

Board of Adjustment

Public Hearing Application Packet

Zoning Variances
Floodplain Development Permit
Administrative Appeal
Use Permissibility Hearing

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The Board of Adjustment

The Board of Adjustment (BOA) is a quasi-judicial board consisting of six members and one alternate member appointed by the City Council. The alternate member serves only if one of the six regular members is unable to serve. The purpose of the board is to consider variances from the strict application of the zoning ordinance while preserving intent in cases of 'unnecessary hardships' or 'practical difficulties' as well as decide other matters as established by ordinance. BOA meetings are generally held on the third Wednesday of each month, as necessary. Meetings are open to the public. Any party interested in any manner may attend and enter comment into the record.

Within 30 days of a formal decision on an application, you or any other party may appeal a decision of the Board of Adjustment to the Boulder County District Court (Colorado Rules of Civil Procedures Rule 106). Judicial review is limited to the legality of the decision and how the Board made its decision and any flaws in the process such as lack of findings of fact, not on the decision itself. No new evidence may be heard. The Board may only re-hear a previously granted or denied variance request if there has been substantial change to the facts of the case or the law and if it occurs within the 30 days appeal period.

General Application Procedure

Prior to submitting an application for a hearing before the Board of Adjustment, it is advised that you discuss your application with a City Planner. The Planner will informally discuss your situation and the requirements of your request (zoning variance, floodplain development permit, or administrative appeal/use permissibility hearing). Applications are accepted at anytime, however, you must submit your complete application by the deadline on the attached development review hearing schedule to make the corresponding hearing date. Once your application is determined to be complete, it may be referred to other City departments or outside agencies having an interest in your application. Staff will produce an analysis of your request in the form of a written staff report to the Board of Adjustment as well as provide a recommendation with bases. The Board will consider the Staff report, Staff recommendation, your application material and testimony presented at the hearing in formulating its decision.

All hearings require public notice and City Staff will coordinate the public notice requirements with the applicant.

Please review the section(s) in this packet relevant to your request. Each section provides a description of the type of application and a checklist of application submittal requirements. If you are unsure about something, please feel free to call the Planning Department.

Typical Hearing Process

Board of Adjustment meetings are typically held on the third Wednesday of the month. It is advised that you or your representative attend the hearing before the Board of Adjustment. If some else will be representing you please notify the Planning Department and provide contact information of the person.

The following summarizes a typical hearing before the Board of Adjustment:

1. Board Chairperson opens the public hearing.
2. Proper public notice and complete application certification is verified by the City Staff.
3. Disclosures by Board members of site visits or any contacts which would render their participation inappropriate.
4. City Staff summarizes the case, discusses its findings and makes a formal recommendation to the Board.
5. Opportunity for Board, Applicant or public to question City Staff.
6. Applicant presents case. You may prepare a power point presentation and it can be uploaded on the City computer used at the meeting or you may use your own laptop.
7. Opportunity for Board, City Staff or public to question Applicant.
8. Statements are made to the Board from members of the public in favor or opposed to the request.
9. Closing statements by Applicant and Staff.
10. Board Chairperson closes the hearing to further public comment.
11. Board deliberates openly and renders a decision or continues the hearing.

Decisions

Approval of a variance requires five affirmative votes of the Board when six members are present, or four affirmative votes if less than six members of the Board are present (as supermajority). A meeting cannot be held if fewer than four (4) members are present. The Board may grant a conditional variance request it deems appropriate to ensure the integrity of the zoning code. Decisions by the Board are final. If your request is approved, you may receive a building permit during the 30-day appeal period. However, this is done at your own risk should a District Court appeal be filed.

Time Limits on Variance Approvals

Please note variance approvals expire if not used within 6 months after the date granted pursuant to the Louisville Municipal Code Section 17.52.080.D. Additionally, pursuant to Section 17.52.110, a building permit involving a variance becomes void six months after the day of issuance if no substantial construction has taken place.

Zoning Variance Request

A variance is not to be used to circumvent Municipal Code Requirements. Rather, for a zoning variance to be granted, the Board of Adjustment must make findings that all of the applicable Criteria for Decision have been met. After a review of the valid variance application, City Staff will make a recommendation either in favor or in opposition of the request to the Board based on these criteria.

You must formally respond in writing to each of the criteria. Carefully rationalize each justification for why you think your request meets a given criterion. You may also find a particular criterion is not applicable to your request. Expenses of the project or other economic hardship considerations are not valid as the sole justifications for your request.

