



REFERENCE  
NOTEBOOK NO. 3\*

ADMINISTRATIVE FORMS  
for the  
BOARD OF ZONING APPEALS  
of the  
CITY OF DOUGLASS, KANSAS

PART 1

ADMINISTRATIVE FORMS FOR  
APPEALING A DECISION OF THE  
ZONING ADMINISTRATOR

PART 2

ADMINISTRATIVE FORMS FOR A VARIANCE

PART 3

ADMINISTRATIVE FORMS  
FOR A CONDITIONAL USE

PART 4

SUPPLEMENTAL ZONING DOCUMENTS

Prepared by

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\* **Note:** See Reference Notebook No. 2 for Administrative Forms  
for Rezoning and Special Use Cases

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PART 1

ADMINISTRATIVE FORMS FOR APPEALING  
A DECISION OF THE ZONING ADMINISTRATOR

<u>Form</u>	<u>Name of Form (Number of Pages)</u>
BZA-A-1	Status Report on Board of Zoning Appeals Case for Appealing a Decision of the Zoning Administrator (1)
BZA-A-2	Instructions to the Appellant for Appealing a Decision of the Zoning Administrator Under the Zoning Regulations (2)
BZA-A-3	Application for an Appeal from a Decision of the Zoning Administrator (2)
BZA-A-4	Official Notice of Zoning Appeals Hearing (1) (Appeal case with legal description)
BZA-A-5	Official Notice of Zoning Appeals Hearing (1) (Appeal case without legal description)
BZA-A-6	Notice to Property Owners of an Appeal from a Decision of the Zoning Administrator (1) (With legal description)
BZA-A-7	Notice to Property Owners of an Appeal from a Decision of the Zoning Administrator (1) (Without legal description)
BZA-A-8	Appeal's Report (2)
BZA-A-9	Check List for Conducting a Public Hearing on an Appeal from a Determination of the Zoning Administrator (5)
BZA-A-10	Resolution on Case No. BZA-A-_____-_____ Concerning an Appeal (1)

**STATUS REPORT ON BOARD OF ZONING APPEALS CASE  
FOR APPEALING A DECISION OF THE ZONING ADMINISTRATOR**

This form is to be temporarily maintained in a file by the Secretary of the Board of Zoning Appeals as a status report on the progress of an appeals case. The date on which action occurred should be entered in the blank spaces accompanied by the initials of the recorder. When the case is completed, the file should be delivered to the Zoning Administrator as part of a continuing record.

Zoning Application for \_\_\_\_\_

Name of Appellant/Agent \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

General location \_\_\_\_\_

Application received \_\_\_\_\_, 20\_\_

Official Notice published \_\_\_\_\_, 20\_\_  
(20 days must elapse between publication date and hearing.)

Notice to Property Owners mailed \_\_\_\_\_, 20\_\_  
(20 days must elapse between mailing date and hearing.)

