



CITY OF FARMINGTON

Zoning Board of Appeals

Structure. The Zoning Board of Appeals (ZBA) is an appointed five (5) member body regulated by State statute and City ordinance.

Powers. The basic function of the ZBA is to handle any appeals dealing with any City decision, ruling, or orders that deal with the City Zoning Ordinance. The Zoning Board of Appeals has a broad range of powers, as outlined in *Section 35-214 Powers*:

- A. **Appeals.** The ZBA hears and rules on any contested order, requirement, decision or determination made by the building official or any administrative official or body involving the City of Farmington Zoning Ordinance.
- B. **Map Interpretations.** The ZBA will hear and rule on any alleged uncertainty, contradiction, or conflict as to the intended exact physical location of a Zoning District Boundary according to a pre-determined set of standards (see *Section 35-214 B*).
- C. **Text Interpretations.** The ZBA has the power to interpret the regulations established in the City of Farmington Zoning Ordinance.
- D. **Non-Conforming Situations.** The ZBA has the power to rule upon proposed changes to non-conforming uses according to *ARTICLE 17 NON-CONFORMING USES, LOTS, BUILDINGS, STRUCTURES AND SITES*.
- E. **Height Modifications.** The ZBA has the power to decide upon modification of structure height according to proposed design, setbacks, and potential impact on the character of the project area.
- F. **Variance.** The ZBA has the power to authorize a variance from the strict application of the current Zoning District Designation guidelines for the current Zoning Use, or a variance in the use if a hardship can be proven in each case.

Board Process. The Zoning Board of Appeals is classified as a quasi-judicial body and is required by law to follow previously accepted procedures and fairly evaluate the relevant facts in each specific appeals case. When reviewing a zoning variance, the ZBA must legally demonstrate either a practical difficulty (for property variances), or a hardship (for use variances) in order to approve the variance request.

Meetings. The City of Farmington Zoning Board of Appeals meets on the first Wednesday of each month at 7:00 p.m. Applications must be submitted to the Economic & Community Development Department located at 23600 Liberty Street **at least twenty-three (23) days** prior to the regularly scheduled Zoning Board of Appeals meeting in accordance with the following schedule: Note that if site plans or other associated documents are part of the application, a **digital** copy must be provided.

Application Submittal Date	Zoning Board of Appeals Meeting Date
December 10, 2019	January 2, 2020
January 13, 2020	February 5, 2020
February 10, 2020	March 4, 2020
March 9, 2020	April 1, 2020
April 13, 2020	May 6, 2020
May 11, 2020	June 3, 2020
June 8, 2020	July 1, 2020
July 13, 2020	August 5, 2020
August 10, 2020	September 2, 2020
September 14, 2020	October 7, 2020
October 12, 2020	November 4, 2020
November 9, 2020	December 2, 2020

Meeting Process. At a ZBA meeting, each case will be called by the Chair and introduced by the petitioner, at which time the Board members can question the petitioner and the City of Farmington staff in an attempt to determine the appropriate ruling. At the time of the meeting, the ZBA has already had the opportunity to review all of the petitioner’s plans, photos, and other documentation turned in with the ZBA application. During this section of the meeting, any members of the public who wish to offer a concise comment on the case will be called on by the Chair and are to address the Board, not the petitioner.

Once all of the materials and testimony described above have been collected and heard, the ZBA then considers the matter and makes a ruling. Decisions of

the ZBA are final unless the circumstances change meaning the next avenue to pursue would be an appeal through the court system.



CITY OF FARMINGTON

For office use only

Date Filed: _____

Fee Paid: _____

Zoning Board of Appeals Application

1. **Petitioner Name** _____

2. **Location of Property**

Address _____

Cross Streets _____

3. **Identification**

Applicant _____

Address _____

City/State/Zip _____

Phone _____ Fax _____

Interest in the Property (e.g. fee simple, land option, etc.)

9 Property Owner 9 Other (Specify) _____

Property Owner _____

Address _____

City/State/Zip _____

Phone _____ Fax _____

Preparer of Site Plan _____

Address _____

City/State/Zip _____

Phone _____ Fax _____

4. **Property Information**

Zoning District _____ Area _____

Width _____ Depth _____

Current Use _____

5. Appeal Request

Indicate grounds for appeal & complete additional section, if specified:

D

D

D

D

D

D

Specific appeal request type (pick one)	Consult Zoning Ordinance Section	Complete Additional Application Section
APPEALS from any order, requirement, decision or determination made by the Building Official, any administrative official or administrative body where it is alleged that there was an ERROR OR MISINTERPRETATION.	18.04 A	Section 6.
MAP INTERPRETATIONS	18.04.B.	Section 6.
TEXT INTERPRETATIONS	18.04.C.	Section 6.
NON-CONFORMING SITUATIONS	18.04.D. & Article 17	
HEIGHT MODIFICATIONS	18.04 E.	
VARIANCE from the strict application of the provisions of the Zoning Ordinance; specify type:	18.05 A.-D.	
<input type="checkbox"/> Dimensional (Area) Variance <input type="checkbox"/> Use Variance <input type="checkbox"/> Accessory Reception Antenna Facilities <input type="checkbox"/> Cellular Towers and Antenna <input type="checkbox"/> Fences	18.05 D.1. 18.05 D.2. 18.05 D.3. 18.05 D.4. 18.05 D.5.	Section 7. Section 8.

