



City of Mesquite Board of Adjustment Application

Please print legibly. This application can also be completed online at

<https://www.cityofmesquite.com/DocumentCenter/View/7724/Board-of-Adjustment---Application-for-General-Special-Exceptions-and-Variations>.

Application Checklist

- ☐ Completed Application ☐ Site Plan/Drawing ☐ Site Plan Checklist (Page 7) ☐ Application Fee
☐ Owner Authorization Form (Page 6)

Property Information – Where the residence is located

Physical Address: _____ City, State: Mesquite, Texas
Zip Code: _____

Applicant Information – The person filling out the application

First Name: _____ Last Name: _____
Phone Number: _____ Email Address: _____
I would like an interpreter at the meeting: ☐ Yes ☐ No Language: _____

Property Owner(s) Information – The owner of the property listed as physical address

Same as Applicant: ☐ Yes ☐ No (If no, fill in information below)
First Name: _____ Last Name: _____
Phone Number: _____ Email Address: _____
Mailing Address: _____ City, State: _____
(If different from physical address)
Zip Code: _____

Office Use Only

Subdivision: _____ Block: _____ Lot: _____
Size of Property: _____ Square Feet When was the property platted: _____
Date Received: _____ Project Intake: _____ Case Number: BOA
☐ Special Exception (\$200) ☐ Residential Variance (\$250) ☐ Non-Residential Variance (\$750) ☐ Appeals (\$500)

Structure Types

Check all that applies

Residential Uses	☐ Owner / Rental Occupied	☐ Community Home / Group Home	☐ Home business / occupation
Nonresidential Use	Proposed / Existing Use _____		
Main Structure	Residential	Non-Residential	Other
☐ Room Addition	☐ Rear Carport	☐ Off-Site Parking	☐ Fencing
☐ Garage Addition	☐ Storage Building	☐ Joint Use Parking	☐ Temporary Uses
☐ New Residence	☐ Detached Garage	☐ Parking Reduction	☐ Tree Preservation
Nonconforming	☐ Patio Cover	☐ Flag Poles >75 Ft	☐ Oversized Antenna
☐ Use	☐ Oversized Accessory Structure	☐ Reverse Vending Machine	☐ Lighted Game Courts
☐ Premise	☐ Accessory Dwelling Unit	☐ Oversized Accessory Structure	☐ Livestock
☐ Structure	☐ Garage Conversion	☐ New Structure	

Height of Structure: _____ Feet Size of Structure: _____ Square Feet

Roof Pitch (If applicable): _____

Describe Materials Used:

Affected Part(s) of the Property

- | | |
|---|-------------------------------------|
| ☐ Interior Side Yard | ☐ Front Yard |
| ☐ Exterior Side Yard | ☐ Rear Yard |

Will it

- | |
|---|
| ☐ Exceed Maximum Height? |
| ☐ Exceed Maximum Size? |

Status

- | |
|-----------------------------------|
| ☐ Existing |
| ☐ Proposed |

Describe the structure and its purpose:

COMPLETE FOR SPECIAL EXCEPTIONS ONLY.

Requests for a Special Exception may be granted after the Board of Adjustment have found the following to be true. Please answer the following questions to the best of your ability.

Will the Special Exception allow greater use and enjoyment of the property without creating adverse impacts on adjacent properties?

☐ Yes ☐ No

If yes, how?

Will the Special Exception be compatible with the surrounding neighborhood?

☐ Yes ☐ No

If yes, how?

COMPLETE FOR VARIANCES ONLY.

In order to grant a zoning variance from the terms of this Zoning Ordinance the Board must find that:

1. The variance is not contrary to the public interest.

☐ Yes ☐ No

If no, explain:

2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

☐ Yes ☐ No

Explain how.

COMPLETE FOR VARIANCES ONLY.

3. The spirit of the Mesquite Zoning Ordinance is observed and substantial justice is done.

☐ Yes ☐ No

Explain:

OWNER AUTHORIZATION FORM

1. I hereby certify that I am the owner of the subject property or the duly authorized agent of the owner of the subject property for the purpose of this application.
2. I hereby designate the person named as the applicant on page 1 of this application, if other than myself, to file this application and to act as the principal contact person with the City of Mesquite.
3. I hereby authorize the City of Mesquite, its agents or employees, to enter the subject property at any reasonable time for the purpose of taking photographs, documenting current use and current conditions of the property; and further, I release the City of Mesquite, its agents or employees from liability for any damages which may be incurred to the subject property in taking of said photographs.
4. I have read and understand the information contained in the Board of Adjustment Application packet.

