



Process for the Board of Zoning Appeals

1. **Pre-submittal meeting:** All applicants requesting an **interpretation, variance or exception** to the Zoning Regulations should consult with Staff prior to submitting their final application. The purpose of the consultation is to advise the applicant of his or her rights and responsibilities in the filing of such application.
2. **Application submission:** Staff requires one (1) hard copy of the application for initial review. Staff may also require an electronic copy of the initial application materials. Staff will determine the completeness, accuracy, and sufficiency of the application within five (5) working days of submission. This period does not include the review of the final submitted application. Application forms are available in the Planning & Zoning office and online.
3. **Applicant, Owner, and/or Agent:** Complete applications must be signed by the owner(s) of record or a signed contractor's affidavit shall be required. The Application is submitted with the appropriate application fee as established by the County. Any fees incurred by the County for any specialist/professional review shall be paid by the applicant/property owner prior to publication of final determination.
4. **Application Packet: a complete application will include the following materials:**
 - Completed and signed application form.
 - Letter from Rural Water District serving property in question.
 - Letter from Jefferson County Health Department addressing connection to existing wastewater systems.
 - Reviews of road access from appropriate agency – KDOT and/or Jefferson County Road & Bridge Department.
 - Copy of Real Estate Deed (Register of Deeds Office).
 - Copy of Paid Tax Receipts for all real estate & personal property owned by the Applicant and/or Property Owner (Treasurer's Office).
 - Development Plan (if requested by staff): shall meet the standards outlined in Article 16, Section 103.
 - Letter from attending physician for applicants requesting special exceptions.
 - Any required Affidavits (e.g., Affidavit for Authorization of Agent(s)).
 - Articles of Incorporation and documentation of authorized agent (if applicable).
 - Copy of current State or Federal permits/licenses (if applicable).
 - Any other supplementary documents requested by staff (varies on a case-by-case basis).
5. A legal notice will be placed in the official County newspaper, at least 20 days prior to the public hearing. The applicant will be sent a copy of the publication, a receipt for the application fee, and a reminder of the date of the public hearing.
6. The Planning Office will notify adjoining property owners within a 1,000 feet radius of the subject property. If a city is affected, the proposal will be reviewed by that city and provide its recommendation to the Board of Zoning Appeals within a 30-day period.
7. The Board of Zoning Appeals will hold a public hearing to hear all persons who wish a voice in the proposed request. The applicant or representative is required to appear to present the case. Following the public hearing, the Board of Zoning Appeals will make the final determination to approve or deny the request.
8. Board of Zoning Appeals approval is official upon publication in the County newspaper. Final decisions on variance requests are filed by Affidavit in the Register of Deeds office. Fees required for the filing of said Affidavit shall be paid by the Applicant. All appeals of Board of Zoning Appeals matters are forwarded to the District Court as provided for in State Statute.

****INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT****



BOARD OF ZONING APPEALS APPLICATION

This is an application to the Board of Zoning Appeals. This form must be completed and filed in the Planning & Zoning Office in accordance with directions on the accompanying instruction sheet.

| | |
|--|---|
| Owner Name: _____ Mailing Address: _____ _____ <div style="display: flex; justify-content: space-around;"> City State Zip Code </div> Phone: () _____ - _____ Email: _____ | Agent: _____ <u>(IF APPLICABLE)</u> Address: _____ _____ <div style="display: flex; justify-content: space-around;"> City State Zip Code </div> Phone: () _____ - _____ Email: _____ |
|--|---|

PROPERTY INFORMATION (STAFF WILL FILL OUT):

Legal Description of Land: _____

Section: _____ Township: _____ Range: _____ CASE No. (if applicable): _____ WW No.: _____

Physical Address of Property (if different than mailing address): _____

CHOOSE ONE OF THE FOLLOWING THREE CHOICES:

1. _____ Requesting that a determination be made by the Board of Appeals on the following request:

- _____ a. An interpretation of Article _____ of the Regulations.
- _____ b. An appeal of a determination of an Administrative Official. (Article 27-102(d)).

