

**CITY OF BISMARCK/ETA & BURLEIGH COUNTY
APPLICATION FOR APPROVAL OF A VARIANCE
WRITTEN STATEMENT**

1. Property Address or Legal Description:

2. Location of Property: City of Bismarck ETA Burleigh County

3. Type of Variance Requested:

4. Applicable Zoning Ordinance Chapter/Section:

5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features - such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition - that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

**EXCERPTS FROM BISMARCK ZONING ORDINANCE
RELATING TO VARIANCES
(City of Bismarck & ETA Requests)**

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

Variance: A device which grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to increase the financial return.

14-06-02. Powers and Duties.

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2. Variances. On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this article in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the article would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.

No adjustment in the strict application of any provisions of this article shall be granted by the board of adjustment unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not.
- b. That, for reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variances is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.
- c. That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. A variance granted under this chapter must be put into use within 24 months of the granting of the variance or it shall lapse and the landowner must reapply.

**EXCERPTS FROM BURLEIGH COUNTY ZONING ORDINANCE
RELATING TO VARIANCES
(Burleigh County Requests)**

Article 3. Definitions.

For the purposes of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural shall include the singular; the word “shall” is mandatory and not directory.

Variance: A grant of relief from the literal provisions of this ordinance in situations where strict adherence would cause practical difficulty or unnecessary hardship because of circumstances unique to the property.

Article 28. Variances.

Section 3. Required Findings

The Board of County Commissioners may vary or adjust the strict application of any of the requirements of this article in the case of an exceptionally irregular, narrow, shallow, or steep lot, or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the article would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved. It is not the intent of this article to allow a variance for a land use that is not permitted within the particular zoning district.

No adjustment in the strict application of any provisions of this ordinance shall be granted by the Board of County Commissioners unless it finds:

- A) That there are special circumstances or conditions, fully described in the findings of the Board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not.
- B) That, for reasons fully set forth in the findings of the Board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variances necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish the relief sought by the applicant.
- C) That the grant of the variance will be in harmony with the general purposes and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- D) In no case shall any variance be more than a minimum easing of the requirements; in no case shall it have the effect of reducing the traffic capacity of any major or secondary street; in no case shall it be in conflict with existing zoning regulations.
- E) In granting variances the Board of County Commissioners may require such conditions as will, in its judgment, secure substantially the objectives of the standards and regulations so affected.
- F) A variance granted under this article must be put into use within twenty-four (24) months of the granting of the variance or it shall lapse and the land owner must reapply.