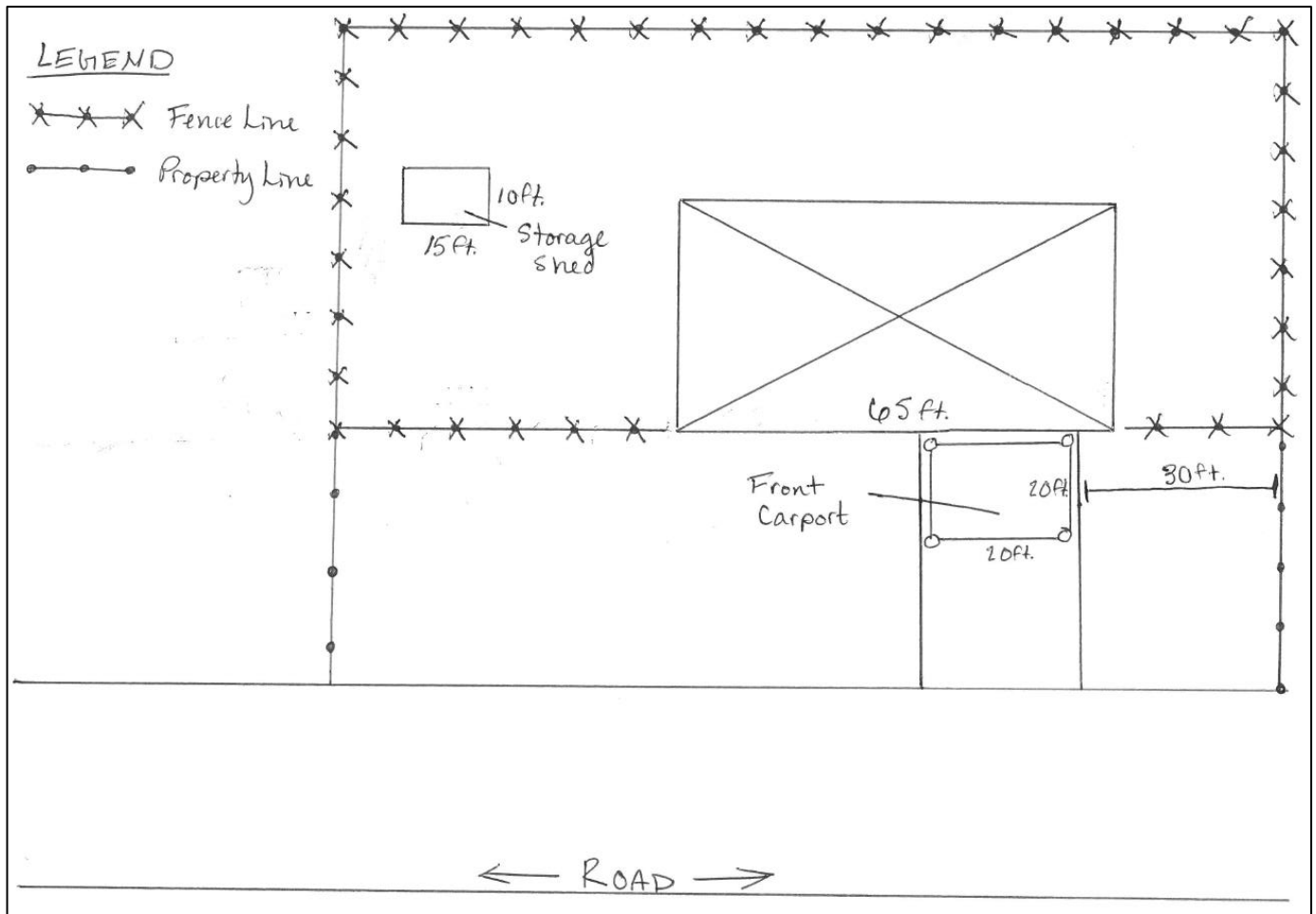
Property Owner: _____ Phone Number: _____

Address: _____

_____ Email Address: _____

Signature: _____

ACCEPTABLE SITE PLAN EXAMPLE



Site Plan Checklist

- | | |
|---|--|
| ☐ Property Lines | ☐ Streets/Alleys |
| ☐ Home – Draw Outline of Home | ☐ Front and Rear Length of Home (feet) |
| ☐ Other Structures on Property | ☐ Distance between Structures and Property Lines (feet) |
| ☐ Lengths of all Structures (feet) | ☐ Driveway |
| ☐ Fence Line | ☐ Legend (If needed) |

5-206 – Special Exception.

A. In General.

A special exception refers to uses or a modification of standards this Zoning Ordinance allows, but that are examined and specially approved by the Board of Adjustment.

B. Purpose.

The purpose of a special exception review by the Board is to determine situational suitability for the requested special exception.

C. Authority.

The Board may hear and decide special exceptions to the terms of this zoning ordinance when the special exceptions are expressly provided for by ordinance.

