



**BOARD OF
ADJUSTMENT**

***APPLICATION FOR
VARIANCE REQUEST***

INSTRUCTIONS FOR REQUIRED INFORMATION

NO REQUEST FOR VARIANCE CAN BE ACCEPTED FOR FILING UNLESS ALL OF THE REQUIRED INFORMATION IS PRESENTED

1. GENERAL INFORMATION. The Clive Board of Adjustment (BOA) is empowered by Iowa law and by ordinance to hear requests for variance(s) and to make decisions on said requests pertaining to the Zoning Ordinance and for certain exceptions to the district regulations. The BOA is a five-member quasi-judicial body with authority to grant variances in exceptional cases and is limited to such cases that are consistent with the general purpose and spirit of the zoning regulations. The BOA has no authority to allow a variance that would have the effect of establishing a non-conforming use of land or to change district boundaries except as outlined in the Zoning Ordinance. The BOA has no authority to allow a variance whose effect is not in harmony with the intended spirit and purpose of the Zoning Ordinance. Specifically the BOA is limited to the powers and duties as outlined in the Clive Zoning Ordinance, Chapter 11-3-1 - Board of Adjustment.

2. MEETING DATES. The Board of Adjustment meets at 5:30 p.m. on the third Tuesday of each month. Submittal of all the information does not in any way guarantee that the application will be placed on the next available BOA agenda. All BOA meetings are open to the public and are held in the Council Chambers of City Hall, 1900 NW 114th Street, Clive, IA.

Following review of the case by BOA, the case will be placed on the next available City Council Agenda. City Council meets the 2nd and 4th Thursdays of each month at 6:00 p.m. in the Council Chambers in City Hall. Council reviews the BOA minutes and may, at Council's discretion, remand the case back to the BOA for further study. If remanded, the case will be placed on the following BOA agenda for further review. Once the case is remanded back and reviewed by the BOA, the decision of the board is final unless the case is appealed in a court of law.

3. FILING DEADLINE: The deadline to file an application for variance with the BOA is 4:30 p.m. the first day of the month of the board meeting. All materials must be filed in the Community Development Department Office at 1900 NW 114th Street.

NOTE: Be sure that you have all required materials at that time. Failure to do so may result in your request for variance being delayed to the next regularly scheduled meeting.

4. FILING FEE: A filing fee is required at the time the materials are filed with the Community Development Department office. The fee covers administrative expenses and legal notification of surrounding property owners within 310' of the property in question. The BOA rules state that no request for variance is to be considered filed until this fee is received. The fee is \$275.00 to request a variance and payment must be submitted with the application. The fee shall be paid at the Community Development Department office, 1900 NW 114th Street. Make all checks payable to the City of Clive.

The fee is nonrefundable unless the request for variance is withdrawn prior to staff sending out notices.

5. SITE PLAN: The applicant must submit a site plan that clearly shows the variance being requested. The site plan should be drawn to scale, and should be a reproducible, black line drawing or free hand drawing on a sheet of paper no larger than 24" x 36" (*Use of an actual property survey is suggested but not required*). The applicant may submit the same site plan that was submitted for a building permit. The site plan shall include the following information:

- a) Property lines and dimensions
- b) Location and size of all existing and proposed structures (buildings, driveways, parking lots, sidewalks, fences, etc.)
- c) Required setback and buffer location(s)
- d) Any other pertinent information necessary to fully understand the need for a variance (e.g. significant change in topography, location and size of mature trees, etc.)

NOTE: If the request for variance is for a sign, the request must be accompanied by both a fully dimensioned, to-scale elevation drawing of the sign, as well as a fully dimensioned to-scale site plan showing the exact location of the sign whether it is a free standing or a building sign.

6. SUPPORTING INFORMATION FORM: The Board of Adjustment may grant a variance provided that "unnecessary hardship" exists; that the variance is not contrary to the public interest; and that the spirit of the Zoning Ordinance is upheld. The Supporting Information form addresses these issues and asks for responses to each of the "tests" in order to grant a variance. The Supporting Information form must be completely filled out in order to process the application for a variance.

