

# Heber City Variance Application

75 North Main Street, Heber City, UT 84032  
 (435) 654-4830 Fax (435) 657-2543  
 www.ci.heber.ut.us



## Variance Information

Date submitted:	Zone:	Number (Office Use Only)	
Hearing Date:		Approved:	Denied:
Variance Location:			
Variance Requested (setbacks, height, etc.)			
Purpose of Variance			

## Applicant Information

Property Owner/ Contact:		Attn:	
Address:		Telephone:	
City:	State	Zip:	Alt. Telephone:
Email Address:		Fax:	

Dated this \_\_\_\_\_ Day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
 Signature of owner(s) of record

## City Review Process and Requirements

<ol style="list-style-type: none"> <li>1. <b>Staff Review Time:</b> Approximately 3 weeks prior to the meeting date.</li> <li>2. <b>Board of Adjustment Meeting Time:</b> By request on the 3<sup>rd</sup> Tuesday of each Month.</li> </ol> <p>All meetings are held in the Heber City Council Chambers at 75 North Main Street.</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Pre-application meeting with City Planner</li> <li><input type="checkbox"/> Plan indicating property lines, existing buildings showing distances from property lines and any proposed buildings including elevations (height)</li> <li><input type="checkbox"/> Letter detailing variance request</li> <li><input type="checkbox"/> Fee of \$75.00</li> <li><input type="checkbox"/> A list of every adjacent property owner's name and address</li> </ul>
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## Purpose

The Board of Adjustment created to hear request for relief from the terms City's Ordinances and to hear and decide appeals from the decision of the Zoning Administrator.

#### LEGAL STANDARDS

Utah Code in Section 10-9-707(2)(a) and Heber City Municipal Code, Section 18.12.120(B) outlines the standards, or conditions for approving a variance. Under State Statute and Heber City Municipal Code, the Board of Adjustment may grant a variance only if all conditions are met. If all five conditions are not met, the Board of Adjustment is compelled by law to deny the request for a variance.

Utah State Law and Heber City Municipal Code require that the Applicant bear the burden of proving that all of the conditions justifying a variance have been met.

Those conditions for approval of a variance are:

1. **Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;**
2. **There are special circumstances attached to the property that do not generally apply to other properties in the same zone;**
3. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;**
4. **The variance will not substantially affect the general plan and will not be contrary to the public interest; and**
5. **The spirit of the land use ordinance is observed and substantial justice done.**

The Utah Supreme Court decision of Chamber v. Smithfield City (714 P2d 1133) contains the standards of case law for granting variances, including no self-created hardship, no grant of special privilege, and the limited use of variances. This means that if the variance request is self-created then the Board of Adjustment needs to deny the request. Utah State Law has been amended to reflect those requirements.

State Law and Heber City Ordinance require that each of the five criteria be met before a variance can be granted. The law also indicates that economic or self-inflicted hardships cannot be reasons to grant a variance.

The following are questions that the Board of Adjustment must ask as part of the process of granting a variance. Please respond briefly in writing and be prepared to discussion in greater length as part of the hearing.

1. From what specific ordinance are you seeking relief?

2. What are the difficulties and hardships that will be imposed upon the applicant if the variance is not granted.

3. List the special circumstances attached to this property which do not generally apply to the other surrounding property in the same zone.

4. What rights or privileges are possessed by other property owners in the same zone that are being denied to this property because of the above listed conditions?

5. What, if any, negative impacts might result from the granting of this variance and what would the owner be willing to do to mitigate such problems?

**I hereby certify that I have read and understand this application and that all representations made and materials submitted with this application, including the fact of ownership of the subject property, are true and correct to the best of my knowledge, information, and belief.**

Subscribed and sworn to before me this \_\_\_\_\_ Day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Signature of Applicant

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