State law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009\(a\)\(2\)](#).

D. Effect.

Approval of an application for a special exception entitles the applicant to undertake the use or activity authorized under the special exception.

E. Applicability.

An application for a special exception may be filed only for the use or modifications listed below, or as otherwise provided for in this Zoning Ordinance:

1. Nonconforming uses. [1-302](#) (B).
2. Nonconforming structures and premises. [1-303](#) (B).
3. Temporary uses.
 - a. Temporary classrooms. [1-603](#) (A).
 - b. Temporary residences. [1-603](#) (B).
4. Accessory telecommunications facilities - Oversized antenna. [1-702](#) (A)(2).
5. Special exception for tree preservation. [1A-403](#) (G).
6. Principal or accessory uses in residential districts. [2-201](#) (C) and [2-203](#).
7. Minimum unit size in residential districts. [2-305](#) (A).
8. Lighted game courts in residential districts. [2-603](#) (J) and [2-604](#) (C).
9. Accessory dwelling units in residential districts. [2-603](#) (N).
10. Oversized accessory structure in residential districts. [2-604](#) (A).
11. Front carports in residential districts. [2-604](#) (B).
12. Front or exterior porch covers in residential districts. [2-604](#) (C).
13. Principal or accessory uses in nonresidential districts. [3-201](#) (C) and [3-203](#).
14. Off-Site parking in nonresidential districts. [3-403](#) (A).
15. Joint use parking in nonresidential districts. [3-403](#) (B).
16. Parking reduction in nonresidential districts. [3-403](#) (C).
17. Flagpoles over seventy-five (75) feet in height. [3-702](#) (D).
18. Reasonable accommodations for persons with disabilities. 5-205.

F. Initiation.

A property owner, or person expressly authorized in writing by the property owner, may request a pre-application conference and/or submit an application for a special exception in accordance with Section 5-202 (Application Procedures).

G. Notice.

Notice, in accordance with Section 5-203 (Notice), shall be provided to the public regarding a request for a special exception and any associated public hearing.

H. Public Hearing.

A public hearing, in accordance with Section 5-204 (Public Hearing), shall be conducted to determine whether the request for a special exception should be granted.

I. Action by the Director.

All applications for special exceptions, along with the associated fees, must be submitted to the Department in accordance with Section 5-202 (Application Procedures). The Director shall take the following actions upon the City's acceptance and the official filing of the application:

1. Upon receipt of an accepted and officially filed application the Director shall review and produce a staff report for presentation to the Board. The staff report shall include a summary of the requested special exception, staff comments, and a staff recommendation.
2. The Director shall schedule the application for a public hearing and consideration by the Board.
3. The Director shall provide notice in accordance with Section 5-203 (Notice).

J. Action by the Board of Adjustment.

1. *Public hearing and consideration of the application.* After receipt of an accepted and official filed application and staff report from the Director, the Board shall hold a public hearing, at a public meeting, in accordance with Section 5-203 (Public Hearing) and consider the application for a special exception.
2. *Actions.*
 - a. The Board must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section and may take any of the following actions regarding the application for a special exception:
 - (1) approval;
 - (2) approval with modifications;
 - (3) denial; or
 - (4) the Board may also, including but not limited to:
 - (a) postpone holding the public hearing and consideration of the application to a later date; or
 - (b) continue an opened public hearing and consideration of the application to a later date.
 - b. The Board may require that a special exception be:
 - (1) revocable;
 - (2) effective for a specified time period; or
 - (3) subject to one or more conditions.

K. Modifications and Conditions.

1. *Granting a special exception approval with a modification.*

The Board may grant a special exception that is less than that requested in the submitted application when it has been decided that the applicant is entitled to some relief, but not to the entire relief requested in the application.

2. *Granting a special exception with conditions and restrictions.*

The Board may impose such conditions and restrictions upon the special exception as may be deemed necessary

for the protection of the public health, safety, and welfare.

L. Approval Standards.

1. *Special exceptions.*

Special exceptions may be granted as set out in this Zoning Ordinance, when the Board finds that the special exception:

- a. will allow greater use and enjoyment of property; and
- b. without creating adverse impacts on adjacent properties; and
- c. that it will be compatible with the surrounding neighborhood; and
- d. when applicable, the board shall also consider any additional criteria set out in this Zoning Ordinance for any specific special exception.

2. *Special exceptions for a reasonable accommodation for persons with disabilities.*

See Section 5-205 (Reasonable Accommodations for Persons with Disabilities) for the approval standards for a special exception for a reasonable accommodation.

M. Vote Required.

The concurring vote of four (4) members of the Board is required to grant a request for special exception or a special exception for a reasonable accommodation.

State law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009](#) (c).

Cross reference – Motions, Section 5-208. - Rules for Motions, Decisions, Reconsiderations, and Appeals to Court., (A).