Explain: _____

(USE SEPARATE SHEET IF NECESSARY)

2. _____ Requesting a special exception to the following Regulations:

- _____ a. Replacement of a nonconforming mobile home or manufactured home with a newer and/or larger manufactured home on the same lot. (27-104(1))
- _____ b. Emergency placement of a manufactured home. (27-104(2))
- _____ c. Instances of Extreme Hardship or Necessity (27-104(3))
 _____ Letter from Attending Physician Attached
- _____ d. Allowance of a use as listed in Article(s) 27-104 (4) - (11) - Enter # here: _____
- _____ e. Exceptions to Building Requirements 27-105 (1) - (4) - Enter # here: _____

3. _____ Requesting a variance to the bulk requirements in any zoning district:

YOU MUST MEET ALL FIVE CONDITIONS LISTED BELOW:

- a. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;
- b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- c. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- d. The variance desired will not adversely affect the public health, safety, order, convenience, prosperity or general welfare, and;
- e. That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

Have any previous applications/ appeals been filed for this property? If Yes, date? _____

Explanation of proposed use that requires a variance or special exception (use separate sheet if necessary): _____

I (We), the applicant(s), acknowledge receipt of the instruction sheet explaining the method of submitting this application. I (We) realize that this application cannot be processed unless it is completely filled in, submitted with all relevant and/or requested documentation and accompanied by the appropriate fee.

I (We), the applicant(s), further state that if this request is granted, the applicant acknowledges that:

- 1. **I (We) will proceed with the actual construction in accordance with the plans herewith submitted within three (3) months from the date of approval; and**
- 2. **That the Special Exception or variance so approved or granted shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted. (Article 27-111)**

Owner: _____ OR Authorized Agent: _____

Owner: _____ OR Authorized Agent: _____

FOR OFFICE USE ONLY:

This application and all corresponding documents were received at the office of the Zoning Administrator on this _____ day of _____, _____. It has been examined and found to be complete and accompanied by the required documents.

Fee: \$ _____ Payment Method: _____ Hearing Date: _____

Name: _____ Title: _____

Hearing Date: _____ Decision of Board: _____

FOR VARIANCE ONLY: Affidavit Fee: \$ _____ Affidavit Filed: _____

Remarks: _____

- (b) The minimum total for both side yards prescribed by the bulk regulations for said zoning district, and,
- (c) No side yard shall be less than 10 percent of the width of the lot, and in no case less than 3 feet.

26-102 Nonconforming Use of Land: Where open land is being used as a nonconforming use at the time of the enactment of these Regulations, and such use is the principal use and not accessory to the main use conducted in a structure, such use may be continued; provided, such nonconforming use shall not be extended or enlarged, either on the same or adjoining property. The protection afforded to nonconforming use of land by this section applies only to such land held under ownership or lease agreement for said activity on or before the effective date of these Regulations, but shall not apply to new lands purchased or leased after said date. In addition, said protection shall not apply to any activities not legal under the terms of the regulations which these Regulations replace.

26-103 Nonconforming Use of Structures: Except as otherwise provided herein, the lawful use of a structure existing on the effective date of these Regulations may be continued although such use does not conform to the provisions hereof. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. The nonconforming use of a structure may be hereafter extended throughout those parts of a structure which were lawfully and manifestly arranged or designed for such use at the time of the enactment of these Regulations.

26-104 Discontinuance of Nonconforming Uses: No land or structure or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of six (6) months, whether or not the equipment, fixtures, improvements or facilities are removed, shall again be used except in conformity with the regulations of the district in which such land or structure is located.

26-105 Destruction of a Nonconforming Use: No structure which has been damaged by any cause whatsoever to the extent of more than 50 percent of the fair market value of the structure, immediately prior to damage, shall be restored except in conformity with the provisions of these Regulations, and all rights as a nonconforming use are terminated. If a structure is damaged by less than 50 percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided, that such repairs or reconstruction be substantially completed within twelve (12) months of the date of such damage.