Criteria

1. That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;
2. That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
3. That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this title (Louisville zoning code);
4. That such unnecessary hardship has not been created by the applicant;
5. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;
6. That the variance, if granted, is a minimum variance that will afford relief and is the least modification possible of the provisions of this title (Louisville zoning code) which are in question.

Louisville Municipal Code
Chapter 17.48 – Zoning Variance Criteria
Section 17.48.110 (B) (1-6)

Public Notification Requirements and Instructions

All property owners within a 500' radius of the subject property must receive notice of the request and date of the public hearing. You are responsible for obtaining the property owners list from the Boulder County Assessor's Office (303.441.3530) located in the Boulder County Courthouse on the Pearl Street Mall. There is a fee for the service. Affix the address labels to a stamped (not metered) business size envelope. Do not use the self-sealing envelope. The Planning Department prepares the notice for mailing to surrounding property owners and publishes the notice in the newspaper.

Additionally, a public hearing sign must be posted on the subject property. You are responsible for the proper posting of the sign. Once the public hearing date is set, the prepared sign is obtained from the Planning Department and must be posted by the date on the attached hearing schedule and is to remain in place through the date of the hearing. Please be mindful of where the sign is placed. Do not create safety hazards or attach the sign to trees or public property. The sign must be clearly visible from a public street adjacent to the property. Finally, you must photograph the sign in place and provide a copy to the Planning Department to be included in the file as proof of posting.

Checklist for Public Notice:

- Property owner list
 - All property owners within 500' of subject property.
 - Obtained from Boulder County Assessor's Office.

- Stamped (NOT metered) and addressed envelopes to the property owners being provided notice
 - No return address
 - Do not use self-sealing envelopes
 - Plain white, business size envelopes

Once your application is scheduled for a public hearing,

- Obtain sign from Planning Department by date on hearing schedule
- Post sign properly
- Photograph sign and provide copy to Planning Department

Submittal Requirements and Checklist:

Please submit all of the following documents to avoid delaying your application:

- Land Use Application Form
- Fees
- Submit the required items for the public notice (see page 6). The public notice sign will be prepared by the Planning Department once the hearing date is set.
- Proof of ownership (such as a warranty deed)
- Letter from applicant describing the request and individually addressing the six (6) variance criteria
- Current Improvement Location Certificate (ILC), Improvement Survey Plat (ISP) or other similarly suited site plan. (This document may be found in the closing papers for the property.)
- Any other information relevant to justifying your request or that City Staff requires to evaluate the application.

1 copy of the following:

- Site plan delineating the proposed improvements (standard engineering scale)
- Architectural elevations
- Floor Plan
- An electronic file of all application materials, including plans. Please create separate pdfs for each application requirement (i.e. application form, ILC, proof of ownership, etc.)

Floodplain Development Permit

The Board of Adjustment issues floodplain development permits when the requirements of Louisville Municipal Code Chapter 17.56 are met. Variances to flood regulatory district regulations may be issued provided the criteria for a variance in the floodplain ordinance are found to have been met.

The Federal Emergency Management Agency (FEMA) requires the completion of the form on pages 9-11 (the following three pages) of this packet be completed and submitted with any request for a floodplain development permit. Other FEMA forms can be obtained at the www.fema.gov website. A FEMA Elevation Certificate (EC) form must be completed by the applicant and a copy provided to the City upon completion of the work approved by the Board of Adjustment.

Floodplain development permits not involving a variance need only receive a majority vote of the members present for a hearing.

Checklist

- Land Use Application Form (page 15)
- FEMA Floodplain Development Permit Form (pages 7 – 9)
- Fees – See the attached Development Fee Schedule (page 13)
- Submit all required items for the public notice. The Planning Department will prepare the sign once the public hearing date is set. (see page 4)
- Written statement from a qualified, licensed engineer, to demonstrate compliance with Chapter 17.56 and FEMA requirements.

2 collated copies of the following:

- Plans as necessary to demonstrate compliance with Chapter 17.56, Floodplain Development Ordinance and FEMA requirements.
- Land Use Application Form
- FEMA Floodplain Development Permit Form
- Written statement from a qualified, licensed engineer, to demonstrate compliance with Chapter 17.56 and FEMA requirements.
- An electronic copy of all submittal requirements. Please create a separate pdf for each submittal requirement.



