

Filing Date: _____

Submit: Filing Deposit: \$750.00

Attached: Statement of Denial from Building or Zoning Enforcement Official. This appeal must be filed with the Zoning Enforcement Official within 60 days of receipt of your Statement of Denial.

Name of Applicant: _____

Address: _____

Phone: _____

STATEMENT OF APPEAL (please indicate details of your appeal):

BOARD OF ADJUSTMENT



VARIANCE APPEAL APPLICATION

Note: City of Union Ordinances in effect shall have preference over this brochure on all matters.

*Last amended per Ordinance 4208
August 13, 2018*

Signature of Applicant

When a building permit has been denied by the Building and Zoning Enforcement Official of the City of Union, the aggrieved party may appeal through the Board of Adjustments.

The Board of Adjustment shall have the following powers:

1. **Powers relative to error.** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Building Inspector or Zoning Enforcement Official or other designated official in the enforcement of this Chapter.
2. **Powers relative to variation.** When, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of this Ordinance, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the neighborhood, the strict application of the area regulations would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, the Board of Adjustment shall be empowered to authorize upon an appeal relating to such property, a variation from such strict application so as to relieve such difficulty or hardship.

3. **Powers relative to exception.** Upon appeal, the Board of Adjustment shall be empowered to permit the following exceptions:

- a. To permit the extension of a district where the boundary line of a district divides a lot of record in single ownership so long as the division is not the result of activity performed by the applicant.
- b. To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God or the public enemy to the extent of more than fifty percent (50%) of its original structure when the Board of Adjustment finds some compelling public necessity requiring a continuance of the non-conforming use, but in no case shall such a building permit be issued if its primary function is to continue a monopoly.
- c. To interpret the provisions of this Chapter where the street layout actually on the ground varies from the street layout as shown on the Zoning District Map.
- d. To vary parking regulations wherever the character or use of the building is such as to make unnecessary the full provision of parking facilities or when such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

4. **Determinations.** In exercising the above powers, the Board of Adjustment may reverse or affirm, wholly, or partly, or may modify the order, requirement, decision, or termination appealed from and make such order,

requirements, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all the appeals the Board of Adjustment shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the District Map and will not impair an adequate supply of light and air to adjacent property, or increase congestion in public streets, or increase the danger of fire, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of the City of Union. Every change granted or denied by the Board of Adjustment shall be accompanied by a written finding of fact based on sworn testimony and evidence, specifying the reason for granting or denying the variation. The decision of the Board of Adjustment shall be made a part of any building permit or zoning compliance certificate in which variation is allowed.

5. **Termination of approval.** In its order, the Board of Adjustment shall place into effect a timetable for the request and approval to be acted upon, and in the event no timetable is stated, the approval will terminate if not acted upon within twelve (12) months. If under unusual circumstances, the grantee may come back to the Board of Adjustment for extension of one (1) more year if needed and approved by the Board of Adjustment; however, no further extension shall be allowed.

SECTION 400.120: APPEALS

A. Appeals to the Board of Adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in Section 32.105, RSMo., representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would, in his/her opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

B. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give not less than fifteen (15) days' public notice thereof in a newspaper of general circulation, as well as due notice to the parties in interest no later than five (5) days preceding the hearing date, and decide within a reasonable time. Such hearing shall be held in 45 days following the receipt of the application in correct form and a decision on a disposition of the matter shall be given within a period of 45 days following the date of the hearing. The zoning enforcement official or designated representative shall post a notice of public hearing in a continuous place on the said property at least 15 days prior to said Board of Adjustment hearing on each side of the property fronting on a street or highway. In addition, notice shall be sent by registered mail to all property owners within 300 feet of the property proposed to be acted upon by the Board of Zoning Adjustment as defined per ordinance #4208 approved 8/13/2018. Upon the hearing, any party may appear in person or by agent or by attorney.

C. The party filing a notice of appeal to the Board of Adjustment shall pay at the time of filing a deposit of seven hundred fifty dollars (\$750.00) toward all costs associated with the appeal. Costs associated with the appeal shall include notice and publication of hearing, all expenses incurred for the services of a court reporter and the production of the transcript of the hearing, fees of the attorney for the Board of Adjustment, all recording fees associated with the hearing and any other expenses incurred by the Board of Adjustment regarding the hearing. The deposit shall be paid to the City Clerk who shall give a receipt therefore, and a copy of the receipt shall be presented to the Board of Adjustment with the notice of appeal as evidence that the deposit has been paid. The deposit thus collected by the City Clerk shall be paid to the credit of the General Revenue Fund of the City of Union. At the conclusion of the proceedings, the City Clerk shall calculate the total amount of expenses associated with the appeal and shall direct that such amount be retained in the General Fund with any balance remaining refunded to the person who made the deposit. In the event the total of the expenses incurred exceed the deposit, the City Clerk shall cause a statement for the balance to be sent to the applicant requesting immediate reimbursement for the balance. The City Clerk shall take no action regarding the decision until the balance due has been paid.

SECTION 400.130: JUDICIAL REVIEW

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, any neighborhood organization as defined in Section 32.105, RSMo., representing such person or persons or any officer, department, board or bureau of the municipality, may present to the Circuit Court of the County in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.