



# CITY OF CARLSBAD

*Planning, Engineering,  
and Regulation Department*

PO Box 1569, Carlsbad, NM 88221

Phone (575) 885-1185

Fax (575) 628-8379

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## BOARD OF APPEALS APPLICATION

(VARIANCE FROM SUBDIVISION OR ZONING ORDINANCE)

Sec. 47-7 or Sec. 56-150(c)

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### PROCESS FOR ACCEPTANCE AND REVIEW OF PLANNING AND ZONING COMMISSION MATTERS

1. The Planning and Zoning Commission's regularly scheduled meetings are on the **FIRST MONDAY OF THE MONTH**. Applicant should obtain an Application Packet for the particular type of request (Zone Change, Subdivision, Variance, Annexation, Conditional Use, etc.) from the City of Carlsbad, Planning, Engineering, and Regulation Office.
2. **Applicant must submit a completed Application to the Planning, Engineering, and Regulation Office on, or before, the FIRST FRIDAY OF THE MONTH prior to the desired Commission meeting.** The minimum application packet submittal is one (1) copy of the Application with original signatures and all required supporting documents. A letter of explanation or clarification may also be provided. The required non-refundable application fee is due with submittal of the application.  
  
The desired maximum size for all documents is 11"x17". **However, if the applicant wishes to support his or her application with larger size documents, an original and eight (8) copies need to be provided.** Separate arrangements for copying these large documents may be possible, but will incur additional costs.
3. The Planning, Engineering, and Regulation Office will give the Application an initial cursory review. If deficiencies or questions are noted, the Applicant will be advised and provided an opportunity to supplement the application. If the Applicant fails to complete and resubmit the application prior to the above deadline, the matter will not be heard until the next subsequent Commission meeting. The original application fee will be retained and will suffice for the specific original application for a period of 90-days from the date of the original application.
4. Applications appearing complete will be set for full evaluation by City Staff prior to the Commission meeting. The purpose of this evaluation is to develop and provide a full briefing report for the Commission. Applicants will be advised of deficiencies noted during this review and will be afforded opportunity to supplement their application during their presentation to the Commission, if they so desire.
5. The Planning and Zoning Commission will vote to approve or deny the request. Applicant or his/her representative must be present to address any questions that Planning and Zoning Commissioners may have. Appeals of Planning and Zoning Commission decisions will be heard by the City Council pursuant to Sec. 56-150(c).
6. The applicant shall mail notice of the Planning and Zoning Commission hearing, via certified mail, to all property owners within one-hundred feet (100') of the subject site. Evidence of such notification shall be provided with the application. In addition, the applicant shall post a sign, provided by the City, at the property at least 5 days prior to the public hearing.



Receipt Date Stamp

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BOARD OF APPEALS APPLICATION
(VARIANCE FROM SUBDIVISION OR ZONING ORDINANCE)
Sec. 47-7 or Sec. 56-150(c)

Application Date: \_\_\_\_\_

Fee Paid (\$50.00): \_\_\_\_\_

APPLICANT INFORMATION:

NAME ADDRESS
CITY STATE ZIP PHONE EMAIL

PROPERTY OWNER INFORMATION (IF DIFFERENT FROM APPLICANT):

NAME ADDRESS
CITY STATE ZIP PHONE EMAIL

LEGAL DESCRIPTION AND/OR STREET ADDRESS OF PROPERTY (FOR WHICH VARIANCE IS REQUESTED): \_\_\_\_\_

TYPE OF REQUEST (CHECK ONE):

\_\_\_\_\_ VARIANCE FROM THE SUBDIVISION REGULATIONS (CHAPTER 47 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 47-7, VARIANCES.

SPECIFY REGULATION AND/OR SUBSECTION: \_\_\_\_\_

\_\_\_\_\_ VARIANCE FROM THE ZONING ORDINANCE (CHAPTER 56 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 56-150(c).

SPECIFY REGULATION AND/OR SUBSECTION: \_\_\_\_\_

**JUSTIFICATION FOR REQUEST AND SITE PLAN:** (Describe the topographical uniqueness of the property or extreme practical difficulties or undue hardship that would result from the strict application of the requirement(s) contained in the ordinance section from which the variance is requested. Include a site plan drawn to scale or with accurate dimensions showing property lines, existing and proposed fences and/or walls, setbacks, building and structure locations and parking areas. Attach a separate sheet if necessary.)

