

# ONE STOP PERMITTING

## HOW LONG WILL IT ALL TAKE?

Once a completed application has been received, ("completed" means that all the information listed in STEP 1 has been provided) and all fees paid, your request should be heard by the Board within 1-3 weeks

**What:** The Zoning Board of Adjustment  
**Who:** Richard Frier – (205) 297-8003  
**When:** 2<sup>nd</sup> and 4<sup>th</sup> Thursdays at 2pm  
**Where:** Council Chambers, 3<sup>rd</sup> Floor City Hall  
**How long:** 2-3 weeks  
**How much:** \$75.00 Residential  
\$200.00 Non-Residential  
\$200.00 Appeals

Staff is always available to assist you. Please phone the main number (205) 254-2478, visit us on-line at [www.birminghamal.gov](http://www.birminghamal.gov) or at Room 210 City Hall or call Rick Frier at (205) 297-8003

**ZONING BOARD OF  
ADJUSTMENT**

**CITY OF BIRMINGHAM**

**WILLIAM A. BELL, SR.  
MAYOR**



**DEPARTMENT OF PLANNING,  
ENGINEERING AND PERMITS**

[www.birminghamal.gov](http://www.birminghamal.gov)

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**Andre V. Bittas, Director**

## ZONING BOARD OF ADJUSTMENT

The Zoning Board of Adjustment (ZBA) is a quasi-judicial board comprised of seven members, appointed by the City Council, representing such disciplines as engineering, architecture, construction and real estate. The ZBA meets on the second and fourth Thursday of each month (except November and December) beginning at 2PM in the City Council Chambers on the 3<sup>rd</sup> Floor of City Hall. A quorum at any meeting of the ZBA consists of four (4) members. The concurring vote of two-thirds of the members present is needed to approve a request or to render a decision in an appeal. Since the ZBA is a quasi-judicial board, its decision can only be appealed to the Circuit Court of Jefferson County and, in accordance with state law, such an appeal must be filed within 15 calendar days of the date of the decision. No other appeal is permitted.

### WHAT DOES THE ZBA DO?

The ZBA has three main responsibilities:

#### 1) To consider requests for a Variance from the terms of the Zoning Ordinance when it is not contrary to the public interest.

A **variance** is a **relaxation** of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. An example of a variance would be to allow a 20 foot rear yard setback instead of the required 25 foot setback; or to allow a business to operate with only 15 parking spaces instead of the required 20 spaces, if, it is found that an **unnecessary hardship** exists on the property. An **unnecessary hardship cannot be financial** and is generally considered to be one of the following:

- Exceptional narrowness, shallowness or shape of a specific property
- Exceptional topographic conditions, such as a severe slope
- Extraordinary and exceptional situations or conditions that would result in a peculiar and/or practical difficulty occurring on the lot.

Whether or not a variance request is granted is generally based upon the Board's determination that the following conditions exist:

1. That the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.
2. That the granting of the variance is necessary for the preservation and enjoyment of a property right and not merely as a convenience to the applicant.
3. That the condition for which relief is sought did not result from an action by the applicant. (The hardship is not self-imposed.)
4. That the variance will not impair an adequate supply of light or air to adjacent properties, unreasonably increase the congestion in public streets, increase the

danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the City of Birmingham.

#### 2) To determine whether to approve or deny application for a SPECIAL EXCEPTION to normal zoning rules when such a use or development is specifically not authorized or limited in the zoning ordinance

A **Special Exception** is a use not permitted by right, but it may be allowed in any zoning district or limited to certain zoning districts, provided that certain conditions are met. The primary condition is that the **Special Exception** use **will not impair the health, safety, convenience, or comfort** of the area, especially the adjoining properties.

#### 3) To hear and decide appeals of the zoning ordinance when it has been alleged that there is an error in any order, requirement, decision or determination made by a city official in the administration of the zoning ordinance.

The ZBA can hear an **Appeal of the Decision of the Director** of the Department provided that the decision has been given in writing to the owner. In hearing this appeal, the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from; and may make such order, requirement, decision or determination as ought to be made; to that end shall have all the powers of the Director of the Planning, Engineering, and Permits Department.

### HOW DO I FILE A ZBA CASE?

There are **2 MAIN STEPS** involved in the process of filing a request for an action from the ZBA.

#### STEP 1 – Filing and completing the APPLICATION PROCESS

The Application Process consists of two parts: the **application** and a **site plan**.

**APPLICATION** –Applications are available in Room 210 of City Hall at the main counter or can be downloaded on-line from the City's website at [www.birminghamal.gov](http://www.birminghamal.gov) . Staff will be glad to assist with completing the application. Key parts of the application are:

- The owner and applicant (if different) **MUST** sign the application, and
- A **detailed** description of the proposed variance, special exception, or appeal must be listed and the hardship/justification must be included.

### STEP 2 – Presenting the request before the ZONING BOARD of ADJUSTMENT

#### During the ZBA meeting

- The Planning staff will present a brief overview of the request.
- The applicant or his agent must be present and may present additional information on the request.
- The public will be allowed to speak for or against the request.

#### The Zoning Board of Adjustment

- Will usually vote on the request on the date it is presented, or continue to another date
- May approve exactly, or in part, what was requested
- May place certain requirements or conditions on the action (conditions are binding)
- May deny the request
- An aggrieved party may appeal the decision of the Board\*
  
- An appeal of a decision of the ZBA **MUST** be filed with the Circuit Court of Jefferson County within **15 calendar days of the date of that decision**.

## SITE PLAN

### SITE PLAN

If the request is for a variance or special exception, a site plan must be included with an application form. This is a drawing or plan (minimum of 8 ½ by 11 inches in size) drawn to scale, that shows what is, or will be, placed or built on the subject property

The **Site Plan** must include:

- Accurate property lines
- Location, size, and height of all **existing and/or proposed** structures, including main buildings, accessory Structures, and, if a commercial development, dumpster location.
- Driveways and walkways

**When the Application and Site Plan have been completed, staff will accept the application and appropriate fee (\$75.00 for residentially zoned property; \$200. for non-residentially zoned locations).**