

# CITY OF CONWAY, ARKANSAS

## ZONING VARIANCE

### Planning Commission acting as the Board of Zoning Adjustment

#### POWER AND DUTIES, PROCEDURES, TIME LIMITS, FEES AND APPEALS

EFFECTIVE ON AND AFTER NOVEMBER 26, 1994

This handout is available as a Word and PDF document at the Conway Planning & Development Department's website: [www.conwayplanning.org](http://www.conwayplanning.org)

#### POWERS AND DUTIES

Ordinance O-11-97 established the Conway Planning Commission as the Board of Zoning Adjustment as allowed by Arkansas State Code 14-56-416.B.1. The Planning Commission shall hear two types of zoning requests: Administrative Review and Variances.

##### **1. Administrative Review**

The Planning Commission may hear and decide appeals where it is alleged there is error in any decision made by the administrative official in the enforcement of the Zoning Ordinance.

##### **2. Variances**

The Planning Commission may authorize variances that are not contrary to the public interest where, due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship and deprive the owner of any reasonable use of the land or building involved. A variance shall not be granted unless:

1. The applicant can show that special conditions exist that are unusual to the land, structure, or building involved and that these conditions are not applicable to other lands, structures or buildings in the same zoning district.
2. The applicant can show that literal interpretation of the Zoning Ordinance requirements would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
3. The applicant can show that special conditions do not result from the actions of the applicant.
4. The applicant can show that granting the requested variance will not grant the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures or buildings in the same district.
5. Nonconforming (grandfathered) or conditional permitted uses, structures or buildings in the same or other districts shall be considered justification for granting a variance.
6. The reasons set forth in the application justify the granting of the variance.
7. The Planning Commission shall issue a variance that is the minimum variance that makes possible reasonable use of the land, building, or structure.
8. The granting of the variance will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting a variance, the Planning Commission may specify appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards are a violation of the Zoning Ordinance.

**The Planning Commission, acting as Board of Adjustment, shall not grant a variance to allow a land use not permissible in the zoning district involved.**

##### **Special Exceptions - The Planning Commission may hold public hearings and decide:**

1. The extension of a zoning district boundary where the boundary divides a lot held in a single ownership at the time of adoption of this ordinance.
2. May interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground disagree with those shown on the Zoning District Map.

## PROCEDURES

1. The applicant must pay a filing fee of \$325 for any zoning variance request.
2. Every appeal or application shall refer to the specific provision of the Zoning Ordinance involved and shall exactly describe (a) the interpretation that is claimed, (b) the use for which the permit is sought, or (c) the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
3. The application for zoning variance must be submitted to the Planning Commission **no less than 10 days prior to the public hearing**. (See attached Planning Commission schedule)
4. The Application must include a scale drawing showing the requested variance along with any other relevant information, including the special condition or situation that causes the practical difficulty or undue hardship for which relief is being sought and a statement and/or diagram explaining why the proposed zoning variance will not conflict with surrounding land use.
5. The applicant must place a notice of public hearing in the Log Cabin Democrat appearing **at least once, 15 days prior to the public hearing**. The notice must include:
  - (a) The zoning variance being sought,
  - (b) The location (including legal description and address. If no address is available, a description, that is clear to the average person, will suffice) and
  - (c) The time, date, and place of the public hearing. (See attached copy of the scheduled Planning Commission dates. Meetings are held each month at 7:00 pm in the District Court Building, 810 Parkway.)The public notice must be headed "Public Notice" and include the name of the current chairperson of the Planning Commission.
6. The applicant must post one or more public hearing signs on the property. The sign(s) should be clearly visible and unobstructed to the passing general public. The sign(s) must be posted on or near the front property line **no later than 15 days prior to the public hearing**. The disposable sign(s) is obtained from the Planning & Development Department. The cost of the sign is \$7.50. The sign(s) should remain on the property until the public hearing before Planning Commission.
7. The applicant must notify by certified letter and/or petition, **no less than 15 days prior to the public hearing**, all property owners within 200 feet of the applicant's property, of the variance request. The applicant must state the date and time of the public hearing in the certified letter and / or petition. The postmarked certified receipts and / or return receipts and / or petition must be submitted to the Planning & Development Department staff **no later than 15 days prior to the public hearing**. A **map** showing the location of the property and a **letter** from the petitioner certifying that the map shows a complete list of those property owners should also be submitted at that time. This map is used to verify that all property owners have been notified.
8. At the public hearing, the proposed variance may be approved as presented, in modified form, or with conditions by a majority vote of the Planning Commission.

## TIME LIMIT ON PERMITS

No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than sixty (60) days unless such use is established or the erection or alteration is started within such period and proceeds to completion in accordance with the terms of a building permit.

## FEES

The fee for any appeal or application to the Board of Zoning Adjustment shall be three hundred twenty-five dollars (\$325.00), no part of which shall be refundable.

## APPEALS FROM BOARD OF ADJUSTMENT

Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.

## NOTE

It should be noted that this is not an exhaustive guideline regarding the Board of Adjustment. Additional information is available in the Conway Zoning Ordinance.