26-106 Intermittent Use: The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on the part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

26-107 Existence of a Nonconforming Use: Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Administrator, subject to appeal to the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board and of these Regulations.

Sections:

- 27-101 Organization and Procedure**
- 27-102 Powers and Duties**
- 27-103 Variances**
- 27-104 Special Exceptions**
- 27-105 Special Yard and Height Exceptions**
- 27-106 Guidelines for Conditions**
- 27-107 Application**
- 27-108 Stay of Proceedings**
- 27-109 Public Hearing**
- 27-110 Findings and Records of Proceedings**
- 27-111 Lapse of Special Exceptions or Variances**
- 27-112 Decisions of the Board**

27-101 Organization and Procedure: The Board of Zoning Appeals, as established by the Governing Body by separate resolution, shall administer the details of the application of these Regulations in accordance with the general rules set forth herein. The Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of these Regulations.

27-102 Powers and Duties:

1. The Board of Zoning Appeals shall have the following powers:
 - a. In accordance with the specific provisions of this Article, to authorize upon appeal of specific cases such variance from the terms of these Regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship, and so that the spirit of these Regulations shall be observed and substantial justice done.
 - b. To hear and decide those special exceptions to the terms of these Regulations upon which such Board is required to pass under these Regulations.
 - c. The Board may conduct an initial review of cases, prior to a full hearing on the merits, to determine the issue of the Board's jurisdiction.
 - d. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations. However, no hearing on the merits shall be required in cases in which the Board determines from an initial review that it lacks jurisdiction. Such cases shall include the following:
 - (1) Cases in which appeals are not timely filed;
 - (2) Cases in which an administrative official is implementing rulings previously issued by the Board of Zoning Appeals or the Planning Commission; and,
 - (3) Cases in which an administrative official makes a decision unrelated to the administration of the planning and zoning regulations.

2. The Zoning Administrator shall have the following powers and duties:
 - a. To act as the agent of the Board.
 - b. To receive all documents and materials incident to variance appeals, special exceptions and appeals of an administrative official enforcing these Regulations.
 - c. To transmit complete appeals to the Board.
 - d. To refuse to submit to the Board any appeals which are incomplete or defective. "Incomplete or defective" appeals shall include, but not be limited to: incomplete appeals forms, failure to utilize the required appeal form and failure to pay the docket fee.
 - e. To advise the Board in which the Board's jurisdiction may be an issue.

27-103 Variances: The Board of Zoning Appeals shall have the power to grant the following variances:

1. A variation in the bulk requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured, and substantial justice done.
2. A request for a variance may be granted in such case, upon a finding by the board that **ALL** of the following conditions have been met:
 - a. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;
 - b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - c. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - d. The variance desired will not adversely affect the public health, safety, order, convenience, prosperity, or general welfare, and;
 - e. That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

27-104 Special Exceptions: In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation; special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not adversely affect the uses of adjacent and neighboring property permitted by these Regulations:

1. Replacing a nonconforming mobile home or manufactured home with a newer and/or larger manufactured home on the same lot; provided, said reestablished manufactured home, if approved, shall be set up in accordance with these Regulations and be properly skirted within 60 days of the placement of said manufactured home.
2. A manufactured home or recreational vehicle on an individual lot on an emergency basis on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable, and where the placement of the manufactured home or recreational vehicle will be for a period longer than one (1) year. The placement of the manufactured home or recreational vehicle for a period not greater than one (1) year is allowed under these conditions by the issuance of an administrative permit by the Zoning Administrator under Section 28-111 of these Regulations.
3. Placing a manufactured home as a second home on a lot under instances of extreme hardship or necessity as determined by the Board, provided:
 - a. The applicant shall clearly state the hardship or reason of necessity for requesting the Special Exception.
 - b. The Special Exception may be permitted for a period of up to three (3) years and may be renewed for successive three (3) year periods; provided, however, that at such time as the hardship or reason of necessity shall cease to exist, the Special Exception shall become null and void and said manufactured home shall be forthwith removed.
 - c. Such manufactured home shall be maintained in a safe and sanitary condition and shall comply with the Jefferson County Sanitary Code and all other applicable adopted codes and procedures of Jefferson County.
4. In the "R-1" Single-Family Residential, "LL" Single-Family Lake Lot, or "V-1" Village District, a private garage(s) and/or storage building(s) as an accessory building(s) for more than four motor vehicles and/or covering more than 900 square feet.
5. A nonconforming commercial use to extend to the entire lot or a larger portion of the lot where there is now a commercial use on a portion of the lot.
6. A nonconforming commercial use on a lot between two lots which are used commercially.
7. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building. In a building now occupied by a nonconforming commercial or industrial use, an additional use of the same classification in the remainder of the building.

8. The extension of an existing nonconforming building and the existing use thereof, upon the lot occupied by such building at the time of the passage of these Regulations; or the erection of an additional building upon the lot owned at the time of the passage of these Regulations by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.
9. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within 100 feet of said district boundary line.
10. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these Regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these Regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.
11. The placement of a manufactured home or a mobile home on any property for use as an office, storage unit or other use different from its original design as a residence. This does not apply to the placement of "prefabricated structures" which are designed as portable offices, portable classrooms and the like.

27-105 Special Yard and Height Exceptions: The following special yard exceptions, limited as to location and especially in locations described below in this section, are permitted by these Regulations if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations and provided such exceptions are approved by the Board:

1. An exception in the yard regulations on a lot where, on the adjacent lot, there is a front, side or rear yard that does not conform with the yard regulations.
2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
3. An exception in the depth of the rear yard on a platted lot in a block where there are nonconforming rear yard conditions.
4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building hereafter constructed or extended, be the required minimum front yard depth.

27-106 Guidelines for Conditions: Where, in these Regulations, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances; such approval, decision, or authorization shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

1. No outside signs or advertising structures except professional or directional signs.
2. Limitations of signs as to size, type, color, location or illumination.

3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Maintenance requirements including cleaning and painting of buildings, structures or facilities.
6. Type of roof (i.e., gable, flat, etc.).
7. Construction design and type of construction materials to be used.
8. Whether the buildings, if multiple buildings are proposed, can be connected or not.
9. Exit, entrance, door and window locations.
10. The type and amount of paving, landscaping, fencing, screening and other such features.
11. Hours of operation, including limitations on nighttime hours.
12. Limitations on structural alterations to existing buildings.
13. Plans for the control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
14. Such other conditions and/or limitations that are deemed necessary.

27-107 Application: Written application for a variance, a special exception, or an appeal referred to in this Article shall be filed with the Board or its agent, upon forms and in a manner prescribed by the Board. Said application shall be submitted within 30 days of the action requiring said variance, special exception or appeal.

27-108 Stay of Proceedings: Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations, said application shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

27-109 Public Hearing:

1. The Board may conduct an initial review in cases on the limited issue of jurisdiction. If the Board determines it does not have jurisdiction, no hearing on the merits is necessary. Cases in which no jurisdiction exists include the instances in Section 27-102(1)(a)(1) through (3). The Board's ruling of no jurisdiction is appealable to a court of competent jurisdiction. In the event the Board rules that it has jurisdiction, a hearing on the merits shall proceed.

