



TOWN OF LEEDS

218 North Main Street
PO Box 460879
Leeds, UT 84746-0879

Phone: 435-879-2447 Fax: 435-879-6905

E-mail: clerk@leedstown.org // Website: www.leedstown.org

\$250.00 Application Fee	
Non-Refundable	
Date paid _____	Ck # _____
Received by: _____	

Variance Application

Refer to Leeds Town Code Chapter 3 and Utah State Code 10-9a-702. All Variance Applications must meet the applicable requirements of local, state and federal law.

Project Location _____ Parcel ID# _____ Zone _____

Owner of Property:

Name _____

Address _____

City, State, Zip _____

Phone _____ Fax _____ Cell _____ E-Mail _____

Applicant:

Name _____

Address _____

City, State, Zip _____

Phone _____ Fax _____ Cell _____ E-Mail _____

Engineer:

Name _____

Address _____

City, State, Zip _____

Phone _____ Fax _____ Cell _____ E-Mail _____

ANSWER THE FOLLOWING (A variance may be granted ONLY if the following five (5) criteria are met):

1. Explain how the literal interpretation of the applicable zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. *(The hardship cannot be self-imposed or an economic hardship.)*

2. Explain what is peculiar to, or the special circumstances attached to the property that does not generally apply to other properties in the same zone.

3. Explain how the granting of the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.

4. Explain how the variance will not substantially affect the general plan and will not be contrary to the public interest.

5. Explain how the spirit of the specific zoning ordinance is observed and substantial justice is done.

INCLUDE THE FOLLOWING WITH THE APPLICATION

1. Filing Fee, Non-refundable: \$250.00, and Admin time at \$50.00 per hour will be charged before completion of Variance. Petitioner will also be liable for all costs associated with noticing in the local newspaper and atypical costs of administrative time and materials, if applicable.
2. A written notarized statement from the property owner giving authority for the applicant (if not the owner) to request the variance, OR a signed contract from the property owner indicating the property is under contract with the applicant.
3. One set of stamped envelopes addressed to all property owners within a 300 foot radius from the border of the subject property (for variance only) obtained from a title company. Provide enough copies of the variance description
4. One (1) copy of a site plan on 11" x 17" paper or larger and an electronic copy (.pdf). This site plan should be drawn to scale and include the following information:
 - a. Lot dimensions.
 - b. Location, size, height, and use of all buildings and structures.
 - c. Size and dimensions of yards and space between buildings.
 - d. Location and height of walls and fences.
 - e. Location, number of spaces, dimensions, circulation patterns, and surface materials for all off-street parking and loading areas, driveways, access ways and pedestrian walkways.
 - f. Location and general nature of exterior lighting or signage.
 - g. Street dedications and improvements.
 - h. Existing and proposed grades and drainage systems.
 - i. Vicinity map of the site.
 - j. The size and location of all existing and proposed public and private utilities. All easements must be shown and with supporting written documentation if request by County.
 - k. Natural features, such as streams, rock outcroppings, natural drainage, manmade features such as existing roads and structures, with an indication as to which are retained, and which are to be removed or altered (if applicable to the variance application).
 - l. Property ownership of the property at issue, and of the immediately adjacent properties.
 - m. Existing zoning classification(s) and surrounding land uses.
5. A Detailed description of the reason for variance or appeal.

All Landowners are required to sign the application. If additional space is needed, attach additional sheet signed and dated by the applicant.

Signature: _____ Date: _____

Signature: _____ Date: _____



Variance Requirements

Please refer to Leeds Town Code Chapter 3 and Utah State Code 10-9a-702. All Variance Applications must meet the applicable requirements of local, state and federal law.

The applicant is required to prove that all conditions justifying a variance have been met. After reviewing each section below describing the justifications for a variance, provide a brief explanation of how your request complies. Attach additional sheets, if necessary. The application sheet along with other required materials will be submitted to the Hearing Officer to aid in his/her review and decision.

3.1. CREATION of APPEAL AUTHORITY and HEARING OFFICER

The Leeds Appeal Authority shall be the Leeds Land Use Hearing Officer ("Hearing Officer") to be appointed by the Leeds Mayor with approval and consent of the Leeds Town Council. The Leeds Mayor may appoint more than one hearing officer, but only one hearing officer shall consider and decide any matter properly presented for hearing officer review.

3.2. TERMS OF OFFICE

The term of office for a hearing officer shall be for three (3) years.

3.3. DUTIES AND POWERS OF HEARING OFFICER.

The Hearing Officer shall have the following powers as defined in Utah State Code Section 10-9a-701 through 10-9a-708:

3.3.1. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the administrative official(s) in the enforcement of this article or of any ordinance adopted pursuant thereto.

3.3.1.1. The Hearing Officer shall act in a quasi-judicial manner and serve as final arbiter of issues involving the interpretation of applications of Land Use Ordinances.

3.3.1.2. The Appeal Authority may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

3.3.2. To hear and decide interpretations to the terms of this Ordinance upon which such Hearing Officer is required to pass under the provisions of this Ordinance.

3.3.3. To authorize such variance from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, providing the hardship was not self-imposed; provided, that the spirit of this Ordinance shall be observed and substantial justice done. Before any variance may be authorized, however, it shall be shown that all the following conditions exist:

3.3.3.1. Literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Ordinance.



3.3.3.2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.

3.3.3.3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property owners in the same district.

3.3.3.4. The variance will not substantially affect the general plan and will not be contrary to the health, safety, and welfare of the citizens of Leeds.

