petitioner's) Address

Phone No.:

**This application must be signed by
by Property Owner of Record**

PETITION TO THE ZONING BOARD OF APPEALS

DATE: _____

THE UNDERSIGNED HEREBY PETITIONS FOR A: VARIANCE: _____; TEMPORARY PERMIT: _____;
UNDER THE ZONING REGULATIONS OF THE CITY OF POMPANO BEACH, SECTION _____, AND
LOCATED IN _____ (ZONING DISTRICT) AT:

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Type or Print Petitioner's Representative's Name and Title

Representative's Signature

Representative's Address

Phone No.:

Fee Paid:

Receipt No.:

Type or Print Property Owner's (Petitioner's) Name and Title

Property Owner's (Petitioner's) Signature

Property Owner's (Petitioner's) Address

Phone No.:

**This application must be signed by
by Property Owner of Record**

PETITION TO THE ZONING BOARD OF APPEALS

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3. Has any previous petition(s) been filed? Yes _____ No _____
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Type or Print Petitioner's Representative's Name and Title

Type or Print Property Owner's (Petitioner's) Name and Title

Representative's Petitioner's Signature

Property Owner's (Petitioner's) Signature

Representative's Address

Property Owner's (Petitioner's) Address

Phone No.:

Phone No.:

Fee Paid:

**This application must be signed by
by Property Owner of Record**

Receipt No.:

PETITION TO THE ZONING BOARD OF APPEALS

DATE: _____
THE UNDERSIGNED HEREBY PETITIONS FOR A: VARIANCE: _____; TEMPORARY PERMIT: _____;
UNDER THE ZONING REGULATIONS OF THE CITY OF POMPANO BEACH, SECTION _____, AND
LOCATED IN _____ (ZONING DISTRICT) AT:

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LOT AREA _____, LOT WIDTH _____, FLOOR DEPTH _____, PARKING
SPACE _____, USAGE _____, or OTHER _____
5. Briefly state the specific relief that is requested: _____

6. Describe the use to be made of the property if the Petition is granted: _____

7. **VERY IMPORTANT!** On a separate sheet of paper, you must explain **IN DETAIL**, how each of the prerequisites established by Code, will be met by the Petitioner. Presentation of evidence to the ZBA, proving that Petitioner has met all applicable prerequisites, must be made prior to the granting of the Petition. You should provide the City and its ZBA with a written description of all facts which tend to prove each prerequisite, and you must be prepared to present this evidence to the ZBA when attend your hearing. Witnesses and Exhibits should accompany your presentation.

Type or Print Petitioner's Representative's Name and Title

Type or Print Property Owner's (Petitioner's) Name and Title

Representative's Signature)

Property Owner's (Petitioner's) Signature

Representative Address

Property Owner's (Petitioner's) Address

Phone No.:

Phone No.:

Fee Paid:

**This application must be signed by
by Property Owner of Record**

Receipt No.:



OWNERS CERTIFICATE

This is to certify that I am the owner of the subject lands described in the **PETITION FOR SPECIAL EXCEPTION/PETITION FOR VARIANCE/PETITION FOR TEMPORARY PERMIT** and that I have authorized the filing of the aforesaid petition. I further certify that this request is not related to any existing violation of the zoning code.

Note: If this request is related to an existing zoning violation, please submit documentation as to the Special Master's disposition of the matter.

Property Owner's Name: _____
(Print or Type)

Address: _____

Phone: _____ (Zip Code)

(Signature of Owner or Authorized Official)

SWORN AND SUBSCRIBED before me this _____ day of _____, 20 ____.

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Notary Public: Print, stamp, or Type as Commissioned.)

Personally know to me, or

Produced identification: _____
(Type of Identification Produced)

**AFFIDAVIT TO ACCOMPANY PETITIONS TO THE
ZONING BOARD OF APPEALS**

STATE OF FLORIDA }
COUNTY OF BROWARD }

BEFORE ME, the undersigned authority, personally appeared _____, who after being duly sworn, upon his oath, deposes and states: (Name of Applicant)

I, _____, the Petitioner before the City of Pompano Beach Zoning Board of Appeals, do hereby swear or affirm that I have read and am aware of the following:

The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative officer, or decide in favor of the applicant on any matter on which it is required to pass under any zoning ordinance, or to effect any variance in the zoning ordinance.

The relief granted by the Zoning Board of Appeals is limited to the authority vested in the Board and does not exempt the petitioner or owner from the responsibilities of obtaining all applicable permits and/or approvals as may be required by law or by the city for both new and existing structures.

