

CITY OF CARROLL

Application to Board of Adjustment

Case No. _____

Date _____

I (We), _____ of _____,
Carroll, Iowa. (name) (address)

- _____ The Property Owner (applicant)
- _____ Authorized Agent of the Property Owner, _____
(property owners)

respectfully request that a determination be made by the Board of Adjustment on the Application, as stated below:

- _____ Appeal (Sec 170.35(7))
- _____ Parking Exception (Sec 170.34)
- _____ Special Use Permit (Sec 170.36)

- _____ Home Occupation (Sec 170.09)
- _____ Business or other special use listed in Zoning Code
- _____ Joining or Dividing Lots (Sec 170.08)
- _____ Building Height (Sec 170.32)
- _____ Wall or Fence Height (Sec 170.33(4))

- _____ Variance (Sec 170.35)

- _____ Lot Area
- _____ Frontage
- _____ Yard requirements
- _____ Other

- A site plan or such other plans and data showing the dimensions, arrangements, descriptive data and other material essential to an understanding of the proposed use or modification shall accompany this application.

- Applicant remarks: _____

- The premise affected is located at: _____

This page left blank intentionally as page 2 will be the specific item you are requesting from the Board of Adjustment. On the Board of Adjustment webpage click on the item you need such as Appeal, Parking Exception, Special Use Permit (which includes Home Occupation, Business or other special use listed in Zoning Code, Joining or Dividing Lots, Building Height and Wall or Fence Height), or Variance (which includes Lot Area, Frontage and Yard Requirements) to obtain the specific form for your request.

- Plot plan attached: ____ Yes ____ No
- Ground Plan and elevations attached: ____ Yes ____ No If no, explain: _____

Following is a list of abutting property owners involved in this appeal/application together with addresses of the same:

Abutting property owners shall mean the owners of record of the properties located immediately North, South, East, and West of the property subject to Board action and any properties sharing a common corner with the subject property.

<u>Name</u> (Please print or type)	<u>Address</u> (Please print or type)
_____	_____
_____	_____
_____	_____
_____	_____

I (We) further state that if this request is granted, I (We) will proceed in accordance with the plans herewith submitted within two months from the date of filing this application and will complete the work within six months from the start date.

Dated: _____

Signature of Property Owner

Signature of Property Owner

Signature of Authorized Agent

NOTICE:

This Application must be completed and submitted to the Administrative Officer a minimum of fifteen days before the Board of Adjustment meeting, which meets regularly on the first Monday of the month. A fee of \$50.00 must accompany the application.

Any person aggrieved by any decision of the Board of Adjustment, may file with the Iowa District Court a petition for Writ of Certiorari duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Said Petition shall be filed with the Iowa District Court within 30 days after the filing of the decision in the office of the City Clerk.

Questions to Consider When Testing the Legality of an Application

1. Has unnecessary hardship been proven by the applicant?

While "unnecessary hardship" has no hard-and-fast definition, the legal precedent has established several conditions of hardship:

- a. Mere inconvenience to the applicant is not sufficient grounds for "unnecessary hardship"
- b. Inability to put the property to its most profitable use does not constitute "unnecessary hardship".
- c. The hardship must be a compelling force; that is, the problem must be a very real hardship and not just a perceived one.
- d. A strict application of the provisions of the zoning ordinance will preclude its use for any purpose to which the land is reasonably adapted.
- e. The premises cannot be used in a manner permitted by the zoning ordinance unless the adjustment is granted.
- f. Financial difficulty is not itself grounds for a variance.*
- g. The hardship must be created by the ordinance, not by the applicant. If the applicant has made improvements to the property in violation of the zoning ordinance, either willfully or innocently, the hardship was created by the applicant and an adjustment may not be granted.
- h. The hardship must be unique to the parcel in question; it cannot be a hardship which would affect all the properties in the zoning district.*

The burden of proof of "unnecessary hardship" rests upon the applicant and, without such proof, an adjustment must be denied.

2. Has the public interest been served?

Again, there is not explicit definition of a "public interest", but the board of adjustment may not grant a variance if the action will injure or endanger other property or persons. Will the variance devalue nearby property? The public good should be promoted by granting a variance, not undermined.

3. Is the spirit and intent of the ordinance and Comprehensive Plan upheld?

The board of adjustment must assure that granting the adjustment will not be contrary to the general land use plan or other elements of the comprehensive plan. The board's actions should never knowingly destroy the provisions of the ordinance but take steps to assure itself that its action is in harmony with the ordinance.

4. Has substantial justice been done?

To all parties concerned the applicant, the people directly affected, and the general public.

- Taken from "Powers of the Board of Adjustment", Iowa State University Extension, Revised, January 2000, except *, from "Improving Zoning Board Decisions", Iowa State University Extension, Revised, January 2000, page 74
Y:\Bruner\Bruner\Janet\Word\dsb\0-1850\doc-09\Bd of Adjustment