**Zoning Ordinance**

**Criteria for Appeals - Sec. 56-150(c)(4):**

The purpose of the appeal procedure is to determine if the decision being appealed meets the requirements of this Zoning Ordinance. The City Council or the Planning and Zoning Commission, when hearing an appeal, is limited to the following determinations:

- (a) The decision-maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgment.
- (b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility.
- (c) The decision-maker made the decision on standards not contained in this or other City ordinances, regulations or state law; or a standard was applied more strictly or broadly than is appropriate to implement the City's Comprehensive Plan and this Zoning Ordinance.

**Subdivision Regulations**

**Criteria for Appeals – Sec. 47-7**

Whenever, in the opinion of the board of appeals, the strict application of the requirements contained in this chapter would result in extreme practical difficulties or undue misuse of property, the board may modify such requirements as are necessary so that the subdivider is allowed to develop his/her property in a reasonable manner providing that the public interests of the community and its citizens are protected and the general intent and spirit of these regulations are preserved. **The board shall grant such a variance or modification only upon determination that:**

- 1. The variance will not be detrimental to the public health, safety and general welfare of the community;**
- 2. The variance will not adversely affect the reasonable development of adjacent property;**
- 3. The variance is justified because of topographic or other special conditions unique to the property involved in contradistinction to mere inconvenience or financial disadvantage;**
- 4. The variance is consistent with the objectives of this chapter and will not have the effect of nullifying the intent or purpose of this chapter or the comprehensive plan;**
- 5. The variance has been shown to be in the best interest of the general public and not only of interest to the developer, land owner or other interested party;**
- 6 The hardship must not be pecuniary and must be a direct result of the land location, topography or other characteristic;**
- 7 Where a variance is requested from the required provision of sidewalks, and ADA compliant, alternative route to the nearest bus stop or school is required. If an alternative route cannot be provided, a variance shall not be approved.**

<b>FOR OFFICIAL USE ONLY:</b>			
<b>Required prior to P &amp; Z:</b>			
Complete Application Including:	<input type="checkbox"/> Site Plan	<input type="checkbox"/> Fee	<input type="checkbox"/> Notification
	<input type="checkbox"/> Sign Posting Agreement	<input type="checkbox"/> Letter of Explanation	<input type="checkbox"/> Sign Posted
	<input type="checkbox"/> ABM	<input type="checkbox"/> Staff Comments	<input type="checkbox"/> Application Packet
P & Z Action:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Other
	Date: _____		



# NOTIFICATION SIGN POSTING AGREEMENT

Notification of Public Hearings before the City of Carlsbad Planning and Zoning Commission is required pursuant to Sec. 56-140(i).

- Signs shall be posted a minimum of 5 days prior to and shall be removed a maximum of 5 days after the public hearing.
- If the sign is not posted as required, the application will be delayed and will not be considered at the public hearing as scheduled.
- The sign shall be posted at the street side property line with a secure stake provided by the applicant.

I have read and understand these requirements. I understand where the sign is to be located and my obligation to post the sign prior to the public hearing and remove it afterwards.

\_\_\_\_\_  
APPLICANT SIGNATURE

\_\_\_\_\_  
DATE

Sign issued by: \_\_\_\_\_  
Staff Member

Date: \_\_\_\_\_

Dear Property Owner,

This letter serves as legal notification of a pending action before the City of Carlsbad Planning and Zoning Commission in accordance with Code of Ordinances Sec. 56-140(i). You are being notified because you are a property owner within one-hundred feet (100') of the subject site.

Applicant: \_\_\_\_\_  
Name Address Phone

Subject Site Location: \_\_\_\_\_

The proposed action is a:

Zoning Change from \_\_\_\_\_ to \_\_\_\_\_ in accordance with Sec. 56-150(b).

Variance/Appeal from Sec. \_\_\_\_\_ in accordance with Sec. 56-150(c).

The purpose of the variance/appeal is:

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

Conditional Use Permit in accordance with Sec. 56-150(f). The purpose of the permit is for a:

Home Occupation: \_\_\_\_\_

Other Use: \_\_\_\_\_

**The Planning and Zoning Commission will consider this request at a Public Hearing on:**

**Date:** \_\_\_\_\_

**Time:** 5:00pm

**Place:** City Annex Planning Room

**114 S. Halagueno St.**

**Carlsbad, NM 88220**

The Code of Ordinances can be found on the City's website [www.cityofcarlsbadnm.com](http://www.cityofcarlsbadnm.com).

For details about this request contact the applicant OR contact the City Planner at 575-885-1185 or via email at jepatterson@cityofcarlsbadnm.com.

Sincerely,

Applicant/Agent