



Board of Adjustment
Variance Application

Community Services Department
Planning and Zoning Division
65 Stone Street
Cocoa, Florida 32922

Phone: (321) 433-8535
Fax: (321) 433-8543
Web: <http://www.cocoafl.org>

This form is divided into steps, which will help you prepare your application, provide supplemental items, and prepare for the Board of Adjustment hearing. A pre-application meeting with Staff is **recommended**.

For Office Use Only - Date Received

Please TYPE or PRINT this application neatly.

Stamp Only When Application is Fully Complete

1. **Request:** _____

2. **Applicable City Code Section(s):** _____

3. **Applicant Information:** * *NOTE: Applicant is the main contact, who must attend the meeting!*

Company (if applicable): _____

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone #: _____ Fax #: _____

Mobile #: _____ E-mail: _____

4. **Property Owner Information:** * *Check here if same as Applicant* →

* *If more than one owner, attach additional sheet with names and addresses.*

Company (if applicable): _____

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone #: _____ Fax #: _____

Mobile #: _____ E-mail: _____

5. Property Information:

Street Address and Location: _____

Parcel ID: □□-□□-□□-□□-□□□□□□.□-□□□□□.□□

Tax Account Numbers: □□□□□□□□

Land Area: _____ square feet or _____ acres

Future Land Use (to be completed by City): _____

Zoning District (to be completed by City): _____

Existing Use(s) on Property: _____

Proposed Use(s) on Property: _____

6. Variance Petition:

Before any Variance may be approved, the Board of Adjustment must make a positive finding for each of the criteria listed below. Applicants must provide the following information for the Board’s review and consideration:

Prerequisites to granting of variance:
A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

a. *Explain the special conditions and circumstances that exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, building or structures in the same district.*

b. *Explain why the literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.*

c. *Explain why the special conditions and circumstances referred to in subparagraph (a) above, do not result from the actions of the applicant.*

d. *Explain why the granting the variance request will not confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, structures or dwellings in the same district.*

e. *Explain why the requested variance is the minimum variance that will make possible the reasonable use of the subject land, structure or building.*

f. *Explain why the granting of the variance request will be in harmony with the general intent and purpose of the zoning ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.*

7. Please submit the following items in order complete the application:

- a. **Notarized application.**
 - b. **List of owners within 500 feet.** A "radius map package" from Brevard County containing a certified mailing list with mailing labels and a map of all property owners of record who reside within a 500-foot radius of the subject property is required for public notice. It is the applicant's responsibility to request these materials with the Brevard County GIS Department that are available free of charge. Inquiries must be emailed to servicedesk@brevardfl.gov and forwarded to the **City of Cocoa Planning and Zoning Department** when available.
 - c. **Application Fee.** The fee is \$___. Please make checks payable to the 'City of Cocoa' and submit payment **ONLY** to the Community Services Department. Public mail notice and legal advertising fees must also be paid with application submittal.
 - d. **Proof of Ownership.** A copy of the most recent recorded warranty deed or record of ownership printed from the Brevard County Property Appraiser website is required.
 - e. **Property Owner Authorization.** If the applicant is not the property owner, then the property owner will need to provide authorization by signing below (See #10 below).
 - f. **Corporate Documents.** If the applicant/owner is representing a company, articles of incorporation which show the applicant/owner is authorized to represent the company is required. A data record printout from the Florida Department of State, Division of Corporations website may also be provided (<http://www.sunbiz.org/corpweb/inquiry/search.html>).
 - g. **Certified Boundary Survey and/or Site Plan.** Contact Planning & Zoning Division staff to determine if both a boundary survey and a site plan are required. Site plans should be drawn to scale and show the size and shape of the property, location of existing and proposed structures, streets, access points, fences, parking and landscaping areas.
 - h. **Additional Information (optional).** Submit any information that may be helpful in understanding the request. This may include photos, sketches, or elevations.
8. **Application filing deadline.** The application filing deadline is the first day of each month at 5:00 pm for public hearings that are held in the following month. Example: Application deadline is Oct. 1st for the November BOA meeting.
9. **Application filing procedure.** This application, together with all required exhibits and attachments, shall be completed and filed with the Planning and Zoning Division prior to the established filing deadline for the public hearing before the Board of Adjustment.

