

PROCEDURE

A fee of \$150.00 is assessed for a request before the Board. This covers administrative expenses regarding neighborhood notification and publishing of the requests. It has no impact on the Board's decision.

A formal application must be filled out in the Community Development Department.

POWERS OF THE BOARD

State law provides for a Board of Adjustment to act on variances or special exceptions to the zoning ordinance. The Board is made up of five (5) members of the community. Four (4) of the five must vote in the affirmative for a motion to pass.

The Board can hear requests in the following specific areas:

1. ADMINISTRATIVE REVIEW

This simply means that the applicant/property owner wants to do a building project (typically requiring a variance) or establish a use on the property (special exception) that is not permitted by right according to the regulations in the zoning ordinance.

2. VARIANCE

A list of common variances is included in this pamphlet. These are only a few examples of the many types of variances that can be requested. If a variance is granted, it stays with the

property and does not expire upon transfer of ownership.

As noted earlier, the Board's powers are established by State Law and each request must be judged according to the specific conditions that exist upon the applicant's property before it can be granted. For example, the Board must review the applicant's proposal based on each of the following criteria:

- a. Due to special conditions occurring on the land such as, but limited to, a steep slope, water course, or an irregular shape, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and said variance will not violate the spirit of the ordinance and substantial justice may be achieved as a result of the variance.
- b. Unique circumstances apply to the property, which do not apply to other properties in the same vicinity or district such as a very small or narrow lot in comparison to larger, adjacent lots.
- c. The variance is necessary for the preservation of a property right that is substantially the same as that possessed by owners of other property in the same district. An example of this is, the location of buildings in older districts that were established prior to official zoning laws.

- d. The variance requested is the minimum variance, which would alleviate the hardship.
- e. Reasonable use of the property is not permitted under the terms of this ordinance. In other words, there is no other alternative or option available to the applicant.

The Board may attach appropriate conditions or safeguards it deems necessary when granting a variance or special exception. The Board may also make interpretations of the zoning map.

EXAMPLES OF VARIANCES

- Building structures too close to front, side and rear property lines
- Lack of parking
- Fence heights
- More units than the zone allows
- Sign variances
- Height of buildings
- Front yard parking

INFORMATION NEEDED

1. Your name, address and the address of the property in question
2. **A site plan - The site plan is one of the most important aspects of the Board of Adjustment application.** A well prepared site plan should show what uses are proposed for a site and should answer many of the questions, which may be asked about the proposal. A site plan should show both existing and proposed features of the property. This may include site features such as lot lines and streets;

land use features such as buildings, driveways and access from a public right-of-way, parking areas and the location of buildings on adjacent property. You may also need to include aesthetic features such as landscaping and screening. The plan need not be drafted by a professional draftsman. However, it must be both clear and legible. It must include a north arrow and should be drawn to scale. The site plan must be submitted along with the application. An inadequately prepared site plan may result in the deferral of the application until an appropriate plan has been completed.

MEETING

Meetings are held on the first and third Thursdays at 5:00 PM in the Chambers on the third floor of the City & County Government Center. **Attendance by the applicant or a representative is strongly encouraged and non-attendance will likely result in delays.** At the meeting, the Board will ask you to specifically state your intentions for your property. Adjoining property owners will also be given time to voice any concerns or ask questions specific to the request. You will be given time to answer all questions.

APPEAL

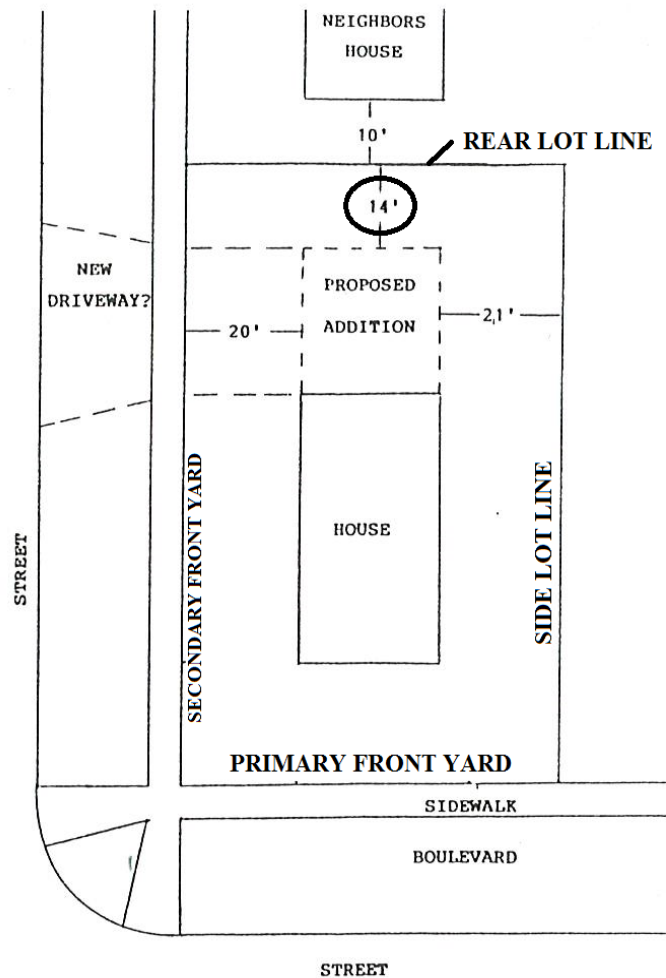
Appeals of Board decisions are to the court of proper jurisdiction. If you have any questions, feel free to contact the Community Development Department at 692-6629.



BOARD OF ADJUSTMENT

**Community Development Department
PO Box 270
Brookings, SD 57006**

**Phone:
(605) 692-6629**



**EXAMPLE - REAR LOT LINE VARIANCE REQUEST
(25 FOOT SETBACK REQUIRED)**