3.3.3.5. The spirit of the Land Use Ordinance is observed and substantial justice done.

3.3.3.6. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under State Code section 10-9a702(2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship: (a) is located on or associated with the property for which the variance is sought; and (b) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

3.4 VACANCIES AND REMOVALS FOR CAUSE.

Vacancies of appointed members occurring otherwise than through the expiration of terms shall be filled for the remainder of the unexpired term by appointment by the Leeds Mayor with approval and consent of the Leeds Town Council. The Leeds Town Council shall have the right to remove any Hearing Officer for cause. Cause shall include but not be limited to such things as misconduct and non-performance of duty. Misconduct shall include but not be limited to such things as:

3.4.1 conviction of a crime involving moral turpitude;

3.4.2 entertaining an appeal of a matter in which the Hearing Officer had previously acted as the land use authority;

3.4.3 entertaining an appeal of a matter in which the Hearing Officer has a financial, familial, or similar interest;

3.5. COMPENSATION.

Each Hearing Officer shall be compensated for their services on a reasonable, uniform basis applicable to all the Town's hearing officers. The basis and rate of compensation shall be determined by the Mayor in consultation with the Leeds Town Council and the Town attorney. The Leeds Town Council shall provide for reimbursement of the Hearing Officer for actual expenses incurred, upon presentation of proper receipts and vouchers when approved by the Leeds Town Council prior to incurring the expense and upon written request to the Leeds Town Council by the Hearing Officer.

3.6. RULES AND PROCEDURES.

The Hearing Officer shall adopt such rules and procedures, as it may deem necessary for the regulation and proper conduct of his/her duties, not inconsistent with the provisions of this Ordinance or of State law. Such rules and procedures shall become effective upon approval by the



Leeds Town Council. The Hearing Officer shall keep a record of his/her proceedings; such record shall be open to inspection by the public at all reasonable times. Copies of the Appeals Authority proceedings, decisions and minutes shall be provided to the Leeds Town Council after each Leeds Appeals Authority meeting. All decisions of a Hearing Officer must be reduced to writing.

3.7. EMPLOYEES; EXPENDITURES.

The Leeds Appeals Authority may, upon the approval of the Leeds Town Council, employ experts and staff, including consultants and a secretary, and pay such expenses, exclusive of gifts, as may be reasonable and necessary for carrying out the duties defined in this Ordinance, providing that such expenditures may not exceed the amount appropriated for the operation of the Leeds Appeals Authority by the Leeds Town Council.

3.8. APPEAL PROCESS.

3.8.1. As a condition precedent to judicial review, each adversely affected applicant shall timely and specifically challenge a land use authority's decision by the following process. Only those decisions in which a land use authority had applied a Land Use Ordinance to a particular application, person, or parcel may be appealed to an Appeal Authority.

3.8.1.1. A Notice of Appeal shall be presented in writing within thirty (30) days of when the land use decision was made. The Notice of Appeal shall include a detailed description of the land use being appealed, along with references to all Ordinances that the applicant feels applies to this decision. The Notice of Appeal should include a brief statement of the basis for the appeal, indicating ordinances, statutes, and/or facts that the applicant believes were interpreted or applied improperly. The minutes of the Planning Commission and/or Town Council meetings, as applicable, shall establish the date the land use decision was made.

3.8.1.2. The applicant will timely file such additional briefs, statements or other documentary evidence pursuant to the schedule outlined in the rules and procedures promulgated by the Hearing Officer and approved by the Leeds Town Council pursuant to Section 3.6 of this Chapter.

3.8.1.3 The affected applicant is required to present to the Appeal Authority every theory of relief that he/she can raise in district court.

3.8.1.4. The affected applicant shall attend all hearings and meetings associated with his/her appeal.

3.8.1.5. The Appeal Authority shall not require an adversely affected applicant to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies.

3.8.1.6. The decision of the Appeal Authority takes effect on the date when the appeal authority issues a written decision and this written decision constitutes a final decision.

3.9. MEETINGS.



3.9.1. Meetings of the Hearing Officer shall be held at the call of the Hearing Officer. The Hearing Officer may compel the attendance of witnesses. All meetings of the Hearing Officer shall be open to the public, and held at the Leeds Town Hall unless it is determined by the Hearing Officer that an alternate location is required and appropriately posted.

3.9.2. The Hearing Officer shall keep minutes of his/her proceedings and shall keep records of its examinations and other official actions, all of which shall be filed with the Leeds Town Clerk and shall be public record.

3.10. ACTION TO BE TAKEN.

Approval or disapproval, rejection, or modified approval of an appeal shall be based upon written findings which shall be made a part of the official record.

3.11. DECISION ON APPEAL. In exercising the above-mentioned powers, the Hearing Officer may in conformity with the provisions of this Ordinance reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such other requirement, decision, or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

3.12. BURDEN OF PROOF. The burden of proof is on the appellant. The Appeal Authority shall consider all factual matters related to the land use decision being appealed. The Appeal Authority shall determine the correctness of a decision of the land use authority in its interpretation of the Land Use Ordinance and applicable State law.

3.13. JUDICIAL REVIEW OF BOARD'S DECISION – TIME LIMITATIONS.

The Town of Leeds or any person aggrieved by any decision of the Hearing Officer may have and maintain a plenary action for relief there from in any court of competent jurisdiction; provided, petition for such relief is presented to the court within thirty (30) days after the filing of such written decision with the Town Clerk. Appellant will not be allowed to raise any issues on judicial review that are not raised before the Appeal Authority.

“10-9a-702. Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
- (2) (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;



- (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed, and substantial justice done.
- (b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
- (A) is located on or associated with the property for which the variance is sought; and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
- (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
- (a) mitigate any harmful effects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.”