

*McCracken County  
Zoning Board of Adjustment*



Application Packet  
For A  
Variance



Available on CD and at [www.co.mccracken.ky.us](http://www.co.mccracken.ky.us)

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### Color Codes

**Blue Box**    **Tips For Getting It Right;  
Or Answers To A Frequently Asked Question**

**Red Box**            **Critical Information – Pay Special Attention**

**Red Letters**        **Sheets To Return With Application**



*Zoning Board of Adjustment*  
 McCracken County, Kentucky  
 300 South 7<sup>th</sup> Street  
 Paducah, KY 42003-1700  
 v (270) 444-4769  
 f (270) 444-4731  
 information@co.mccracken.ky.us

DO NOT WRITE IN THIS AREA

Pre-Conf Date \_\_\_\_\_

App Date \_\_\_\_\_

Hearing Date \_\_\_\_\_

## APPLICATION FOR A VARIANCE

P L E A S E P R I N T O R T Y P E

Applicant Information	_____
	Name _____
	Mailing Address _____
	Daytime Phone Number _____

Property Owner Information	_____
	Name _____
	Mailing Address _____
<input type="checkbox"/> Same as Above	Daytime Phone Number _____

Property Information	_____
	Property Address _____
	If Platted, Plat Book Number, Page Number _____
	Zoning -
	<input type="checkbox"/> AG <input type="checkbox"/> RR <input type="checkbox"/> MR <input type="checkbox"/> UR <input type="checkbox"/> C <input type="checkbox"/> ML <input type="checkbox"/> MH

Variance Request	This is a request to vary Section _____ of the McCracken County Zoning Ordinance to allow a: _____
	_____
	<input type="checkbox"/> Front Yard Reduction <input type="checkbox"/> Side Yard Reduction <input type="checkbox"/> Rear Yard Reduction <input type="checkbox"/> Other Dimensional Requirement _____

VARIANCE APPLICATION

2<sup>ND</sup> PAGE

Justification Statement	I should be considered for a variance due to: <input type="checkbox"/> Exceptional narrowness of the site <input type="checkbox"/> Shallowness or unusual shape of the site <input type="checkbox"/> Other extraordinary situation or condition of the site _____ _____
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I hereby certify that the information contained in this application, including all supporting documents and drawings, are to the best of my knowledge true and correct.

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

\_\_\_\_\_  
Date

**RETURN THIS SHEET WITH THE COMPLETED APPLICATION**

## VARIANCE CHECKLIST

**THE BOARD OF ADJUSTMENT WILL HEAR ALL APPLICATIONS WITHIN 30 DAYS FROM THE RECEIPT OF THE COMPLETED APPLICATION.**

**THE FOLLOWING INFORMATION MUST ACCOMPANY AN APPLICATION TO THE ZONING BOARD OF ADJUSTMENT AND IS TO BE PROVIDED BY THE APPLICANT:**

- Application and justification statement. The applicant must complete the application form in its entirety. Incorrect or inaccurate information may result in dismissal of the application for a variance.
- A copy of the latest deed or plat for the property or properties involved in the request.
- The appropriate drawings showing all existing and proposed improvements on the property, with dimensions and distances to property lines, all abutting streets, and any special conditions of the property that may justify the request.
- An original copy of the legal notice published in the Paducah Sun not less than 7 or more than 21 days prior to the hearing.
- The names and mailing addresses of all adjacent property owners.
- A completed "Certificate of Land Use Restriction". A recording fee of \$10.50 is required per KRS 100.3683.

**THE FOLLOWING INFORMATION WILL BE PROVIDED TO THE APPLICANT BY THE McCRACKEN COUNTY ZONING ADMINISTRATOR'S OFFICE:**

- Hearing date, which will be the next applicable agenda date. *All applications will be heard within 30 days from receipt of the completed application.*
- An Application Packet with an application form, sample letters and sketches and documents you will need for the hearing.

