

PITKIN COUNTY  
BOARD OF ADJUSTMENT  
REQUIREMENT LIST

**Note:** The applicant may arrange to meet with the Zoning Officer on or before the application deadline date to determine completeness of the application. The application must contain the items listed below and must be submitted both digitally to <https://sagesgov.com/pitkincounty-co> and in hard copy. **Please do not collate or attach these requirements in any manner.**

1. An application form is attached. Please fill in the top portion only.
2. A \$648.00 Application Fee (effective April 2008). Please make your check payable to the Pitkin County Treasurer.
3. One (1) digital copy of all the requirements below.
4. One (1) copy of any relevant land use approval. While not required, we strongly suggest that all required Land Use Approvals be obtained before submitting a Board of Adjustment application.
5. One (1) copy of a letter describing why a variance is necessary. **A hardship must be demonstrated for a variance to be granted.** Please refer to Section 2-40-110(b) of the Pitkin County Land Use Code (attached) for hardships within the Board's purview. If topography is claimed as a hardship, a certified topographic survey must be provided. Solar charts (available at most bookstores) must be submitted for cases claiming solar hardship. **Be specific – if you are requesting a setback variance, state the distance from the affected lot line; if requesting a height variance, state by how much the height limit is to be exceeded, etc.**
6. If the applicant is NOT the property owner, provide a letter signed by the owner stating that he/she is aware of, and has no objections to, the variance request.
7. One (1) copy of the current legal description of the property. If in a subdivision, include the Lot, Block, and Filing. Otherwise include the property's metes and bounds description.
8. One (1) copy of a survey. Topography must be shown if claiming a topographic hardship. At least one copy must be 24" x 32". Other copies may be reduced but must remain legible.
9. One (1) copy of a site plan showing:
  - a) If requesting a setback variance for a structure: the entire structure, as it is to be located on the property, with specific and accurate dimensions to the property lines and right-of-ways.
  - b) If requesting a variance for a driveway: the location of the driveway and associated regrading. Include a profile of the driveway.
10. One (1) copy of the proposed floorplan, where all room uses are identified in the structure requiring a variance. This may be reduced to 8.5" x 11" size but must be legible.
11. One (1) copy of building elevations of the structure requiring a variance.

12. One (1) copy of a vicinity/directional map, plus written directions so the property may be easily located. An 8 1/2" x 11" hand drawn map is acceptable. Please indicate where the notification sign (see item #12) will be placed.
13. Because Board of Adjustment meetings are Public Hearings, noticing requirements are subject to Section 2-20-100 (3) and (4) of the Land Use. **Please read these sections carefully.** They are included in this packet for your convenience.

Subsection 3 explains requirements for posting a public notice sign. If a sign is not issued to you upon submission of the application, please request one from the Community Development Department, or you may provide your own sign subject to compliance with the requirements in this section. The sign must be posted for no less than 15 days prior to the hearing date.

Subsection 4 explains how to notify the owners of properties within 300 feet of your subject site. You are responsible for compliance with the requirements in this section. The return address on envelopes mailed to owners of properties within 300 feet of the subject site must be: Community Development Department, 530 East Main Street, Ste. 205, Aspen, CO 81611, Attn: Joanna Schaffner. Do not use *your* return address.

14. One (1) copy of a list of property owners within 300 feet of the subject site and their mailing addresses. This includes properties across the river, road, railroad, or any other physical divide, and also includes the Forest Service, BLM, Highway Department, Pitkin County, or any land owned by a public or private entity.
14. The attached affidavit must be completed, and then signed by a notary public. Attach a picture of the sign as posted on the property. Present the affidavit to Staff at the meeting to verify that the sign has been posted and the mailing completed as required. **Do not submit the affidavit with your application.**

