

Board of Adjustment: Frequently Asked Questions

What is the Board of Adjustment?

The Board of Adjustment is a panel made up of Iowa City citizens appointed by the City Council. The board reviews and grants special exceptions and variances and also considers appeals when there is a disagreement about an administrative zoning decision made by the City. Members of the board act like judges, making decisions about individual properties and uses that may have difficulty meeting a specific zoning regulation or to resolve disputes about administrative zoning decisions. The actions and decisions of the Board of Adjustment are binding upon all parties unless overturned upon appeal to District Court.

What is a special exception?

There are two types of special exceptions.

1. Within the zoning code a number of land uses are set apart as special exceptions that may be permitted in certain zones. Rather than permitting these uses outright, each is reviewed on a case-by-case basis to ensure that they do not negatively affect surrounding properties. For example, daycare centers are permitted in residential zones by special exception. The same is true of churches and private schools. All may be appropriate uses in residential zones, if certain criteria such as parking, screening, and other requirements are met.

2. Adjustments to specific zoning requirements in cases where there are unique circumstances. Again, the opportunity to adjust these requirements and the criteria for allowing such adjustments are described in the Zoning Code. For example, a homeowner may apply for a reduction in a building setback in order to accommodate an addition or other improvement to their property.

The Zoning Code lists explicitly each use and standard for which a special exception may be considered. In other words, you can't request a special exception for everything—only those things called out as special exceptions in the Code. The Code also provides criteria specific to each request. Applicants must provide evidence that they satisfy each of these criteria, and the Board must consider these criteria when making a determination as to whether to grant a special exception.

What is a variance?

A variance grants a legal right to an owner to develop property in a manner that deviates from a specific provision of the Zoning Code and for which a special exception is not expressly allowed. In seeking relief from the restrictions in the Zoning Code, the property owner applying for the variance must show that the strict application of the Zoning Code would cause and unnecessary hardship such that the property in question is unusable or that a literal interpretation of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the zoning district. In addition the circumstances that create this hardship must be unique to the property in question and must not be of the property owner's own making.

What is an appeal?

The Board considers and rules on appeals from any citizen who believes there is an error in any decision, determination, or interpretation made by the City or its designee in the administration of the Zoning Code. As with their other decisions, the Board's ruling is binding on all parties unless overturned on appeal to the District Court.

How does the review process work?

An application requesting a special exception, variance, or an appeal is a request. The Board makes a decision on whether to grant a specific request only after City staff have provided a review of an application and the public has had an opportunity to make its concerns known. The Board not only has the right to approve or deny requests, but may also choose to approve request subject to certain conditions.

In making decisions, the Board may only consider comments and evidence relevant to the specific standards provided in the code. City Planning Staff provide reports to the Board for each application on the agenda. The Staff Report provides background information on the application, informs the Board of all the criteria in the Code that a particular application must satisfy, and interprets whether and how an application has satisfied these criteria.

How can I participate in the process?

Because most applications will be reviewed and decided upon at a single public hearing, it is important for interested parties to respond in a timely and informed manner. Those who wish to speak for or against an application are given an opportunity to be heard by the Board at the hearing, but may also submit written comments prior to the meeting.

Written comments must be delivered to the Department of Planning at City Hall no later than 5 days before the hearing in order to be included with the Staff Report. All correspondence submitted after that time will be delivered to the Board at the time of the hearing.

The Board considers the application, the recommendation of staff (in the staff report) and any additional information, correspondence, or testimony provided at the hearing. Board of Adjustment hearings are usually held on the second Wednesday of each month at 5:15 p.m. in Emma J. Harvat Hall in City Hall.

The Staff Report can be very useful to anyone who is unfamiliar with the BOA process or with the Zoning Code and will provide an understanding of the criteria that the Board must consider in rendering its decision. Staff Reports may be obtained from the Department of Planning and Community Development. E-mail sarah-walz@iowa-city.org to request a copy of a report.

If you have questions about an application or if you simply want more information about issues related to the Board of Adjustment, please feel free to contact Sarah Walz at 356-5239 or e-mail sarah-walz@iowa-city.org.

To submit comments to the Board of Adjustment write to the Board of Adjustment c/o the Department of Planning, 410 E. Washington St., Iowa City IA 52240 or e-mail boa@iowa-city.org.