**CERTIFICATE OF LAND USE RESTRICTION**

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

_____	_____
_____	_____
_____	_____
_____	_____

2. ADDRESS OF PROPERTY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. TYPE OF RESTRICTION (S)

(Check all that apply):

\_\_\_ Zoning Map Amendment  
to \_\_\_ Zone

\_\_\_ Development Plan

\_\_\_ Unrecorded Subdivision Plat

\_\_\_ Variance

\_\_\_ Conditional Use Permit

\_\_\_ Conditional Zoning Condition

\_\_\_ Other

specify \_\_\_\_\_

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

McCracken County Zoning Administrator  
301 S. 6<sup>th</sup> Street  
Paducah, KY 42003

Form of Certificate per KRS 100.3683  
  
A Recording Fee of \$10.50 shall be collected at the time application is made (KRS 100.3681 (1), (2))

\_\_\_\_\_  
Signature of Completing Official

\_\_\_\_\_  
Name and Title of Completing Official  
(Type or print)

## Tips For Getting a Variance

Here Are The Simple Steps To Get a Variance Hearing

1. Submit a **complete** application including a drawing to the Zoning Administrator. Failure to submit a correct application can lead to postponements.
2. Receive a hearing date from the Zoning Administrator.
3. Advertise for a public hearing by placing an advertisement in the Paducah Sun.
4. Attend the public hearing and present your case. Know that variances are in no way guaranteed just because you filed an application. Know the reasons under the law why variances may be granted.
5. Receive final approval, or denial, from the Zoning Board of Adjustment.
6. If approved, proceed with the permitting process.

## SAMPLE HEARING NOTICE

### **Notice of Public Hearing For Property Located at 125 Peoria Ave.**

On Tuesday July 24, 2002 at 5:00 PM in the McCracken County Courthouse, a public hearing will be conducted on the application of James Smith for a variance from the McCracken County Zoning Ordinance on property located at 125 Peoria Ave. All interested parties may appear and be heard. Call (270) 444-1369 for more information.

Paul Holland, Chairman  
McCracken County Zoning Board of Adjustment

**Notice of Public Hearing  
For Property Located at  
\_\_\_\_(Property Address)\_\_\_\_\_**

On \_\_\_(Date Supplied by Zoning Administrator)\_\_\_\_\_ at 5:00 PM in the McCracken County Courthouse, a public hearing will be conducted on the application of \_\_\_(Owner Name)\_\_\_\_\_ for a variance from the McCracken County Zoning Ordinance on property located at \_\_\_(Property Address)\_\_\_\_. All interested parties may appear and be heard. Call (270) 444-1369 for more information.

Paul Holland, Chairman  
McCracken County Zoning Board of Adjustment

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Print One (1) time on \_\_\_\_\_(Date)\_\_\_\_\_

Send Invoice and Tear Sheet to:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone Number

***Tips For Running An Advertisement***

This must be published at least 7 days and not more than 21 days before the hearing.

Generally you must submit this to the Paducah Sun before 12 Noon on the day before you want this published. They are located at 408 Kentucky Ave. Their FAX number is 443-7465. The law requires you to use the newspaper with the widest circulation -- the Paducah Sun.

You must provide an original copy of the published advertisement *prior* to the hearing.

You will be responsible for paying Paducah Sun.

Blank For Use To Send To Newspaper

**Notice of Public Hearing  
For Property Located at**

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On \_\_\_\_\_ at 5:00 PM in the McCracken County Courthouse, a public hearing will be conducted on the application of \_\_\_\_\_ for a variance from the McCracken County Zoning Ordinance on property located at \_\_\_\_\_. All interested parties may appear and be heard. Call (270) 444-1369 for more information.

Paul Holland, Chairman  
McCracken County Zoning Board of Adjustment

Print One (1) time on \_\_\_\_\_  
Send Invoice and Tear Sheet to:

---

Print Name

---

Address

---

City, State, Zip

---

Telephone Number

Fax or Deliver this sheet only to the Paducah Sun Classified Dept.

Fax Number: 270-443-4765  
Voice: 270-575-8600  
Location: 408 Kentucky Ave.

## Notifying the Neighbors

As required by the ordinance, the adjacent property owners shall be notified by First Class Mail. It is your responsibility to identify all of the adjacent property owners.

The Zoning Administrator will mail the letters.

The adjacent property owners are the ones on either side of your property and to the rear of your property. In some cases, the Zoning Administrator may decide that properties across the street qualify as “adjacent” for the purpose of the case.

You may find out who the adjacent property owners are by the following methods:

1. Visit the Property Valuation Office, located in the Court House Annex at 621 Washington Street.
2. Conduct a field survey by looking for names on mailboxes. You may have to knock on some doors.