Public hearing process information – please read this!

- **Public hearing date and location.** All regularly scheduled hearings are held on the third Wednesday of each month at 6:00 pm in the Cocoa City Council Chambers located at 65 Stone Street, Cocoa, Florida unless otherwise notified.
- **Presence required at the public hearings.** The applicant or his/her representative must be present to answer any questions concerning the application. If there are extenuating circumstances why the applicant or his/her representative cannot attend, he or she must notify the City in writing prior to the public hearing.
- **Preparing for public hearing.** It is the applicant’s responsibility to research and know all laws that may be applicable and may affect the outcome of any decision on the application request. The City assumes no responsibility or liability relating to the applicant’s failure to research and know all applicable laws including, but not limited to state, federal, and city laws, codes, land development regulations, and the comprehensive plan. The City recommends all applicants to consider consulting an attorney regarding their applications.
- **Format of public hearing.** The public hearing before the Board of Adjustment is quasi-judicial in nature. State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Board members in person, by phone, e-mail, or in writing before the application is considered at a public hearing. Applicants are encouraged to review and copy the quasi-judicial rules and procedures used by the Board of Adjustment before the public hearing date. A copy may be obtained from the City.
- **Exhibits at public hearing.** If photographs, documents, maps or other materials are provided to the Board as evidence at the public hearing, the applicant must leave those instruments with the Recording Secretary. By law those instruments automatically become part of the public records and cannot be returned to the applicant.
- **Witnesses at public hearing.** For the purposes of making a decision on the application, the Board shall only consider testimony of qualified witnesses. A witness is determined by the Board and is generally based on:
 - a. The witness has personal knowledge of the fact in which the witness will testify; and/or
 - b. In the case of testimony consisting of opinions or inferences, the testimony is qualified as the following:
 1. *Layman witness:* Testimony of a witness other than an expert witness is qualified only if:
 - The witness can readily, and with equal accuracy and adequacy, communicate what he or she perceived to the Board without testifying in the form of opinions or inferences.
 - The opinions and inferences do not require any special knowledge, skill experience or training.
 2. *Expert witness.* Testimony of an expert witness is qualified only if:
 - The subject matter is proper for expert testimony because scientific, technical, or other specialized skill will help the Board understand the evidence being presented, or helps establish a fact in issue.
 - The witness is adequately qualified to express an opinion on the matter.
- **Board action.** If the Board of Adjustment finds that the facts presented in the matter justify approval, it may approve the request, or a portion thereof, and it may specify any conditions deemed necessary to preserve the intent of the City of Cocoa Code. If the Board of Adjustment finds that the facts presented do not justify approval, it must deny the request and will specify the reasons for denial. A decision is usually made at the same meeting that the hearing is held.
- **Appeals.** Appeals of a decision by the Board of Adjustment may be made to the City Council by filing an application with the Community Services Department within fifteen (15) days of the Board’s decision. Any party aggrieved by the final decision of the City Council shall have the right to file an appropriate action in a court of competent jurisdiction.

10. Property Owner Authorization.

* Check here if same as Applicant →

I am the fee simple owner (or legal representative) of the property at: _____
and I hereby authorize the applicant to submit this Board of Adjustment Application regarding my property described above.

(PRINT OWNER NAME)

(OWNER SIGNATURE)

Personally Known OR Produced Identification

Type of I.D. Produced _____

(NOTARY PUBLIC SIGNATURE)

(Print, Type, or Stamp Commissioned Name of Notary Public)

STATE OF FLORIDA, COUNTY OF BREVARD

Sworn and subscribed to before me this _____ day of _____, 20 _____

11. Applicant Signature.

(PRINT APPLICANT NAME)

(APPLICANT SIGNATURE)

Personally Known OR Produced Identification

Type of I.D. Produced _____

(NOTARY PUBLIC SIGNATURE)

(Print, Type, or Stamp Commissioned Name of Notary Public)

STATE OF FLORIDA, COUNTY OF BREVARD

Sworn and subscribed to before me this _____ day of _____, 20 _____

FOR OFFICE USE ONLY

Fee of \$ _____ in cash or check (No. _____) payable to the "City of Cocoa".

Receipt Number: _____

Date: _____

Signature from Planning & Zoning Division:
