



**Planning & Development Services Department**  
 550 Landa Street  
 New Braunfels, Texas 78130  
 (830) 221-4050 [www.nbtexas.org](http://www.nbtexas.org)

CC/Cash/Check No.: <u>711</u>
Amount Recd.: \$ <u>\$721</u>
Receipt No.: <u>54323</u>
Case No.: <u>2822-0011</u>
Submittal date – office use only

### Variance Application (Zoning Board of Adjustment)

Any application that is missing information will be considered incomplete and will not be processed.

The applicant bears the burden of proof in establishing the facts that may justify a variance, a special exception, an appeal, or any other action in his/her favor by the ZBA.

**General:**

1	Name of Applicant/Agent:	Jameson Gips - The Gardens at New Braunfels, LLC					
2	Subject Property Address:	261 S. East Ave					
3	Legal Description of Subject Property	Lot Number	2	Block Number	1	Subdivision	The Gardens At New Braunfels
4	Present Use of Property	Vacant		Zoning	R2		
5	Describe Variance Request(s)	Rear setback reduction to 5' rather than 20'					

**Required Attachments:**

City	Applicant	Attachment
<b>NAME DIGITAL DOCUMENT FILES AS THE ARE LISTED IN BOLD BELOW</b>		
✓		USB drive with a digital copy(.pdf) of all documents included in application if submitting in person
✓		<b>Application</b> (completed and signed by applicant)
✓		<b>Deed</b> showing current ownership
NA		<b>Homestead Verification</b> (if applicable) N/A
NA		<b>Letter of Authorization</b> (if an agent is acting on behalf of the property owner) N/A
✓		<b>Site Plan</b> drawn to scale no larger than 11"x17" if submitted on paper, showing all existing and proposed improvements, setbacks from the property lines, and building elevations (if applicable)

**Required Fees:**

Application Fees		
✓		Application Fee (Homestead) (\$350 + \$10 Technology Fee (3%) = Total <b>\$360</b> )
✓		Application Fee (Non-Homestead) (\$700 + \$21 Technology Fee (3%) = Total <b>\$721</b> )
		Each Additional Variance (\$50 + \$1 Technology Fee (3%) = Total <b>\$51</b> )
Technology Fee		
✓		3% technology fee applied to total application fee
Public Hearing Notice Fees		
		Please Note: Public hearing mail notification fees are invoiced <b>at a later date than when the application is submitted.</b> You will be contacted with your fee total.
		Public Hearing Mailed Notices ( <b>\$2.15</b> per mailed notice)
		Public Hearing Signs ( <b>\$15</b> per sign)

**ZBA Criteria for Approval of a Variance**

In order for the Zoning Board of Adjustment to grant a variance, the applicant must prove that the 6 required criteria below have been met. You will be asked to describe your property's unique circumstances based on the below criteria in the questions. **Please answer the following questions to establish how the criteria to approve a variance is met.** The answers provided will be reported to the Zoning Board of Adjustment with staff comments. You may use additional pages if necessary.

<p><b>1. What are the special circumstances or conditions affecting the land that warrant the variance?</b> A special circumstance must be a condition or issue of the land that is unique to the subject property and is not a circumstance that is shared by other properties. Variances are granted to property that has special circumstances that are so unique they are not reasonably considered within the development standards of the zoning ordinance; circumstances that are shared by multiple properties are considered in the zoning ordinance regulations to ensure orderly development.</p>
100+ year old heritage live oak trees are centered in the lot. A residence of any reasonable size would need to be sited further back on the lot than what is standard to avoid removing the trees

<p><b>2. Why is the variance necessary to preserve a substantial property right of the applicant?</b> A substantial property right is the ability to use the land as its zoning intended. Property owners in residential zoning districts have a substantial property right to use and enjoy their property for dwelling. Please note that not all improvements intended for the enjoyment of a property are protected as substantial property rights. The reasonable use of the land can include, but is not limited to, adequate living space, open yard area, access to light and air, and so on.</p>
The dwelling would not have adequate living space, or be buildable at all, without either siting the dwelling further back on the lot or removing the trees.

<p><b>3. Will the granting of the variance be detrimental to the public health, safety or welfare, or injurious to other properties within the surrounding area?</b> A variance that is detrimental to public health, safety or welfare, or injurious to property within the area may not be granted. A variance may not be granted if it deprives another property owner of the use or enjoyment of their property. A variance may not be granted if it will create an unsafe condition, such as a variance to allow construction that limits visibility for drivers.</p>
No

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<p><b>4. Would granting the variance prevent the orderly use of other properties within the area?</b>  A variance cannot be granted if it will prevent another property from complying with a regulation or ordinance.</p>
No

<p><b>5. Does an undue hardship to the land exist that is not self-created, personal or financial?</b>  An undue hardship is a hardship of the <u>land</u> itself. The hardship cannot be personal. Examples of what <i>is</i> an undue hardship: topography, lot configuration and size, the location of heritage trees on a lot, and so on. Examples of what <i>is not</i> an undue hardship: financial constraints, personal preferences, aesthetic choices. Hardships may not be self-created by the applicant. A self-created hardship can include performing construction work without city approval or permitting.</p>
Yes. Heritage oak trees centered on the lot.

<p><b>6. Will granting the variance be in harmony with the spirit and purpose of the City's regulations?</b>  The purpose of the zoning ordinance is to ensure adopted development standards promote the health, safety, and the general welfare of the public. Development standards have been established with reasonable consideration for the character of the zoning districts and impacts created by various land uses. Variances may not conflict the intent of the zoning ordinance regulations or the goals of the Comprehensive Plan.</p>
Yes.

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**Additional Items of consideration**

If any of the following questions apply to the circumstances of your variance request(s), you may answer them. If a question does not apply to the reasoning for your request(s), you may skip it or answer N/A. These questions are supplementary to the Board's decision in addition to the required 6 criteria on the previous pages.

<b>1. Is the financial cost of compliance with the zoning ordinance greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code?</b>
N/A. Request applies to saving trees rather than financial concerns.

<b>2. Would compliance with the zoning ordinance result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur?</b>
No.

<b>3. Would compliance with the zoning ordinance result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement?</b>
No.

<b>4. Would compliance with the zoning ordinance result in the unreasonable encroachment on an adjacent property or easement?</b>
No

<b>5. Does the city consider the structure to be nonconforming?</b> See <a href="#">Section 144-2.3(a)</a> regarding nonconforming structures.
N/A.

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**Applicant Contact Information:**

Applicant Name	JP Gips	Date	5/25/2022
E-Mail	jpgips@gmail.com	Phone #	210-240-9833
Mailing Address (City, State, Zip)	541 Magazine Ave. New Braunfels, TX 78130		

**Please read and initial the following important reminders:****Appearance at Meetings.**

It is strongly advised that the applicant be represented at the hearing. The Board may deny requests for which the applicant or an agent do not appear.

**Notification Signs.**

The applicant shall post the public hearing notification sign(s) at least 15 days prior to the hearing date and maintain said sign(s) in good condition. One sign shall be required for the first 100 feet of frontage of the tract, and one additional sign for every 200 feet of frontage thereafter, or fraction thereof, except that no more than three (3) signs shall be required on each roadway frontage. If the tract has less than 200 feet of frontage per roadway, then only one sign is required per road.

***Please Note: Your signature indicates that the owner or an authorized agent has reviewed the requirements of this application and attached checklist, and all items on this checklist have been addressed and complied with. The owner/authorized agent understands that an incomplete application will not be accepted.***

Applicant Signature		Date	5/25/2022
Applicant Name (Printed)	JP Gips - Member, The Gardens at New Braunfels, LLC		