Describe your appeal, in general:

Upon completion of this portion, check above for an additional section to complete, then go to the last page (**Section 9.**) to complete the application.

6. Section 6. Specific criteria for APPEALS and INTERPRETATIONS

The Board of Zoning Appeals is bound by the same rules, procedures, and standards of the Ordinance. The Board of Zoning Appeals should uphold the original decision unless the record clearly shows that the original decision body or official was one of the following:

- a. Arbitrary and capricious; or
- b. Filled to ensure consistency with ordinance standards; or
- c. Made an error, such as relying on false or inaccurate information, or
- d. Constituted an abuse of discretion; or
- e. Was based upon erroneous interpretation of the zoning ordinance or zoning law.

Describe how your appeal meets one of these criteria:

7. Section 7. Criteria for a DIMENSIONAL (Area) Variance

Please respond to the following statements. The application must meet all criteria in order to obtain a variance.

- a. **Practical Difficulties.** How would the strict compliance with the area, setbacks, frontage, height, bulk, density, or other dimensional and non-use matters create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render the conformity unnecessarily burdensome? Note that the showing of mere inconvenience is insufficient to justify a variance.

- b. **Substantial Justice**

How would a variance do substantial justice to the applicant as well as to other property owners in the district?

Would a lesser variance than the requested give substantial relief to the applicant and or be more consistent with justice to other properties? If not, please explain why?

- c. **Public Safety and Welfare.** Will the granting of the variance materially impair the intent and purpose of this ordinance or compromise the public safety and welfare?

d. **Not Self-Created.** Have the special conditions and circumstances relating to the variance request resulted from the actions of the applicant?

e. **No Safety Hazard or Nuisance.** Will the granting of variance or appeal increase the hazard of fire or otherwise endanger public safety or create a public nuisance?

f. **Relationship to Adjacent Land Uses.** Will the development permitted upon granting the variance relate harmoniously in a physical and economic sense with adjacent land uses while not altering the essential character of the neighborhood?

g. **Minimum Variance Necessary.** Is the variance requested the minimum amount necessary to permit reasonable use of the land? Explain, provide specific figures if necessary.

8. Section 8. Criteria for a USE Variance

Please respond to the following criteria. The application must meet **all** of the statements in order to obtain the use variance.

- a. **Unreasonable Current Zoning Designation.** Describe how the property cannot be reasonably used for any purpose permitted in the zoning district without the variance. There must be financial proof of inability to realize any return.

- b. **Unique Circumstances.** Describe the unique circumstances peculiar to the property that exist which are not generally applicable in the area or to other properties in the same zoning district. Please describe features that make it impossible to earn a reasonable return without some adjustment.

- c. **Not Self-Created.** Have the special conditions and circumstances relating to the variance request resulted from the actions of the applicant or the applicant's predecessors or are they self-created?

- d. **Capacity of Roads, Infrastructure and Public Services.** Will the capacity and operations of public streets and other facilities be compromised?

e. **Character of Neighborhood.** Will the variance, if granted, alter the essential character of the area? Explain.

f. **Minimum Variance Necessary.** Is the variance requested the minimum amount necessary to permit reasonable use of the land? Explain, provide specific figures if necessary.

9. **Section 9. Completing the BZA Application**

In order to start the review process the applicant must submit a complete application. The following checklist includes all documents required for the Zoning official to declare the application complete and begin the review process:

_____ **A. Application, Fees and Copies.** Complete the preceding application form, as directed, and sign and date the application in the blanks provided below. Deliver this form, the filing fee, 9 sets of drawings or prints, and one each of any letters, maps, photographs or supplementary information to the City of Farmington Building Department. The City will require 14 days to process the completed application.

_____ **B. A completed Elevation Plan.** For any applicant requesting a variance when a structure, fence, sign, remodeling, addition and/or any construction will be above grade, the following information must be included on plans drawn to a scale of at least ¼" to 1" on a sheet or sheets that are at least 24" x 18":

_____ The elevations of all proposed new structures including all portions above grade level

_____ The elevations for the entire structure of any building to be added to or remodeled including all portions above grade level

_____ All doors, windows, roof lines, outdoor mechanical equipment, chimneys, porches, overhangs, signs, fences and other structural or permanent components of the building(s)

A copy of the complete legal description of the property and proof of property ownership should accompany this application.

I, _____ (applicant), do hereby swear that the above statements are true.

Signature of Applicant Date Signature of Property Owner Date

I, _____ (property owner), hereby give permission for City of Farmington officials, staff, and consultants to go on the project property for purposes of verifying information provided on the submitted application.

<u>Zoning Board Appeal or Interpretation:</u>	Applicable Not Applicable
Approved/Denied: _____	
Date: _____	
By/2nd: _____	
Conditions of Approval: _____	