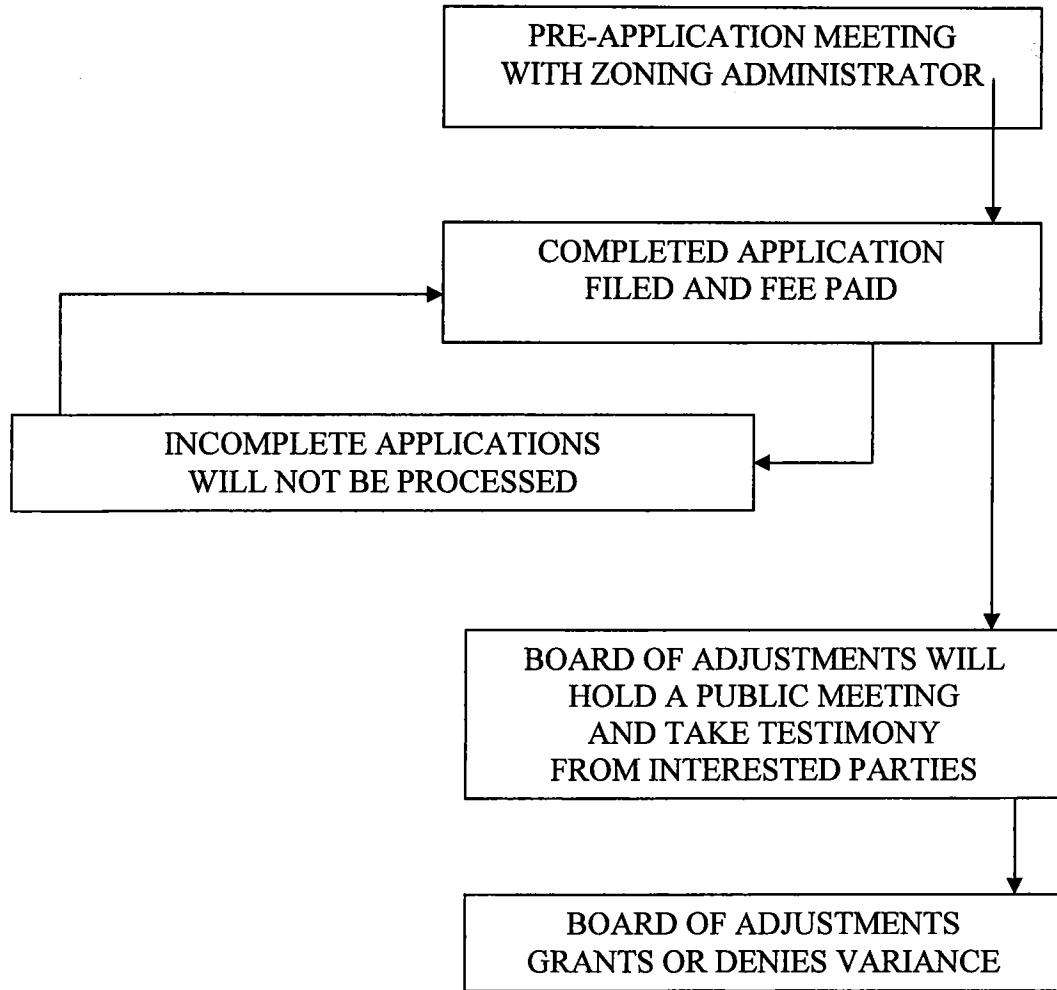


F. *Variance.*

VARIANCE



G. Variance Procedure.

1. When an applicant feels that the strict application of the requirements of the zoning regulations would create an undue hardship upon him, he/she may request a variance from these requirements from the Board of Adjustment. The Board must base its decision on factual evidence and not the personal opinion of the applicant, neighbors or others. The request for a variance shall be based on a conflict between the restrictions on the development of the property due to the zoning regulations and the restrictions on the development of the property due to its physical characteristics. A variance shall be issued only to the specific restrictions on physical construction and not to the list of permissible land uses within a given zone.
2. The applicant shall first meet with the Zoning Administrator and receive a complete explanation of the zoning requirements in question, the variance procedure and an application form.
3. The applicant shall submit a completed application form and pay the appropriate fee. As a part of the application, two (2) copies of a sketch map shall be submitted showing proposed and existing structures and uses on the property for which the variance is being requested and on immediately adjacent properties. A list of property owners within one hundred eighty-five (185) feet of the property in question is also required.

An application shall not be scheduled for public hearing until the application form it has been fully completed, the fee paid and all required information submitted.

4. The Zoning Administrator shall then schedule a regular meeting of the Board of Adjustment and send copies of the application to Board members. Twenty (20) days before the Board meeting, an official notice to the public shall be published in a newspaper of general circulation in the City explaining the variance request and the time and place of the scheduled hearing. A copy of the notice shall be mailed to each party of interest and to the Planning Commission.
5. At the scheduled meeting, the Board shall hear all facts and testimony from all parties wishing to be heard, concerning the requested variance. In each case, the Board shall not grant a variance unless it finds, based on the evidence presented, facts which lead conclusively to all of the following findings:
 - a. *Uniqueness.* The variance requested arises from conditions, which are unique to the property in question, which are not ordinarily found in the same zoning district and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape or topographical conditions of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.
 - b. *Adjacent property.* The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.
 - c. *Hardship.* The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indicator of hardship, it shall not be a sufficient reason by itself to justify the variance.

- d. *Public interest.* The variance desired will not adversely affect the public health, safety, morals, order, convenience or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.
 - e. *Spirit and intent.* Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.
6. The Board of Adjustment may grant, grant conditionally or deny the application for a variance. In order to grant a variance, at least four (4) of the five (5) Board members must vote for the variance. The Board's determination, in writing, shall be sent to all affected parties including the Planning Commission. The Planning and Zoning Department shall keep minutes of the public meeting including evidence during the proceedings and the findings of the Board.