P L E A S E P R I N T

	<b>Adjacent Owner Name</b>	<b>Property Address</b>	<b>Mailing Address</b>
1			
2			
3			
4			
5			
6			

U S E O T H E R S I D E I F N E C E S S A R Y

**RETURN THIS SHEET WITH THE COMPLETED APPLICATION**

**Adjacent Property Owners Affidavit**

**Commonwealth of Kentucky  
McCracken County**

This \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_  
(Day) (Month) (Year)

I, \_\_\_\_\_  
(Owner, Applicant)

hereby make oath that the list of adjacent property owners of all portions of the subject property, including the subject property, all property immediately across the street or road of the subject property, is a true and accurate list as submitted with the variance application

\_\_\_\_\_  
(Owner, Applicant)

COMMONWEALTH OF KENTUCKY

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, in my County and State aforesaid, by the forenamed principal.

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

My Commission Expires: \_\_\_\_\_

**RETURN THIS SHEET WITH THE COMPLETED APPLICATION**

## Preparing the Drawings

As required by the board, the applicant shall prepare a drawing that conveys your case.

It is not necessary to have your drawing professionally prepared. It simply is not required. With a little effort, most property owners can present a competent case to the Board.

The very *easiest* thing to do is have a professional architect, engineer, or surveyor prepare the drawing. You may also want to consider legal advice. Professionals are very qualified, and they generally know what we desire. As many of the professionals have been through this before, they can often give you valuable advice for winning your case. Usually they will help represent you at the public hearing. Of course, utilizing professionals comes with a cost. It is your case and if it is critical to you economically, then you should consider professional assistance.

If you are preparing your own drawing, you should include the following information on the graphic:

1. The boundary of the subject property and the zoning and owner names and addresses for all adjoining property;
2. Date, appropriate North point, and graphic scale.
3. Drawn to a scale of one hundred (100) feet to one (1) inch or larger.
4. Location, arrangement and approximate dimensions of existing and proposed streets, roads, driveways, sidewalks, and parking areas.
5. Perimeter screening (existing and planned) and other open spaces.
6. Approximate size, location, floor area, and use of **proposed and existing buildings**.
7. **The dimensions that require a variance should be clearly marked, e.g. a side yard reduction.**
8. Minimum building setback lines for the zone in question.
9. Floodplain as determined by Federal Emergency Management Agency, (FEMA.), and classification, as per FEMA codes – if applicable, ask us.

10. Approximate location and dimensions of storm drainage areas, conceptual drainage controls and stormwater retention – if applicable, ask us.
11. Drawings shall be submitted not larger than 24 by 36 inch in size. They can often be done on a standard 8 1/2 x 11 sheet of paper.
12. Owners Certificate: I certify that I am the owner, or authorized applicant, of the property shown on this sketch. The information is, to the best of my knowledge, true, correct, and an accurate representation of the existing and proposed conditions. This is not a survey or plat. This sketch is not suitable for any other purpose. The information contained has been obtained from existing records and/or in-the-field observations. I understand that I am responsible for the accuracy of the information and not McCracken County. I further acknowledge that any approvals or denials will be made, in part, based upon the information contained hereon. McCracken County may inspect the property.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### ***Tips For Preparing An Acceptable Drawing***

A sample drawing is included with this packet for you to use a guide.

You may purchase inexpensive drawing aids, such as scales and/or graph paper, at local office supply stores. Another good place to go is Paducah Blueprint, located at 999 Broadway. They have everything you will need to prepare an acceptable document.

Also readily accessible graphics programs can be found that work nicely.

S U B M I T

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C O P I E S   W I T H  
T H E   A P P L I C A T I O N

## The Public Hearing

Only after a proper application is accepted by the Board, and the proper advertising is complete (neighbors notified by mail, and an advertisement placed in the paper), will a public hearing be conducted.

The meeting, conducted by the Board Chairperson, is generally an informal affair, but will be orderly. You will be asked to present your case. You should cover the following information:

1. Identify the existing zoning of the subject property.
2. Characterize the site conditions of the subject property.
3. Characterize the land uses in the general area around the subject property.
4. Present the plan. Show your drawing, and describe the future use of the property. You should state the legal reason why a variance should be granted (see below). You should also describe future buildings and their use, parking, traffic flow, storm drainage controls, and any landscaping, fencing or screening.