FEDERAL EMERGENCY MANAGEMENT AGENCY
NATIONAL FLOOD INSURANCE PROGRAM
FLOODPLAIN DEVELOPMENT PERMIT
CITY OF LOUISVILLE, COLORADO

APPLICATION INFORMATION

Permit: _____ Date: _____
Owner: _____ Phone: _____
Address: _____ Email: _____
Contractor: _____ Phone: _____
Address: _____ Email: _____
Project Address: _____ Project Legal Description: _____

PROJECT DESCRIPTION

- | | | |
|--|--|---|
| <input type="checkbox"/> Single Family Residential | <input type="checkbox"/> New Construction | <input type="checkbox"/> Channelization |
| <input type="checkbox"/> Multifamily Residential | <input type="checkbox"/> Substantial Improvement
(>50%) | <input type="checkbox"/> Fill |
| <input type="checkbox"/> Mobile Home | <input type="checkbox"/> Improvement (<50%) | <input type="checkbox"/> Bridge/Culvert |
| <input type="checkbox"/> Nonresidential | <input type="checkbox"/> Rehabilitation | <input type="checkbox"/> Levee |
-

FLOOD HAZARD DATA

Watercourse Name: _____

This project is proposed in the Floodway Floodway fringe

Base (100-year) flood elevation(s) at project site: _____

Elevation required for Lowest Floor: _____ NGVD / Floodproofing _____ NGVD

Source Documents – Reports/Maps: _____

PROPOSAL REVIEW CHECKLIST

- Site development plans are complete and depict flood hazard data.
- Engineering data is/are provided for proposed map and floodway revisions.
- Floodway Certificate and data documents no increase in flood heights.
- Subdivision proposals minimize flood damage and protect utilities.
- Lowest floor elevations are above the base (100-year) flood level.
- Mobile homes address elevation and anchoring requirements.
- A Floodproofing Certificate certifies floodproofing designs.
- Other: _____

APPLICANT: REVIEW ONLY. DO NOT WRITE IN THIS AREA.

PERMIT ACTION

- PERMIT APPROVED. The information submitted for the proposed project was reviewed and is in compliance with approved floodplain management standards (site development plans are on file with the City).
- PERMIT DENIED. The proposed project does not meet approved floodplain management standards (explanation is on file with the City).
- VARIANCE GRANTED. A variance was granted from the base (100-year) flood elevations established by FEMA consistent with variance requirements of NFIP regulations Part 60.6 and Louisville Municipal Code § 17.56.240 (variance action is on file with the City).

Floodplain Administrator's Signature

Date

Comments: _____

COMPLIANCE DOCUMENTATION

- MAP REVISION DATA. Certified documentation by a registered professional engineer of as-built conditions for floodplain alterations were received and submitted to FEMA for a flood insurance map revision.
 - FILL CERTIFICATE. A community official certified the elevation, compaction, slope and slope protection for all fill placed in the floodplain consistent with NFIP regulations Part 65.5 for map revisions.
 - ELEVATION & FLOODPROOFING CERTIFICATES. The as-built elevation of the building's lowest floor was certified as _____ NGVD; *OR* the building's floodproofing level was certified as _____ NGVD; by a registered professional engineer or licensed surveyor and is on file with the City.
 - CERTIFICATE OF OCCUPANCY OR COMPLIANCE ISSUED ON _____
Date
-

Administrative Appeal and Use Permissibility Hearings

On appeal, the Board may overturn any order, requirement, decision or determination made in error by City staff while administering the zoning code in accordance with Section 17.48.090 of the Louisville Municipal Code. A notice of appeal specifying the reasons for the appeal must be filed within 30 days of the decision made being appealed. The application attached to this packet serves as the notice of appeal.

The Board of Adjustment may affirm, reverse wholly or in part, or modify the decision being appealed. The Board may also make a decision or determination on the subject in question and cause that decision to be implemented.

If there is a question of whether a particular use does or does not fit within an established, express use group, an applicant may apply to the Board for a determination on the permissibility of the use. The applicant must substantiate reasons for why the use in question fits within a particular established use group.

Checklist

- Land Use Application Form (page 15)
- Fee – See the attached Development Review Fee Schedule (page 13)
- Submit all required items for the public notice (see page 4)
- Formal letter stating reasons for the appeal
- Other information as required by Staff to present the request to the Board of Adjustment