Any variance, special exception, temporary permit or other decision of the Board shall expire and become null and void 180 days after the action unless, within the 180 days period, any and all permits and/or approvals not including certificates of occupancy or inspections required by law or by the city, including building permits, have been properly acquired and said building permits maintained in an active and valid status or unless within the 180 day period, a request is made consistent with the Code of Ordinances seeking an extension of time for the variance, special exception or other specific order that had been approved by the Board.

If no approval or permit is required, the use allowed by the Board must be commenced within the 180 day period unless otherwise provided by the Board or unless within the 180 day period, a request is made consistent with this Code of Ordinances seeking an extension of time for the variance, special exemption or other specific order that had been approved by the Board. If no approval or permit is required, the use allowed by the Board must be commenced within 180 day period unless otherwise provided by the Board or unless within the 180 day period, a request is made consistent with this Code of Ordinances seeking an extension of time for the variance, special exception or other specific order that has been approved by the Board. Any request for an extension from the time frames as required by an order of the Zoning Board of Appeals must be made by the petitioner or owner and it shall be the petitioner's or owner's burden to establish a good and sufficient cause for any extension of time. There shall be no more than five extensions of time in any one case, each of which shall be no greater than 180 days or in the aggregate in excess of 900 days for any variance, special exception or other specific order of the Board.

Further, any person, which term shall include but is not limited to, an individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary or other similar entities that do not meet or adhere to any and all restrictions or conditions imposed by the Zoning Board of Appeals and any of its orders shall be deemed in violation of the provision of the City Zoning Code.

Postponements

1. Two (2) postponements of an application, not to exceed a total of sixty (60) days, may be granted by the Board upon request of the Applicant. Failure of an Applicant to proceed at the next hearing scheduled for the matter following two (2) postponements, shall result in the matter being stricken from the Agenda by the Board. Any such matter stricken must undergo a new application process to again be placed before the Board for a determination.

2. The Board Chairperson has the authority to grant a postponement of any matter set for the first time upon the filing of written request by an Applicant, and the item shall remain on the Agenda for ratification by the Board on the record, and reset for the next scheduled meeting. An Applicant need not be present at such time.

3. Should any meeting be cancelled or no regular monthly meeting of the Board be scheduled for any month following a postponement, the matter will be set for the next available meeting and the postponement shall be treated as if it were only a thirty (30)- day period of time.

4. The Board may on its own by motion, postpone any matter to its next scheduled meeting, should the Board determine that there is a need for more information or further study, or that such a postponement is required in the interest of fairness or due process either to the Applicant, the Board or to the General Public. Any such postponement initiated by the Board shall not be held against the Applicant as a postponement.

X _____
(Applicant's signature)

SWORN AND SUBSCRIBED before me this _____ day of _____, 20 ____.

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Notary Public: Print, stamp, or Type as Commissioned.)

Personally know to me, or

Produced identification: _____

(Type of Identification Produced)



SECTION 155.023 PREREQUISITES TO GRANTING VARIANCES.

- A. In exercising the powers and duties prescribed by Section 155.022, the Zoning Board of Appeals shall not grant a variance unless and until the following has been demonstrated.
- 1) Special and peculiar conditions and circumstances affect the land, building or structure concerning which variance is sought, which conditions and circumstances do not apply generally to neighboring lands, buildings and structures in the same district.
 - 2) The existing conditions and circumstances are not the result of the actions of the applicant or his agents.
 - 3) The existing conditions and circumstances are such that strict application of the provisions of the ordinance would deprive the applicant of reasonable use of said land, building or structure, equivalent to the use made in neighboring lands, buildings or structures in the same district and permitted by the terms of this provision, provided, however, no nonconforming use of the neighboring lands, buildings or structures, legal or illegal, in the same district and no permitted use of lands, buildings or structures in adjacent areas shall be considered grounds for issuance of a variance permitting similar uses.
 - 4) The Board shall find that the granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance, and that the variance proposed to be granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- B. The Board shall not be empowered or authorized to issue variances or exceptions to permit a use in a district in which such use is prohibited by the zoning ordinance unless such a variance falls under the conditions set out by division (A) of this section.
- E. Temporary Permits.
- 1) The request is on its face temporary in nature.
 - 2) There exists a practical difficulty in complying with literal code requirements yet the request is in harmony with the spirit and intent of the code.
 - 3) There will be no adverse impact on surrounding properties.