## Checklist of Items for Board of Zoning Adjustment

- ❑ **Application for Variance** – Filed with the Planning & Development Department no less than **17 days** prior to the public hearing. (Typically, this will fall on a Friday)
- ❑ **Scale drawing showing the requested variance along with any relevant information** – Filed with the Planning & Development Department no later than 10 days prior to the public hearing.
- ❑ **Filing Fee of \$325** – Paid at the Planning & Development Department no later than 10 days prior to the public hearing.
- ❑ **Sign** – A disposable sign is obtained at the Planning & Development Department. The cost for the sign is \$7.50. The sign must be posted no later than 15 days prior to the public hearing.
- ❑ **Proof of Publication** – Obtained from the Log Cabin Democrat after the placement of the public notice. The ad must appear at least once no later than 15 days prior to the public hearing. Filed with the Planning & Development Department.
- ❑ **Certified Letters and / or Petitions to All Owners within 200 Feet** – After notification, the postmarked certified receipts and / or return receipts and / or petition are filed with the Planning & Development Department. Notification must be made no later than 15 days prior to the public hearing.
- ❑ **Map showing Property Owners within 200 Feet** – A map including the names of property owners. Filed at the Planning & Development Department along with the certified receipts-returns and / or petitions no later than 15 days prior to the public hearing.

CITY OF CONWAY  
BOARD OF ZONING ADJUSTMENT  
VARIANCE CHECKLIST

At least one checkmark should appear under each of the items 1, 2, and 3 below in order for the Board of Zoning Adjustment to have the power to grant a variation. The board may not grant a variance in use.

1. Exceptional Condition of a Specific Piece of Property
  - Narrowness
  - Shallowness
  - Shape
  - Topographical Conditions
  - Other Extraordinary or Exceptional Situation or Condition
  
2. Frequency of Occurrence of Exceptional Condition
  - Not Generally Prevalent in the Area
  
3. Result of a Strict Application of the Zoning Ordinance
  - Peculiar and Exceptional Practical Difficulty to the Owner of the Property
  - Exceptional and Undue Hardship on the Owner of the Property

# Notice of Public Hearing and Certified Letter Format

The information below is to be included in the newspaper notification and certified letters.

Notice is hereby given that (Name) \_\_\_\_\_  
has filed an application with the Conway Planning Commission requesting that they be allowed  
(Variance Requested) \_\_\_\_\_ at the following described property:

**Legal Description**  
**The Address (Number & Street)**  
**(If no address is available, provide a description that is clear to the average person)**

A public hearing on said request will be held at 7:00 p.m. (date) \_\_\_\_\_, in the District Court Building, 810 Parkway.

Craig Cloud  
Chairman 2012  
City Planning Commission  
Conway, Arkansas

*NOTE: Please remember to replace the signature block in your certified letters with your own name and information. The letters are from you the applicant. The Legal Notice to the paper requires the Board of Zoning chair info.*

**This notice is to be run in the legal notices section of the Log Cabin Democrat  
no less than 15 days prior to the public hearing.**

## Deadline for Legal Notices

The deadline for the legal notices is 2 pm two business days before publication. Legals that are longer than two typewritten pages of 8 1/2" x 14" double-spaced material will require an extra day for preparation. Legals may be e-mailed to [legals@thecabin.net](mailto:legals@thecabin.net) or faxed to 501-327-6787 or dropped off at the office at 1058 Front Street. Questions concerning the Log Cabin Democrat's procedures should be directed to:

Legals  
Log Cabin Democrat  
1058 Front Street  
PO Box 969  
Conway, AR 72032  
501-327-2727

### Log Cabin Democrat Deadlines

<u>Edition</u>	<u>Deadline</u>
Sunday	2 p.m. Thursday
Monday	2 p.m. Thursday
Tuesday	2 p.m. Friday
Wednesday	2 p.m. Monday
Thursday	2 p.m. Tuesday
Friday	2 p.m. Wednesday
Saturday	2 p.m. Thursday

**City of Conway, Arkansas**  
**PLANNING COMMISSION APPLICATION FOR ZONING VARIANCE**

DATE: \_\_\_\_\_

PROJECT LOCATION

ADDRESS: \_\_\_\_\_

SUBDIVISION: \_\_\_\_\_

BLOCK: \_\_\_\_\_ LOT: \_\_\_\_\_

DESCRIPTION OF VARIANCE BEING SOUGHT (attach any necessary drawings):

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PROPOSED USE: \_\_\_\_\_

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APPLICANT'S NAME: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_

APPLICANT'S EMAIL ADDRESS: \_\_\_\_\_

APPLICANT'S ADDRESS: \_\_\_\_\_

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APPLICANT'S SIGNATURE: \_\_\_\_\_

# 2012

## CONWAY PLANNING COMMISSION SCHEDULED MEETING DATES

MONTH	MEETING DATE	SUBMISSIONS DUE
January	<u>Tuesday</u> , January 17	Friday, December 30
February	<u>Tuesday</u> , February 21	Friday, February 3
March	Monday, March 12	Friday, February 24
April	Monday, April 16	Friday, March 30
May	Monday, May 21	Friday, May 4
June	Monday, June 18	Friday, June 1
July	Monday, July 16	Friday, June 29
August	Monday, August 20	Friday, August 3
September	Monday, September 17	Friday, August 31
October	Monday, October 15	Friday, September 28
November	Monday, November 19	Friday, November 2
December	Monday, December 17	Friday, November 30

Planning Commission meetings begin at 7:00 p.m. in the Russell L. "Jack" Roberts District Court Building located at 810 Parkway, Conway, Arkansas. The agenda with supporting information for each meeting is posted at [www.conwayplanning.org](http://www.conwayplanning.org).