

**Planning & Development Services Department**

550 Landa Street

New Braunfels, Texas 78130

(830) 221-4050 www.nbtexas.org

CC/Cash/Check No.: _____

Amount Recd.: \$ _____

Receipt No.: _____

Case No.: _____

*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:	Ted Garland					
2	Subject Property Address:	1225 Rivertree Dr.					
3	Legal Description of Subject Property	Lot Number	1R	Block Number	7	Subdivision	Rivertree Unit 1
4	Present Use of Property	Commercial-Auto Dealer		Zoning	M-1		
5	Describe Variance Request(s)	Reduction of Rear setback, from 20' to 12'					

Required Attachments:

City	Applicant	Attachment
NAME DIGITAL DOCUMENT FILES AS THE ARE LISTED IN BOLD BELOW		
		USB drive with a digital copy(.pdf) of all documents included in application if submitting in person
	✓	Application (completed and signed by applicant)
	✓	Deed showing current ownership
	N/A	Homestead Verification (if applicable)
	✓	Letter of Authorization (if an agent is acting on behalf of the property owner)
	✓	Site Plan 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)
	✓	Photos Of Subject Property taken from each corner of the lot where it meets the street

Required Fees:

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

1. What are the special circumstances or conditions affecting the land that warrant the variance?

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.

See Attached Letter

2. Why is the variance necessary to preserve a substantial property right of the applicant?

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.

See Attached Letter

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?

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.

See Attached Letter

Continue to next page

4. Would granting the variance prevent the orderly use of other properties within the area?

A variance cannot be granted if it will prevent another property from complying with a regulation or ordinance.

See Attached Letter

5. Does an undue hardship to the land exist that is not self-created, personal or financial?

An undue hardship is a hardship of the land itself. The hardship cannot be personal. Examples of what *is* an undue hardship: topography, lot configuration and size, the location of heritage trees on a lot, and so on. Examples of what *is not* 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.

See Attached Letter

6. Will granting the variance be in harmony with the spirit and purpose of the City's regulations?

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.

See Attached Letter

Continue to next page

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.

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| 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? |
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See Attached Letter

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| 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? |
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See Attached Letter

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| 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? |
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See Attached Letter

- | |
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| 4. Would compliance with the zoning ordinance result in the unreasonable encroachment on an adjacent property or easement? |
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See Attached Letter

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| 5. Does the city consider the structure to be nonconforming? |
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See Section 144-2.3(a) regarding nonconforming structures.
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See Attached Letter

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Applicant Contact Information:

Applicant Name	Ted Garland	Date	8-19-2022
E-Mail	jamesingalls@ink-civil.com	Phone #	830-358-7127
Mailing Address (City, State, Zip)	2021 SH 46 W New Braunfels, Texas 78132		

Please read and initial the following important reminders:

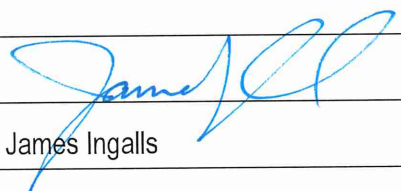
**Appearance at Meetings.**

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	8-19-2022
Applicant Name (Printed)	James Ingalls		

ZBA Criteria for Approval of a Variance

1. **What are the special circumstances or conditions affecting the land that warrant the variance?** The commercial lot is currently zoned M-1, most zoning districts that abut residential subdivisions, are abutting homes and back or side yards in particular. This particular site abuts the Amenity Center for the subdivision, and the subdivision HOA is in support of the proposed variance request. The previous use was a used car lot and auto mechanic shop the utilized this rear setback for tire and part storage, while that isn't considered a building with the setback or utility easement, the area up to the fence within the utility easement and setback have been used by previous business all the way up to the fence line. The proposed improvements wouldn't have any structures or storage within the 12ft utility easement. Only sidewalk, landscaping (compliant within NBU's Utility Easement with overhead electric) and parking.
2. **Why is the variance necessary to preserve a substantial property right of the applicant?** The approval of this variance would allow the property to be sold to Auto Zone and allowing the highest and best use of the property, while hiring 12-15 employees.
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?** No it would not.
4. **Would granting the variance prevent the orderly use of other properties within the area?** No it would not.
5. **Does an undue hardship to the land exist that is not self-created, personal or financial?** No it would not.
6. **Will granting the variance be in harmony with the spirit and purpose of the City's regulations?** Yes, we believe so.

Additional Items of Consideration

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?** This doesn't apply. If compliance with the zoning variance is not approved the site doesn't work the project would not proceed further.
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?** This doesn't apply. If compliance with the zoning variance is not approved the site doesn't work the project would not proceed further.

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?** The site is currently developed with an existing building and parking lot, and the current building is outside the setback. The site is currently in compliance, to the best of my knowledge. The proposed Auto Zone would demo the existing building and parking area and construct the new improvements as shown on the site plan included.
4. **Would compliance with the zoning ordinance result in the unreasonable encroachment on an adjacent property or easement?** No, the proposed variance request would allow the building to be constructed up to the 12ft Utility Easement that is currently in place.
5. **Does the city consider the structure to be nonconforming?** No, the existing structure is conforming, but if this variance is approved, the existing building and parking area and construct the new improvements as shown on the site plan included.