#### **PLEASE BE AWARE OF THE FOLLOWING:**

1. The plans submitted to the Board of Adjustment must accurately show the proposed development. If substantial changes are made prior to permit submittal, the permit application may be rejected.
2. Some subdivisions have their own setback requirements. The Pitkin County Board of Adjustment may only grant variances for County setback requirements. Any encroachment into a subdivision setback should be approved by the Homeowners' Association or Architectural Review Committee. While not required, **you are strongly urged to submit an approval from your subdivision review committee.**
3. The applicant, or a representative for the applicant, must attend the meeting.
4. A resolution indicating the outcome of the request will be prepared following the meeting. The resolution is the document that memorializes the Board's decision and will be recorded in the County's Clerk and Recorder's Office. A copy of the recorded resolution will be mailed to you or your representative. A development permit application may be submitted to the Community Development Department prior to your receipt of the resolution.
5. Photographs are not required, but can be used to supplement your application.

Revised 10/18/2018

PITKIN COUNTY  
BOARD OF ADJUSTMENT  
APPLICATION FORM

REPRESENTATIVE \_\_\_\_\_ PHONE \_\_\_\_\_

E-MAIL \_\_\_\_\_ FAX \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

PARCEL OWNER \_\_\_\_\_ PHONE \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

LEGAL DESCRIPTION \_\_\_\_\_

SUBJECT PARCEL ADDRESS \_\_\_\_\_

PARCEL ID # \_\_\_\_\_

ZONE DISTRICT \_\_\_\_\_ LOT SIZE \_\_\_\_\_

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**(To be completed by Zoning staff)**

**Meeting Date :** \_\_\_\_\_

**Case #** \_\_\_\_\_

**Request:**

- \_\_\_\_\_ foot Front yard setback variance, where \_\_\_\_\_ feet is required.
- \_\_\_\_\_ foot Rear yard setback variance, where \_\_\_\_\_ feet is required.
- \_\_\_\_\_ foot Side yard setback variance, where \_\_\_\_\_ feet is required.
- \_\_\_\_\_ foot Side yard setback variance, where \_\_\_\_\_ feet is required.
- \_\_\_\_\_ foot Height variance, where \_\_\_\_\_ is allowed.
- \_\_\_\_\_ foot Arterial Highway setback variance, where 200 feet is required.
- \_\_\_\_\_ foot Major Road setback variance, where 100 feet is required.
- \_\_\_\_\_ foot Collector Street setback variance, where 50 feet is required.

**Comments:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Application material was referred to:** \_\_\_\_\_

**Zoning Officer:** \_\_\_\_\_

PITKIN COUNTY  
BOARD OF ADJUSTMENT  
**PUBLIC NOTICE REQUIREMENTS**

**Land Use Code Section 2-20-100**

For all decisions that require a public hearing, public notice shall be provided pursuant to this section.

**Development Applications**

Prior to a public hearing on a development application, notice shall be provided to the public, pursuant to the terms of this section.

**(1) CONTENT**

Every notice shall include:

- (a) The name and mailing address of the applicant.
- (b) The type of development application sought.
- (c) Date, time and place of the hearing, (if a hearing is required) or the last date on which comments regarding the application will be received by the County (if a hearing is not required).
- (d) The address and legal description of the subject property if applicable.
- (e) A summary of the development application under consideration.
- (f) Identification of the decision-making body conducting the hearing (or making the decision, if no hearing is required).
- (g) Such other information as may be required to fully appraise the public of the nature of the application.

**(2) PUBLICATION**

The Community Development Director shall cause notice of the hearings to be published one time in a newspaper of general circulation in the County as follows:

- (a) For matters in which the Board of County Commissioners is the decision-making body, at least fourteen (14) and no more than ninety (90) days prior to the hearings.
- (b) For matters in which the Board of Adjustment is the decision-making body, at least seven (7) and no more than ninety (90) days prior to the hearings.

**(3) POSTING**

- (a) Posting of notice shall be made by the applicant by posting a sign in a conspicuous place on the property subject to the development application. The form of the sign shall be obtained from the Community Development Department. The sign shall be placed on the property at least fifteen (15) days prior to the public hearing, and shall be maintained in readable condition in the same location until the date of the public hearing.
- (b) The sign shall be made of suitable, waterproof materials, shall be not less than twenty-four (24) inches wide and thirty-six (36) inches high, and shall be composed of letters not less than one (1) inch in height.