5-207 – Variance.

A. In General.

A variance is suspension of the literal enforcement of this Zoning Ordinance. In general, it is the duty of the Board of Adjustment to determine whether the literal application of the Zoning Ordinance to the piece of property would be unreasonable in light of the City's general authority to secure reasonable zoning.

B. Purpose.

Zoning variances are intended to address unnecessary hardships or practical difficulties resulting from the strict application of zoning-related standards. The purpose of the variance process is to provide a narrowly limited means by which relief may be granted from unforeseen applications of this Zoning Ordinance.

C. Authority.

1. Variance from the terms of the zoning ordinance.

The Board may, in specific cases, after written notice and a public hearing, authorize a variance from the terms of this Zoning Ordinance in accordance with the approval standards in this section.

State Law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009](#).

2. Variances prohibited.

The Board shall not grant use variances. A use variance is a request for a variance to allow a use that is not listed as a permitted use within a zoning district.

D. Effect.

Approval of an application for a variance entitles the applicant to deviate from the strict terms of this Zoning Ordinance as authorized by the terms in the variance.

E. Initiation.

A property owner, or person expressly authorized in writing by the property owner, may request a pre-application conference and/or submit an application for a variance in accordance with Section 5-202 (Application Procedures).

F. Notice.

Notice, in accordance with Section 5-203 (Notice), shall be provided to the public regarding a request for a variance and any associated public hearing.

G. Public Hearing.

A public hearing, in accordance with Section 5-204 (Public Hearing), shall be conducted to determine whether the request for a variance should be granted.

H. Action by the Director.

All applications for variances, along with the associated fees, must be submitted to the Department in accordance with Section 5-202 (Application Procedures). The Director shall take the following actions upon the City's acceptance and the official filing of the application:

1. Upon receipt of an accepted and officially filed application the Director shall review and produce a staff report for presentation to the Board. The staff report shall include a summary of the requested variance, staff comments, and a staff recommendation.

2. The Director shall schedule the application for a public hearing and consideration by the Board.
3. The Director shall provide notice in accordance with Section 5-203 (Notice).

I. Action by the Board of Adjustment.

1. *Public hearing and consideration of the application.* After receipt of an accepted and official filed application and staff report from the Director, the Board shall hold a public hearing, at a public meeting, in accordance with Section 5-203 (Public Hearing) and consider the application for a variance.
2. *Actions.*
 - a. The Board must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section and may take any of the following actions regarding the application for a variance:
 - (1) approval;
 - (2) approval with modifications;
 - (3) denial; or
 - (4) the Board may also, including but not limited to:
 - (a) postpone holding the public hearing and consideration of the application to a later date; or
 - (b) continue an opened public hearing and consideration of the application to a later date.
 - b. The Board may require that a variance be:
 - (1) revocable;
 - (2) effective for a specified time period; or
 - (3) subject to one or more conditions.

J. Modifications and Conditions.

1. *Granting a variance approval with a modification.*

The Board may grant a variance that is less than that requested in the submitted application when it has been decided that the applicant is entitled to some relief, but not to the entire relief requested in the application.

2. *Granting a variance with conditions and restrictions.*

The Board may impose such conditions and restrictions upon the variance as may be deemed necessary for the protection of the public health, safety, and welfare.

K. Approval Standards.

1. In order to grant a zoning variance from the terms of this Zoning Ordinance the Board shall find that:
 - a. The variance is not contrary to the public interest; and
 - b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship (See K.2. below); and
 - c. The spirit of this Zoning Ordinance is observed and substantial justice is done.
2. If special conditions exist, then the Board may consider the following as grounds to make a determination whether compliance with the Mesquite Zoning Ordinance ("MZO"), as applied to a structure that is the subject of the variance, would result in unnecessary hardship:
 - a. if the financial cost of compliance with the MZO is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code, or successor and as amended, then the Board may find that to be an unnecessary hardship; or

- b. if compliance with the MZO would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur, then the Board may find that to be an unnecessary hardship; or
- c. if compliance with the MZO would result in the structure not being in compliance with a requirement of a City ordinance, building code, or other requirement, then the Board may find that to be an unnecessary hardship; or
- d. if compliance with the MZO would result in the unreasonable encroachment on an adjacent property or easement, then the Board may find that to be an unnecessary hardship, or
- e. if compliance with the MZO would result in the City considering the structure to be a nonconforming structure, then the Board may find that to be an unnecessary hardship.

State Law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009](#).

L. Vote Required.

The concurring vote of four (4) members of the Board is required to grant a request for variance.

State law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009](#) (c).

Cross reference – Motions, Section 5-208. - Rules for Motions, Decisions, Reconsiderations, and Appeals to Court., (A).