

# Town of Bridgeville Development Toolkit

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## Variance

Review Procedures

Process Flowchart

Review Checklist

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May 7, 2018

 **KCI TECHNOLOGIES**  
ENGINEERS | PLANNERS | SCIENTISTS | CONSTRUCTION MANAGERS





### §234-23A Application and Review Process

- (1) Application submission.
  - (a) Applications for administrative reviews and variances shall be submitted to the Administrator. The Administrator shall provide forms to facilitate application processing.
  - (b) Applications shall be made in writing and shall provide the [information listed on the “Administrative Reviews & Variances Review Checklist”, which is part of this toolkit].
- (2) Burden of proof on applicant. An applicant for an administrative review or a variance shall have the burden of presenting the information needed by the Board to make a determination.
- (3) Board of Adjustment hearing
  - (a) Scheduling. The Board of Adjustment shall schedule a public hearing.
  - (b) Public notice.
    - [1] Contents. The public notice shall specify the time, place, and nature of the hearing.
    - [2] How given. At least 15 days prior to the public hearing, the following notices shall be in place.
      - [a] Publication. A legal notice shall be published in a newspaper of general circulation.
      - [b] Property posting. For an application concerning a specific property, a sufficiently large sign shall be posted on the subject property in a visible location.
      - [c] Town Hall. Notice shall be posted at the Town Hall.
  - (c) Public hearing.
    - [1] The hearing shall take place no fewer than 15 days following publication of the legal notice.
    - [2] The Board’s hearing shall be conducted, and applications shall be acted on as specified in Article III, §234-17D of Chapter 234.
    - [3] The Board may attach conditions to approvals of applications.
- (4) Relationship to development plan review.
  - (a) Approval of an application by the Board of Adjustment does not supersede or obviate the need for complying with any development plan review standards or requirements.
  - (b) The Board of Adjustment may condition approvals on satisfactory compliance with applicable development review standards and/or may request that the Planning and Zoning Commission conduct development plan review in conjunction with its review and recommendation on an application.
- (5) Duration, revocation, and extension.
  - (a) The duration of an approved application is 12 months from its approval date.
  - (b) If a landowner, developer, agent, representative, or designee fails to make substantial progress in developing the land within 12 months, the application is automatically revoked.



- (c) The Board may grant only one six-month extension and only if the applicant can demonstrate that delays were beyond his/her control.
- (6) Reapplications and appeals.
  - (a) Limitation on reapplications. The Board shall not hear or accept an application requesting substantially the same relief or permission for the same property for a period of 12 months from that date of a resolution taking action on the application.
  - (b) Appeals to Superior Court. Appeals of the Board's decisions shall be made to the Superior Court as provided in 22 Del C. §§328 through 332.

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### §234-23C Variances

- (1) Definition: relief from the strict application of the provisions of Chapter 234 when, owing to special conditions or exceptional situations, a literal interpretation of Chapter 234 will result in unnecessary hardship or exceptional practical difficulties to the property owner.
- (2) Required findings. The Board shall determine whether each variance application meets the following criteria.
  - (a) The variance relates to a specific parcel of land, and the hardship is not shared generally by other properties in the same zoning district and vicinity.
  - (b) The variance can be granted without substantial detriment to the public good.
  - (c) The benefits from granting the variance would substantially outweigh any detriment.
  - (d) The variance would not substantially impair the intent and purposes of the Comprehensive Plan or Chapter 234.
- (3) Additional standards.
  - (a) Use variances not authorized. These provisions governing variances shall not be construed to permit the Board, under the guise of a variance, to authorize a use of land not otherwise permitted in Chapter 234.
  - (b) Nonconforming situations not grounds for variance. Nonconforming lots, structures, uses, or signs shall not be considered grounds for granting variances.

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### §234-17C Board of Adjustment - Powers and Duties [pertinent excerpts]

- (2) Variances: authorize variance from the strict application of the provisions of Chapter 234