- (c) The applicant shall provide a signed and notarized affidavit in a form as specified by the Community Development Director attesting to the date that the sign was posted. A photograph of the posted sign must accompany the affidavit.
- (d) It is the applicant's duty to ensure that required posted notice remains in place and in readable condition for the period specified above, to replace the posted notice if it is removed or becomes unreadable during that period, and to remove the sign within one (1) week after the public hearing.

**(4) MAILING**

- (a) The applicant shall obtain copy of the notice from the Community Development Department.
- (b) At least thirty (30) days prior to a public hearing before the Board of County Commissioners, and at least seven (7) days prior to a public hearing before the Board of Adjustment, the applicant shall send the required form of notice to all owners of property within 300 feet of the property that is subject to the development application, as follows. If the application is for approval of oil and gas extraction or mineral extraction, notice shall be provided to both the current surface owners and current subsurface owners of the parcels of land within which the facility is proposed to be located, as well as the current surface owners of those parcels of land adjacent to the parcels within which the facility is proposed to be located.
- (c) For purposes of the notice mailing, the applicant shall use the names and addresses on the current tax records of Pitkin County as they appeared no more than sixty (60) days prior to the date of the public hearing. It shall be the applicant's responsibility to obtain the required addresses.
- (d) Notices shall be sent to property owners within 300 feet of the subject site by first class, postage prepaid U.S. mail. The applicant shall deliver to the Community Development Department, prior to any scheduled public hearing, meeting, or any administrative decision that requires a public notice, an affidavit confirming that the required mailed notices have been completed in accordance with the provisions of this subsection (4).

PITKIN COUNTY  
BOARD OF ADJUSTMENT  
**PITKIN COUNTY LAND USE CODE**

**Section 2-10-30**

**(a) Establishment**

There is hereby established the Pitkin County Board of Adjustment.

- (1) The Board of Adjustment shall be composed of five members.
- (2) The term of each member shall be two (2) years. The Board of County Commissioners shall establish staggered terms for the members.
- (3) The Board of County Commissioners may in its discretion appoint up to five (5) alternate Board of Adjustment members.
- (4) Any member of the Board of Adjustment may be removed for cause by the Board of County Commissioners.
- (5) Vacancies on the Board of Adjustment shall be filled by the appointment of an alternate member who shall have served a minimum of one (1) year prior to appointment as a regular member. If there is no such alternate member, the Board of County Commissioners shall appoint other alternate members, as necessary. If there are no available alternate members, vacancies may be filled by the Board of County Commissioners in the same manner as original appointments.
- (6) In the event that any regular member is temporarily unable to act owing to absence, illness, conflict of interest, or other cause, such position shall be filled during such temporary disability by an alternate member in accordance with the by-laws, if applicable, or by order of the chairperson.
- (7) Each member and alternate shall be a resident of the County.

**(b) Organization**

The Board of Adjustment may adopt by-laws approved by the Board of County Commissioners to establish its organization and procedures. A copy of such by-laws shall be available in the Community Development Department. The Board of Adjustment shall elect a chairperson from its members to serve a one-year term.

**(c) Conduct of Business**

Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such other times as the Board of Adjustment in its rules or by-laws may specify. The chairperson or acting chairperson may administer oaths and compel the attendance of witnesses by application to the district court. The court, upon proper showing may issue subpoenas and enforce obedience by contempt proceedings. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record.

**(d) Powers and Duties**

The Board of Adjustment is authorized to hear requests for Variances from the structure height or Yard and Road setback provisions established by this Land Use Code, pursuant to the procedures established in Sec. 2-40-110. The powers currently delegated to the Board of Adjustment by the Board of County Commissioners are summarized in Table 2-1.

## **Section 2-40-110**

### **VARIANCES OF STRUCTURE HEIGHT OR SETBACK**

#### **(a) Authority**

The Board of Adjustment has the power to grant variances from the strict application of the provisions of the height and Road and Yard setback provisions of this Land Use Code pursuant to the standards in this section.

