



# Community Development Department

..... PRESERVING THE PAST; PLANNING THE FUTURE

## EXTENSION OF NON-CONFORMING USE PROCEDURE AND APPLICATION

The following information is provided with this “Application for Extension of Non-Conforming Use” to assist you in completing and submitting your application for consideration by the Board of Adjustment (BOA). Your Community Development Department contact is Natasha Riley, Assistant Planner and Secretary to the City and County BOA. Her phone number is 918-338-4241 and email: [nmriley@cityofbartlesville.org](mailto:nmriley@cityofbartlesville.org).

The *City BOA* meets the fourth Thursday of each month at 5:00 p.m. in the City Council Room, City Center Building, 401 South Johnstone Avenue, Bartlesville, Oklahoma. Your application completed in its entirety must be submitted *30 days prior to the next scheduled meeting*.

- City BOA meeting is scheduled for \_\_\_\_\_.

The *County BOA* (for those requests in the three-mile MAPC area outside the Bartlesville City Limits) *meets on call* at 4:00 P.M. in the County Commission Meeting Room at the Washington County Courthouse, 420 S. Johnstone, Bartlesville, Oklahoma. When an application for consideration by the County BOA is received by the City of Bartlesville Community Development Department, the staff schedules the meeting date within the time frame needed to meet the criteria for newspaper publication and notification of property owners. You will be notified either by phone or by mail when the County BOA sets the meeting for your application.

### ***THE REQUIREMENTS OF A COMPLETED APPLICATION:***

- A non-refundable application fee of \$50.00 must accompany the completed application
- The Application Form
- Supplemental information (example attached). In order for the BOA to approve a request for Extension of Non-Conforming Use, they are required to find:
  1. The application of the ordinance provisions to the property would create an unnecessary hardship (other than financial).
  2. Conditions exist (topography, shallowness of the lot, shape of the lot, etc.) which are peculiar to the lot.
  3. Approving the Extension of Non-Conforming Use would not cause substantial detriment to the public good or impair achieving the purposes of the ordinance, and
  4. Granting the Extension of Non-Conforming Use would be the minimum necessary to alleviate the unnecessary hardship.

- Plot Plan

Vicinity Sketch showing boundary lines and dimensions, adjoining streets, rights-of-ways, existing utilities and location of existing and proposed structures. (example attached).

- Property Owner Information

1. A complete list of property owners and their mailing addresses who are located within 300 feet of the perimeter boundary of the property, as reflected by the tax rolls in the office of the County Treasurer for Washington County, Oklahoma, and the last recorded conveyance in the office of the County Clerk for Washington County, Oklahoma. *The preferred method for obtaining this information is for you, the applicant, to contract with a title company of your choice, such as Musselman Abstract, Southern Abstract or another title company, to research the records at the Washington County Courthouse.*
2. If you wish to provide this information yourself, attached is a copy of a certificate that must be completed and signed by you certifying that the list of property owners and addresses are correct.
3. **This information is to be typed or legibly printed on self-stick mailing labels.** Failure to provide such addresses on mailing labels shall render the application incomplete for processing, and the application shall be returned to you.

***APPLICANT REQUIREMENTS ONCE THE APPLICATION HAS BEEN ACCEPTED:***

- The applicant and/or his or her agent must be present at the meeting in order for the matter to be considered.
- The applicant and/or agent should be prepared to make a presentation and/or answer questions at the BOA Hearing.

***INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.***



# Community Development Department

..... PRESERVING THE PAST; PLANNING THE FUTURE

## ***APPLICATION FOR EXTENSION OF NON-CONFORMING USE***

Case No.:	_____		
Date Received:	_____		
Hearing Date:	_____		
Schedule Public Hearing for:			
City BOA	<input type="checkbox"/>	County BOA	<input type="checkbox"/>
Zoning District:	_____		

**NAME OF APPLICANT:** \_\_\_\_\_ **Daytime Phone:** \_\_\_\_\_

**Address of Applicant:** \_\_\_\_\_

**Location of property for which Extension of Non-Conforming Use is requested (address and legal description):** \_\_\_\_\_  
\_\_\_\_\_

**Reason Non-Conforming Use is Needed:** \_\_\_\_\_  
\_\_\_\_\_

**The following items are attached:**

**Attached**

- |    |   |                          |
|----|---|--------------------------|
| 1. | Application fee of \$50.00  | <input type="checkbox"/> |
| 2. | Supplemental information – Points and Criteria for Request  | <input type="checkbox"/> |
| 3. | Plot Plan – Vicinity sketch   | <input type="checkbox"/> |
| 4. | List of names and address of all property owners within 300-feet of the perimeter boundary of the property  | <input type="checkbox"/> |
| 5. | Self-stick mailing labels, either typed or legibly printed, of names and addresses of all property owners within 300-feet of the perimeter boundary of the property | <input type="checkbox"/> |
| 6. | Surrounding Property Owner Certification (if applicable)  | <input type="checkbox"/> |

**SIGNED (Applicant):** \_\_\_\_\_

**SIGNED (Property Owner, if different than Applicant):** \_\_\_\_\_



# Community Development Department

..... PRESERVING THE PAST; PLANNING THE FUTURE

## **SUPPLEMENTAL INFORMATION FOR EXTENSION OF NON-CONFORMING USE REQUEST**

The Board of Adjustment (BOA) is an appointed administrative body clothed with quasi-judicial powers to determine if an ordinance in a particular case should be “adjusted”. Because their powers are derived from State enabling legislation, the BOA is limited in its authority.

Requesting to extend a non-conforming use is technically similar to requesting a Variance. A Variance is a modification of the literal provisions of a zoning ordinance granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which the non-conforming use is granted.