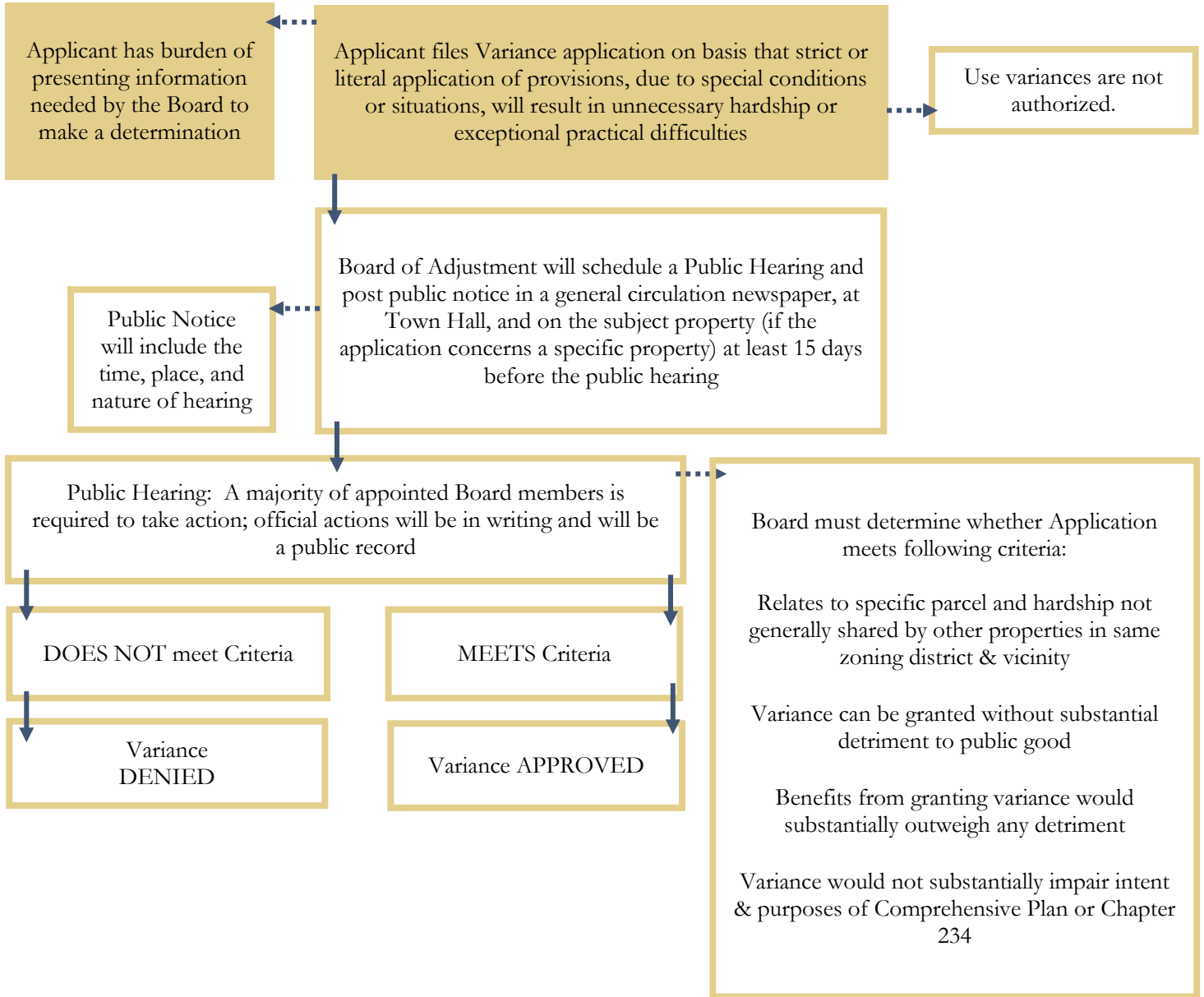
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### §234-17D Board of Adjustment - Meetings

- (1) Schedule. Meetings shall be held at the call of the Chairperson, at other times that the Board shall determine, or in accordance with any procedure specified in Chapter 234.
- (2) Conduct of meetings.



- (a) The deliberations of the Board of Adjustment shall be open to the public.
  - (b) Three members constitute a quorum.
  - (c) The Board shall adopt rules for the transaction of business.
  - (d) The Chairperson may compel the attendance of witnesses.
  - (e) The Chairperson may administer oaths.
- (3) Minutes.
- (a) The Board shall keep minutes of its meetings, resolutions, transactions, findings, and determinations.
  - (b) The minutes shall register the vote of each member on each item considered by the Board and record when a member is absent or does not vote on an item.
- (4) Action.
- (a) A majority of all members appointed to the Board is required to take action.
  - (b) All official actions of the Board shall be in writing.
  - (c) All actions of the Board shall be a public record.



Board of Adjustment deliberations will be open to the public. Three members will constitute a quorum. The Board will adopt rules for the transaction of business. The Chairperson may compel the attendance of witnesses and may administer oaths.



Applicant Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Project Title/Name: \_\_\_\_\_

Item #	Required Information [per §234-23]	In Compliance	Not in Compliance
1.	Information about the owner and applicant.		
2.	Statement of the type of relief, permission, or review requested.		
3.	Information about the property for which the application or review is being made.		
4.	Information about the property for which the application or review is requested OR Identification of the provisions of Chapter 234 with which the application shall comply and statements as to how the application complies with those provisions.		
5.	Plans or drawings that support or clarify the relief or permission requested.		
6.	Other information requested by the Board.		

In Compliance

Not in Compliance due to missing information as stated in the Not in Compliance column above and any additional information noted below:

Application Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

QA/QC: \_\_\_\_\_ Date: \_\_\_\_\_