#### **(b) Approval Criteria**

The Board of Adjustment shall only approve a variance where, by reason of unusual narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of unusual topographic conditions or other situation or condition of such piece of property, the strict application of the height or Road and Yard setback regulations of this Land Use Code would result in peculiar practical difficulties to, or undue hardship upon, the owner of such property, and the granting of relief from the strict application of this Land Use Code will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Pitkin County Comprehensive Plan and this Land Use Code.

#### **(c) Limitations**

The Board of Adjustment shall have no power to vary from the limitations on use, lot area requirements, floor area ratio requirements, stream setbacks, or any requirements of this Land Use Code other than heights, and Road and Yard setback requirements.

#### **(d) Votes Required**

The concurring vote of four (4) members of the Board of Adjustment in the case of a five (5)-member Board and three (3) members in the case of a four (4)-member or three (3)-member Board shall be necessary to reverse any order, requirement, decision, or determination or to decide in favor of the applicant.

## **SECTION 2-40-120**

### **VARIANCE OF SIGN SETBACK OR NUMBER**

#### **(a) Authority**

The Board of Adjustment has the power to grant variances from the strict application of the provisions of this Land Use Code in the following specific situations: (1) setbacks variances for signs located within the sign setback areas required by Sec. 7-60-50(a)(2); and (2) a variance for one additional identification sign on a site, provided that the total square footage of both identification signs does not exceed ten (10) square feet.

#### **(b) Criteria**

The Board of Adjustment shall only approve a proposed sign variance if it meets the limitations stated in subsection (a) above and: (1) the variance is reasonably necessary to inform the public about the activity or development referenced on the sign, and (2) a sign erected without the requested variance would not adequately inform the public about the activity or development referenced on the sign, and (3) the requested sign variance will not create adverse impacts on traffic safety, and (4) the requested variance will not create any adverse impacts on any Scenic View Protection Area, as defined in Sec. 7-20-120.

## **Section 10-60**

### **JUDICIAL REVIEW BY THE BOARD OF COUNTY COMMISSIONERS**

There is hereby granted to the Board of County Commissioners authority to initiate and pursue judicial review of any final action of any administrative official, the Board of Adjustment and Planning and Zoning Commission taken pursuant to the provisions of this Land Use Code.

**AFFIDAVIT OF POSTING AND MAILING**

County of Pitkin }  
 }  
 State of Colorado }                      ss.

**AFFIDAVIT OF NOTICE &  
 MAILING PURSUANT TO  
 PITKIN COUNTY LAND USE  
 CODE SECTION 2-20-100**

I, \_\_\_\_\_, being or representing an Applicant to the Pitkin County Board of Adjustment, personally certify that I have complied with the public notice requirements pursuant to Section 2-20-100 of the Pitkin County Land Use Regulations in the following manner:

1. By mailing of notice, a copy of which is attached hereto, by first-class, postage prepaid U.S. Mail at least 7 days prior to the public hearing to all owners of property **within 300'** to the subject property, as indicated on the attached list, on the \_\_\_ day of \_\_\_\_\_, 201\_\_ (which is \_\_\_ days prior to the public hearing date of \_\_\_\_\_). The names and addresses of the adjacent property owners shall be those on the current tax records of Pitkin County as they appeared no more than 60 days prior to the public hearing.
  
2. By posting a sign in a conspicuous place on the subject property (as it could be seen from the nearest public way) on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_. The sign has remained posted for at least fifteen (15) days prior to the public hearing. A photograph of the posted sign is attached hereto.

\_\_\_\_\_  
 Applicant's name

\_\_\_\_\_  
 Signature

Signed before me this \_\_\_\_\_ day  
 of \_\_\_\_\_, 201\_\_ by

(Attach photograph here)

\_\_\_\_\_  
 WITNESS MY HAND AND OFFICIAL SEAL  
 My commission expires: \_\_\_\_\_

\_\_\_\_\_  
 Notary Public

\_\_\_\_\_  
 Notary Public's Signatur