**Key Point:** Remember, variances are not automatically granted simply because you applied for one. You must demonstrate that the literal enforcement of the dimensional requirements of the zoning would deprive you of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone by reason of at least one of the following points:

1. Exceptional narrowness of the site; or
2. Shallowness or unusual shape of the site; or
3. Other extraordinary situation or condition of the site.

As it is a public hearing, the Chairman will ask if anyone is at the meeting that wishes to comment or ask questions about the proposal. Usually some one will speak up if they think there is some problem with the proposal. The neighbors tend to ask about traffic, water runoff, noise, screening, and property values. Be prepared for some give and take. Think ahead about what is really important to the project and what conditions you are willing to negotiate. The Board listens carefully to public input, especially those things that are legitimate and reasonable. The Board may decide to attach conditions to its approval.

In order to approve the request, the Board, after hearing all interested parties, must find that:

1. The granting of the variance will not adversely affect the public health, safety or welfare.
2. The variance will not alter the essential character of the general vicinity.
3. The variance will not cause a hazard or a nuisance to the public.
4. And the variance will not allow an unreasonable circumvention of the requirements of the zoning regulation.

In making these findings, the Board, as required by law, shall consider the following:

- a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
- b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
- c) The circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

## Excerpt from McCracken County Zoning Ordinance

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### Section 72 – Board of Adjustment

- I. A Board of Adjustment (hereinafter known as “the Board”) shall be appointed and organized in conformance with the KRS 100.217.
- II. The Board shall have the following powers and duties:
  - A. *Bylaws.* To adopt bylaws for its own government.
  - B. *Conditional Uses.* To hear and decide applications for conditional use permits that allow uses which are specifically named in the zoning provisions, and which may be suitable only in specific locations in the zone if certain conditions are met.
  - C. *Administrative Review.* To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision, grant, determination or refusal made by the enforcement officer or other administrative office in the carrying out of this chapter, and for interpretation of the zoning map. The Board of Adjustment has authority to said appeals, and to make literal interpretations of the pertinent provisions in order to correct any possible misinterpretation, and to make only those departures from a literal conformance of the zoning regulations, which are specifically delegated to it.
  - D. *Procedures for all appeals to board.* Appeals to the board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order requirement, interpretation, grant, refusal, or decision of any zoning administrative or enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the official by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and parties of records. Said officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed form was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the board, any interested person may appear and enter his appearance, and all shall be give an opportunity to be heard.
  - E. *Public Notice of Appeal Hearing.* The board shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the administrative official at least one (1) week prior to the hearing, and shall decide it within sixty (60) days. The affected party may appear at the hearing in person or by attorney.
  - F. *Variance.* To hear and decide on applications for dimensional variance where, by reason of the exceptional narrowness,

shallowness or unusual shape of the site, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements of the zoning provisions would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions it decides to grant. The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

- G. *Findings Necessary for Granting Variances.* Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard of nuisance to the public, and will not allow an unreasonable circumvent of the requirements of the zoning regulation. In making these finding, the board shall consider whether:
1. The requested variance arises from special circumstances, which do not generally apply, to land in the general vicinity, or in the same zone.
  2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  3. The circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulation from which relief is sought.
- H. *Nonconforming Use Change.* To permit a change from one nonconforming use to another, providing the new nonconforming use is in the same or a more restrictive zoning classification in accordance with these zoning regulations.
- I. *Limits of Authority.* The Board of Adjustment shall not possess the power to grant a variance to permit a use of any land, building, or structure, which is not permitted by the zoning provisions for the zone in question; or to alter density requirements in the zone in question. The Board does not possess the authority to permit a use not authorized by these zoning regulations.
- J. *Application of Variance.* A dimensional variance applies to the property for which it is granted, and not the applicant. A variance also runs with the land, and is transferable to any landowner of the land, but the applicant cannot transfer it to a different site.
- K. *Additional Authority.* In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure, or use as it may deem advisable in the furtherance of the purposes of these zoning regulations.
- L. *Report.* A written report on each variance that is granted or denied by the Board shall be submitted to the McCracken County Fiscal Court with a copy retained in the files of the Planning Office.

M. *Members.* The McCracken County Board of Adjustment shall consist of three (3) members.