



City of Tuttle

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Community Development Department

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EXPLANATION OF VARIANCE AND SPECIAL EXCEPTION PROCESS BOARD OF ADJUSTMENT

This is a quick explanation of the City of Tuttle procedures for requesting a variance, or special exception from the Board of Adjustment. Please read carefully.

The Community Development staff is available to assist you in determining if requesting a variance or special exception from the Board of Adjustment is appropriate based on what you are trying to achieve. The Board of Adjustment may only grant variances and special exceptions based upon positive findings of fact of specific criteria established by state statute and local ordinances. If you decide to request a variance or special exception, you will need to submit the following documents to the Community Development Department to begin the process:

- A completed and signed Board of Adjustment Application
- Written property owner consent if the applicant is not the property owner
- A certified property ownership list of property owners that are within 300 feet of the subject property (this is usually obtained from a local abstract company for a fee). If 10 property owners are not located within a 300-foot radius of the property, then the radius will be increased by increments of 100 feet until 10 property owners are in the radius.
- A legal description of the subject property (the legal description used by the abstract company will usually work).
- A check addressed to the City of Tuttle in the amount of \$400. Any mailings over 25 will incur additional cost.
- A written description of your request. This should include the reasons why you are asking for the variance/special exceptions. Include current and proposed site plans, photographs, building plans, etc. Also, include a written explanation of why you qualify for the variance or special exception by answering how you meet the criteria for a variance or special exception on Page 3 of this packet.

After these documents have been received by the Community Development Department, staff will begin reviewing them. The City of Tuttle is not responsible for the accuracy of submitted documents. Once the submitted application and required documents have been reviewed by staff, they will then assign a BOA Petition # and will begin preparing documents and reports to the Board of Adjustment.

The Board of Adjustment is a quasi-judicial board. In other words, it functions very similar to a court, with the Board acting as the judge. Prior to conducting a hearing, state statute requires public notification to be given to the surrounding property owners and to the community as a whole. A notice of the proposed variance or special exception must be mailed to all property owners within 300 feet of the subject property at least ten (10) days prior to the hearing. Notice is also required to be published in the newspaper at least ten (10) days prior to the hearing. For this reason, variance and special exception applications not received at least 21 days prior to the next Board of Adjustment meeting will be placed on the agenda for the following

meeting. City staff will prepare, mail, and publishes the notices for the meeting after the appropriate documentation has been received.

The Board of Adjustment meets on an as needed basis at Tuttle City Hall. At the hearing conducted by the Board of Adjustment, you will have an opportunity to address the Board, along with surrounding residents and any other interested party. It is highly recommended that you or someone else who is authorized to speak on your behalf and is knowledgeable about your request be present. The Board of Adjustment may postpone making a decision or deny the request if they are not comfortable they have all of the information they need to make an informed decision.

The Board of Adjustment will make its final decision by approving a Finding of Fact. This document details all of the facts presented and the Board of Adjustment's determination of whether or not the required criteria for the request has been met. The decision of the Board of Adjustment is final and cannot be appealed to the City Council (per state statute). Any person or taxpayer may appeal a decision of the Board of Adjustment to Grady County District Court by filing notice with the City Clerk and the Board of Adjustment within ten (10) days from the filing of the decision of the Board, which notice shall specify the grounds of such appeal.

IMPORTANT NOTE: The Board of Adjustment cannot grant any variance or special exception due to pure economic reasons. In other words, a variance or special exception may not be granted simply because it will save the petitioner money.

For **variance requests**, the Board of Adjustment must make a positive finding of the following criteria:

1. The application of the ordinance to a particular piece of property would create an unnecessary hardship;
2. Such conditions are peculiar to the particular piece of property involved;
3. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Zoning Code or the Comprehensive Plan of the City of Tuttle; and
4. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

For special exceptions regarding **setback violations**, the Board of Adjustment must make a positive finding of the following criteria:

1. The encroachment is the result of an unintentional mistake (failure to apply for or receive a building permit shall not be considered an unintentional mistake);
2. When the encroachment was discovered, the structure was at or past a reasonable stage of the construction process to be corrected;
3. Relief, if granted, would not cause substantial detriment to the public good, the surrounding neighborhood, or impair the purposes and intent of the Zoning Ordinance or the Comprehensive Plan of the City of Tuttle, including; and
4. The special exception, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

For special exceptions regarding **off-street parking**, the Board of Adjustment must make a positive finding of the following criteria:

1. The proposed number of off-street spaces is more than adequate to meet all of the parking and loading needs for the proposed building or site;
2. On-street parking will not be required to accommodate the daily parking needs of the proposed use;
3. The reasonable safety of the traveling public on adjacent highways and roads will not be negatively impacted;
4. Relief, if granted, would not cause substantial detriment to the public good, the surrounding neighborhood, or impair the purposes and intent of the Zoning Ordinance or the Comprehensive Plan of the City of Tuttle, including; and
5. The special exception, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

For special exceptions regarding **building within 150 feet of an oil & gas site**, the Board of Adjustment must make a positive finding of the following criteria:

1. The proposed reduced setback conforms with 52 O.S. Section 320.1;
2. The operator of the oil & gas site (as identified by the records of the Oklahoma Corporation Commission Oil & Gas Division) agrees, in writing, to the reduced setback;
3. The owner of the parcel of the oil & gas site agrees, in writing, to the reduced setback;

4. The Fire Chief finds, in writing, the proposed reduced setback:
 - a. Does not violate any applicable fire codes;
 - b. Does not pose a reasonable fire or safety risk to the occupants of the proposed structure;
 - c. Will not interfere with the ability of the Fire Department and/or other emergency responders to safely access the oil & gas site; and
 - d. Will not interfere with the ability of the Fire Department and/or other emergency responders to safely access nearby parcels and structures; and
 - e. Appropriate fire protection is available in the immediate area (i.e. access to fire hydrants, etc);
5. The oil & gas site primarily produces natural gas;
6. Relief, if granted, would not cause substantial detriment to the public good, the surrounding neighborhood, or impair the purposes and intent of the Zoning Ordinance or the Comprehensive Plan of the City of Tuttle, including; and
7. The special exception, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

For special exceptions regarding **design reviews/exceptions to the façade regulations**, the Board of Adjustment must make a positive finding of the following criteria:

1. The waiving of a specifically required design element will not negatively impact or conflict with the existing development in the immediate area, taking into account the size, mass, color, materials, lighting, landscaping, site placement, and relationship of the structure to adjacent properties and overall neighborhood;
2. The specific request does not conflict with any requirements of a Planned Unit Development ordinance (if applicable), covenant (if applicable), or other public or private regulation applicable to the specific request;
3. Relief, if granted, would not cause substantial detriment to the public good, the surrounding neighborhood, or impair the purposes and intent of the Zoning Ordinance or the Comprehensive Plan (or other applicable and City Council-adopted development plans) of the City of Tuttle; and
4. The special exception, if granted, would be the minimum necessary to alleviate the unnecessary hardship.