7. ADDITIONAL INFORMATION: If you have questions about this form, or should you require additional information regarding the variance process, please contact the Community Development Department at (515) 223-6221.

CASE NO. _____
(City use only)

APPLICATION FOR VARIANCE

All required information must be presented before acceptance of application.
The applicant must complete all sections in bold for review to begin.

Please type or print:

1. **Date:** _____

Applicant Name: _____

Address: _____
(Street) (City) (State) (Zip)

Telephone Number: _____
(Home) (Work)

E-Mail Address: _____

2. **Location of Property**

Street Address: _____

Legal Description: _____

Zoning Classification: _____

This request for variance cannot be processed until all required materials are submitted. In addition to this application, the following information is required for submission. On a separate sheet of paper please type or print the following:

3. **Response to the attached supporting information form**

4. **Site plan drawn to scale**

This plan shall be no larger than 24" x 36" and easily reproducible.

5. **Application fee**

An application is not considered filed until filing fee is paid.

The Board of Adjustment may grant a variance provided the BOA can make a finding of unnecessary hardship and can determine that the variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

This request for variance will not be granted unless sufficient facts are presented in this application and at the BOA hearing to support a positive finding by the BOA. In support of this request, a Supporting Information form shall be completed by the applicant(s).

Approval of this request for variance by the Board of Adjustment in no way absolves the applicant from subsequently obtaining the necessary development approvals, such as site plan, building permits, etc. from the City of Clive or any other applicable agency.

I (We) certify that I (We) have been denied a Building/Zoning permit and I (We) have submitted all the required information to request for a variance and that such information is factual.

Signed by: _____ **on date:** _____
(Owner)

or: _____ **on date:** _____
(Owners Agent)

(City Use Only)

HEARING DATE: _____

FEE PAID: _____ RECEIPT NO: _____

DATE FILED: _____

BOARD OF ADJUSTMENT ACTION

APPROVED: _____ DENIED: _____
(Date) (Date)

COUNCIL ACTION

REMANDED: _____ DENIED: _____
(Date) (Date)

SUPPORTING INFORMATION FORM

The Board of Adjustment is authorized to grant a variance provided all the following tests are satisfied. On a separate piece of paper, address each issue below:

- I. The Board of Adjustment must make a finding of unnecessary hardship to grant a variance. The hardship must be related to the physical aspects of the property and not a personal hardship. To support a finding of unnecessary hardship, the BOA must find, based upon competent evidence, that:
 - a. The land in question cannot yield a reasonable return or use if used only for the purpose allowed in the zone. **To meet this test, the applicant must show that all beneficial use and/or enjoyment of the property will be lost if the variance is not granted.** Supporting evidence from a professional appraiser, realtor, engineer or other professional may be necessary to support the request for variance. The Board of Adjustment may require additional documentation in order to grant a variance.
 - b. The plight of the owner is due to unique circumstances and not to general conditions in the ordinance or neighborhood. **The applicant must show that the physical circumstances on his/her property are unique and unlike properties in the vicinity or elsewhere in the city.**
 - c. The hardship is not of the applicant's own making or self-imposed. **The applicant must show that the proposed hardship is being caused by the strict interpretation of the Zoning Ordinance and not self-imposed by the applicant.**
- II. The variance will not be contrary to the public interest or overall neighborhood integrity. **The applicant must present information to indicate that the variance will not result in injury or endangerment to other property or persons nor will it devalue nearby property.**
- III. The spirit of the ordinance is protected.
 - a. **The applicant must show that the variance is consistent with the intent of the Zoning Ordinance and Land Use Plan.** A variance would not be consistent with the intent if alternatives for development exist that do not require a variance.
 - b. **The applicant must list other options that have been considered in lieu of granting a variance.**