2. The Board shall hold a public hearing on each complete application for an appeal, decision, variance or special exception for which it has jurisdiction. Applications for a variance or special exception must be accompanied with a list of property owners, and their addresses, within 1,000 feet of the property for which the variance or special exception is being sought, except the notification area need only extend 200 feet into an incorporated city when said property is near or abuts said incorporated city. Upon special direction, the applicant shall provide a certified list of the owners of record of said lands at the time of the filing of the application, otherwise the Zoning Administrator shall compile said list from the records of Jefferson County, Kansas. On all applications, notice of the time and place of the public hearing shall be published once in the official County paper not less than 20 days prior to the date of such public hearing. In addition, for all applications for a variance or special exception all property owners in the notification area shall be notified by first class U.S. mail, postage prepaid, of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or special exception.

27-110 Findings and Records of Proceedings: The Board of Zoning Appeals shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

27-111 Lapse of Special Exceptions or Variances: After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of these Regulations shall thereafter govern.

27-112 Decisions of the Board: In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the District Court of Jefferson County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by said Board of Zoning Appeals.

FEE SCHEDULE
Effective July 11, 2011

BUILDING PERMIT APPLICATION FEES

| | |
|--|-----------------|
| Residential | \$400.00 |
| Includes: 1) Administrative permits | |
| 2) Any Structure to be used for the purpose of providing living area | |
| Additions to Residential Living Area..... | \$100.00 |
| Other Residential Additions | \$50.00 |
| Decks, Porches or additions to these | |
| Accessory Residential Structures | \$75.00 |
| Garages, Sheds, Carports, Gazebos, Storage Buildings, Barns & Swimming Pools (above and in ground pools). Accessory Residential Structures 120 square feet or less (10' by 12') have no permit fees - <u>application requirements apply.</u> | |
| Accessory Residential Structure Additions | \$50.00 |
| Commercial Structures | \$200.00 |
| Commercial Additions..... | \$100.00 |
| Change in Use | |
| Residential Use to Accessory Structure: | \$75.00 |
| Accessory Structure to Residential Use: | \$400.00 |

**REZONING, CONDITIONAL USE, BOARD OF ZONING APPEALS,
DEVELOPMENT PLANS, SIGN PERMIT AND SPECIAL EVENT PERMIT FEES**

| | |
|---|-----------------|
| Rezoning..... | \$200.00 |
| Conditional Use | \$200.00 |
| Development Plan | \$200.00 |
| Board of Zoning Appeals | \$200.00 |
| Sign Permit | \$15.00 |
| Special Event Permit..... | \$100.00 |
| Applicants registered with the State of Kansas as a Nonprofit Organization shall provide documentation of its status. | |

NO REFUNDS OF FEES FOR ANY REASON

**NO FEES REQUIRED FOR REQUESTS ON PROPERTY OWNED BY ANY
TOWNSHIP, CITY, THE COUNTY, THE STATE, OR THE FEDERAL
GOVERNMENT.**



Jefferson County Board of Zoning Appeals (BZA) Schedule for Application Deadlines 2022

PLEASE CONTACT THE PLANNING & ZONING OFFICE TO DISCUSS INITIAL REVIEW MEETINGS

All meetings are scheduled for the second Wednesday of each month and the application deadline is on the Monday of the 6th week before the meeting unless otherwise noted. All Board of Zoning Appeals meetings take place in the Jefferson County Courthouse at 7pm, unless otherwise published.

| Application Deadline | Board of Zoning Appeals Meeting Date |
|-----------------------------|---|
| November 29, 2021 | January 12, 2022 |
| *December 28, 2021 | February 9, 2022 |
| January 24, 2022 | March 9, 2022 |
| February 28, 2022 | April 13, 2022 |
| March 28, 2022 | May 11, 2022 |
| April 25, 2022 | June 8, 2022 |
| *May 31, 2022 | July 13, 2022 |
| June 27, 2022 | August 10, 2022 |
| August 1, 2022 | September 14, 2022 |
| August 29, 2022 | October 12, 2022 |
| September 26, 2022 | November 9, 2022 |
| October 31, 2022 | December 14, 2022 |
| November 28, 2022 | January 11, 2023 |

*** Dates changed because they fell on the day after Christmas which is observed as a holiday and on Memorial Day.**