There are three crucial points of the variance:

1. Evidence of unnecessary hardship must exist.
2. Unique circumstances must be involved.
3. Its application must be to property rather than an individual.

In reviewing a request for extension of a non-conforming use, the BOA looks to see if the four following criteria are met:

1. That the granting of the permit will not be contrary to the public interest;
2. That the literal enforcement of the ordinance will result in unnecessary hardship;
3. That by granting the permit contrary to the provision of the ordinance, the spirit of the ordinance will be observed; that is, the intent of the law is not violated; and
4. That by granting the permit, substantial justice will be done; that is, the extension of the non-conforming use will not work a hardship on property around the applicant.

**As the applicant, you are required to complete the following section and include with your application. Failure to do so will render your application incomplete for processing and the application will be returned to you.**

**THREE CRUCIAL POINTS OF THE NON-CONFORMING USE:**

1. *Evidence of unnecessary hardship must exist:*

---

---

---

---

**Example:** If the 10-foot setback requirement is applied to the driveway and carport extension, our opportunity to stay in our home will be jeopardized. We have frequent medical appointments and must be able to leave and re-enter our home with reasonable ease and safety. Application of the 10-foot setback requirement would not allow us ready and safe access to our vehicle. Additionally, the value of our property will be diminished by the application of the 10-foot setback requirement. The highest and best use of the residence at 0000 Melmart Drive is as a residence for a single person or family who wish to provide an onsite living arrangement for an aging parent or relative. The driveway and carport extension appreciably enhances the utility of the residence for accommodating the needs of older adults.

2. *Unique circumstances must be involved:*

---

---

---

---

**Example:** Because of the east-to-west slope of the lot and the need to manage water runoff across the lot, the residence was built with a crawl space (instead of a slab). Accordingly, the only ground level exit from the residence is located on the south side of the 1979 apartment addition. A driveway and carport built specifically to serve the apartment addition have been in place since 1979. This existing driveway and carport come within sixteen feet of including the ground level exit with adequate space for maneuvering a wheel chair and can be readily extended without compromising the aesthetics of the residence or reducing ease of access to the back yards of 0003 Melmart or 0004 Melmart, property adjoining our residence.

3. *Its application must be to property rather than an individual:*

---

---

---

---

**Example:** The proposed extension of the driveway and carport is directly related to the property in that it serves to enhance the property value by increasing the functional space and benefits of the house.

**MEETING THE CRITERIA:**

1. *That the granting of the permit will not be contrary to the public interest:*

---

---

---

---

**Example:** The 1979 carport at 0000 Melmart is set back 50-feet from Melmart Drive and is not a visually prominent feature. We have received no negative comments concerning the driveway and carport during the thirteen years we have occupied the residence. The driveway and carport extension is built in the same style with the same materials. It is set back 70-feet from Melmart Drive and extends east to 86-feet from Melmart Drive. It is unlikely that passersby or nearby property owners would notice the driveway and carport extension unless it was specially called to their attention. The property owner of 0004 Melmart Drive adjoining the south driveway and carport does not object to the extension.

2. *That the literal enforcement of the ordinance will result in unnecessary hardship:*

---

---

---

---

**Example:** If the 10-foot setback requirement is applied to the driveway and carport extension, our opportunity to stay in our home will be jeopardized. We have frequent medical appointments and must be able to leave and re-enter our home with reasonable ease and safety. Application of the 10-foot setback requirement would not allow us ready and safe access to our vehicle. A 16-foot extension to the 1979 driveway and carport is the minimum needed to provide covered wheelchair-accessible access to an automobile parked just short of the sole ground level entrance to the residence.

3. *That by granting the permit contrary to the provision of the ordinance, the spirit of the ordinance will be observed; that is, the intent of the law is not violated:*

---

---

---

---

**Example:** We understand that ordinances help maintain a sense of balance, space and order in our city. If in any way our proposed project were to create a visible conflict, we would not be pursuing this request for non-conforming use to the ordinance. We believe that the unique set of circumstances that are tied to the layout and the minimal exposure of the project to the ordinance provision maintains the spirit of the ordinance. And lastly, the fact that the physical shape and looks of the proposed extension will exactly match the personality and character of the existing property lines of our house additionally reinforces the intent of maintaining the provisions of the ordinance by not creating a structure that is an obvious “add-on” and of possibly inferior materials.

4. *That by granting the permit, substantial justice will be done; that is, the variance will not work a hardship on property around the applicant:*

---

---

---

---

**Example:** The south side of the residence and the north side of the residence at 0004 Melmart are separated by about 27 feet. There are no features occupying this space other than the driveway and carport on the south side of our residence, leaving over 15-feet of clearance between the southern extremity of the carport extension and the north wall of the garage at 0004 Melmart. Even including the roof overhang of the residence at 0004 Melmart, an unrestricted height access exceeding ten feet in width exists, achieving the intent of the 5-foot utility easement at the south end of the residence. By granting us the non-conforming use request, this project does not compromise, lessen the value or create a problem for our neighbor’s property and well being. The improvement we are planning is in line with our neighbors who care for and maintain their property.



# Community Development Department

..... PRESERVING THE PAST; PLANNING THE FUTURE

## SURROUNDING PROPERTY OWNER CERTIFICATION

**STATE OF OKLAHOMA**

ss

**WASHINGTON COUNTY**

The undersigned, \_\_\_\_\_, in and for said County and State, does hereby certify:

That the attached is a complete and correct list of property owners within 300-feet of the property described below as reflected by the tax rolls in the office of the County Treasurer for Washington County, Oklahoma and the last recorded conveyance in the office of the County Clerk for Washington County, Oklahoma

Dated at Bartlesville, Oklahoma this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Typed or Printed Name**

Legal description of property:

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