

APPLICATION FOR VARIANCE
Sutherland, Nebraska

Name of Applicant _____

Address _____

Telephone Number _____

Relationship of Applicant to Property _____ Owner _____ Tenant _____ Lessee _____ Other

The variance requested is from Section _____ of the Sutherland Zoning Regulations.

Which requires that _____

This request would change this requirement to _____

For the property located at _____

And legally described as _____

And currently zoned as _____

Provide a statement explaining the variance requested. _____

Submit two (2) copies of a sketch which includes the property lines of the application area, existing and proposed structures, appropriate dimensions and any other information that would be helpful to the Board of Adjustments in evaluating the request.

The Board of Adjustments must find the following to apply:

1. Strict application of the zoning regulation would produce undue hardship;
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The variance will not cause a substantial detriment to adjacent property and the character of the district will not be changed;
4. The applicant must demonstrate exceptional hardship as distinguished from variances for purposes of convenience, profit or caprice;
5. No variance shall be authorized unless the Board of Adjustments finds that the conditions of the property concerned or the intended use of the property is not of so general recurring a nature as to make reasonable practicable the formulation of a general regulation.

The applicant hereby declares that all information submitted is true to the best of his knowledge and that all information required for this request has been included.

Signature of Applicant

For Office Use Only:

Date Application Filed: _____

Date Variance Fee of \$35.00 Paid: _____

Signed: _____

Chairman, Board of Adjustments
Village of Sutherland

Signed: _____

Permit Inspector
Village of Sutherland

Date: _____

ARTICLE 10

BOARD OF ADJUSTMENT

SECTION 1001. CREATION

The Board of Adjustment shall consist of 5 members and 1 alternate which shall be appointed by the governing body to serve a term of 3 years, 2 members per year. One member only of the Board of Adjustment shall be the Chairman of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his immediate loss of membership on the Board of Adjustment. One member must be from the extra territorial jurisdiction of the Village of Sutherland.

SECTION 1002. MEETINGS AND VOTING

The Board shall adopt rules in accordance with this Ordinance and shall annually appoint a Chairman and Vice Chairman from its membership. Meetings of the Board shall be held at the call of the Chairman and such other times as the Board may determine. The Chairman or, in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Any resident or property owner within the zoning area of the Village shall have the right to appear before the Board in regard to which they have a reasonable interest in the matter to be determined. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. Records of its examination and other official actions shall be immediately filed in the office of the Village Clerk and shall be a public record. The concurring vote of four members of the Board is necessary to decide any questions upon which the Board is required to pass. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which the Board is required to pass. (Amended 6/12/96)

SECTION 1003. POWERS

The Board of Adjustment shall, as listed in the NE State Statue Section 19-910, have the following powers:

1. To hear appeals where error is alleged.
2. To hear and decide, in accordance with the provisions of any zoning regulation requests for interpretation of any map.
3. Grant Variances
 - A. Exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or exceptional topographic conditions or other extraordinary and conditional situation or condition of such piece of property.

- B. Causes peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner.
- C. Relief cannot cause substantial detriment to the public good or impair the intent and purpose of any ordinance or resolution.
- D. Board must find:
 - i. Strict application of the zoning regulation would produce undue hardship.
 - ii. The hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - iii. The variance will not cause a substantial detriment to adjacent property, and the character of the district will not be changed.
 - iv. The applicant must demonstrate exceptional hardship, as distinguished from variances for purposes of convenience, profit, or caprice.
 - v. No variance shall be authorized unless the Board finds that the conditions or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation.
- 4. Board may reverse or affirm, wholly or in part, and shall have all the powers of the officer from whom the appeal is taken.
- 5. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination, or to decide in favor of the applicant.
- 6. No Board of Adjustment may exceed these powers. (see NE State Statute §19-907)

SECTION 1004. APPLICATIONS

A. PROCEDURE. The procedure for requesting a hearing before the Board shall be as follows:

- 1. All applications to the Board shall be in writing on forms provided by the Board and filed with the Village Clerk.
- 2. All applications shall be accompanied by an ownership list obtained from an abstractor or from County Records, listing the legal description and the name and address of the owners of all property within three hundred (300) feet of the boundaries of the property included in the application.
- 3. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the date fixed for the Public Hearing. A copy of the notice of Public hearing shall be mailed by the applicant, return receipt requested to each person on the ownership list. The applicant shall submit the receipts and returned notices to the Village Clerk prior to the Public Hearing. A copy of the notice of Public Hearing shall be mailed by regular mail to each Planning Commission member at least ten (10) days prior to the meeting. (Amended 6/12/96)

4. An application shall be accompanied by a filing fee of thirty-five (\$35.00) dollars. A separate filing fee of \$35.00 shall be required for each request.

B. ADDITIONAL REQUIREMENTS. In addition to the above requirements, certain applications require additional information as follows:

1. APPEALS AND INTERPRETATIONS.

- a. An application for an appeal or interpretation shall be filed within 60 days after a ruling has been made.
- b. A copy of the order, requirement, decision or determination which the applicant believes to be in error shall be submitted.
- c. A clear and accurate, written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the appellant's position.
- d. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

2. VARIANCES.

- a. The applicant shall submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five conditions as set out in Section 1003.3 (D) of this Article.
- b. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.
- c. PERFORMANCE. In making any decision varying or modifying any provisions of the zoning regulations, the Board shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property.

The Board may require a performance bond, cash, escrow or letter of credit to guarantee the installation of required improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board, and shall be enforceable by or payable to the Governing Body in the sum equal to the cost of constructing the required improvements.

In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

SECTION 1005. APPEALS FROM THE BOARD OF ADJUSTMENT

Any person or persons aggrieved by any decision of the Board of Adjustment, or any officer, department or board of the Village of Sutherland may present to the District Court a petition setting forth that any decision of the Board of Adjustment is illegal, in whole or in part, and specifying the grounds of the illegality. Such petitions must be presented to the Court within fifteen (15) days after the filing of the decision in the office of the Village Clerk and shall follow the provisions of the Nebraska State Statutes.