Platted: Yes \_\_\_\_ No \_\_\_\_ Exempt from platting: Yes \_\_\_\_ No \_\_\_\_

Board of Zoning Appeals hearing \_\_\_\_\_, 20\_\_

Board of Zoning Appeals action \_\_\_\_\_, 20\_\_

Affirm \_\_\_\_ Reverse \_\_\_\_ Modify \_\_\_\_

Resolution signed by Chairperson \_\_\_\_\_, 20\_\_

Resolution signed by Secretary \_\_\_\_\_, 20\_\_

Resolution mailed to Appellant/Agent \_\_\_\_\_, 20\_\_

Resolution filed with Zoning Administrator \_\_\_\_\_, 20\_\_

Completed Resolution placed in file \_\_\_\_\_, 20\_\_

Approved Minutes placed in file \_\_\_\_\_, 20\_\_

Case file delivered to Zoning Administrator \_\_\_\_\_, 20\_\_

Tape which recorded the hearing recycled for reuse \_\_\_\_\_, 20\_\_

NOTES \_\_\_\_\_

CITY OF DOUGLASS, KANSAS

INSTRUCTIONS TO THE APPELLANT FOR APPEALING A DECISION  
OF THE ZONING ADMINISTRATOR UNDER THE ZONING REGULATIONS

1. Appeals must be made within 30 days after a decision is rendered by the Zoning Administrator by filing an application form. The appellant must complete the application form and all blanks must be filled in or noted as N/A. See Section 10-106 of the City Zoning Regulations for procedures pertaining to an appeal.
2. Appellant must submit a current ownership list of names, mailing addresses and zip codes of all real property owners within 200 feet of the exterior boundary of the area in the City described in the application both within the city limits and extending outside the city limits. If such area is located adjacent to but inside the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area. (See Section 10-103 of Zoning Regulations for Notice of Hearing.)
3. The appellant must submit a copy of the decision, order or determination of the Zoning Administrator with a statement, in writing, justifying the appeal of the decision. Also, a sketch drawn to scale shall be submitted if deemed relevant to the case by the Chairperson of the Board of Zoning Appeals. A professionally drawn sketch is not necessary.
4. The above application and accompanying documents shall be filed in a timely manner with the Chairperson of the City Board of Zoning Appeals before the next regular Board meeting, together with a fee to the City as established by the Fee Schedule in Section 9-104 of the Zoning Regulations. See City Clerk for Fee Schedule information and Meeting and Closing Date Schedules for application. Incomplete applications will be returned to the appellant.
5. Notice of the public hearing by the Board of Zoning Appeals will be published in the official city newspaper by the Secretary so that at least 20 days elapse between the date of publication and hearing date. Notices of the hearing will also be mailed by the Secretary to all property owners on the ownership list, the appellant and the Secretary of the City Planning Commission so that at least 20 days shall elapse between the mailing date and the hearing date.

6. As provided for in Section 10-106 of the Zoning Regulations, an appeal shall stay all legal proceedings unless, in the opinion of the Zoning Administrator, such a stay would cause imminent peril to life and property. In such event, the proceedings shall not be stayed unless a restraining order is issued by the Board of Zoning Appeals or by the District Court of the County.
7. When your appeal is decided, a resolution will be signed and filed with the Zoning Administrator. If the appeal is granted, you may apply for a zoning permit if applicable.
8. A decision of the Board of Zoning Appeals is considered final unless appealed to the District Court under Section 10-105 of the Zoning Regulations within 30 days after the date of filing the resolution with the Zoning Administrator.
9. Please note that the City is processing your application under the minimum time period prescribed by state law.

APPLICATION FOR AN APPEAL FROM A DECISION OF THE ZONING ADMINISTRATOR

This is an application for an appeal from a decision rendered by the Zoning Administrator. The form must be completed in accordance with directions on the accompanying instructions and filed with the Chairperson of the Douglass Board of Zoning Appeals at 322 South Forrest, Douglass, Kansas 67039 or FAX: (316) 747-3159.

(AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.)

- 1. Name of Appellant \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Name of Agent, if any \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Relationship of appellant to property is that of \_\_\_\_\_  
 (Owner, Tenant, Lessee, etc.).

- 2. The appellant herein appeals under Section 10-106 of the City Zoning Regulations from a decision, order or determination of the Zoning Administrator, as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

for property located at \_\_\_\_\_

and legally described as \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

in the City which is zoned as the \_\_\_\_\_ District. The decision was rendered on \_\_\_\_\_, 20\_\_ and refers to Section(s) \_\_\_\_\_ of the Zoning Regulations.





(Published once in \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.)

OFFICIAL NOTICE OF ZONING APPEALS HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on \_\_\_\_\_, 20\_\_, the Board of Zoning Appeals of the City of Douglass, Kansas will consider the following application at \_\_\_\_:\_\_\_\_ p.m. in the Council Room at the City Hall in Douglass, Kansas:

Case No. BZA-A-\_\_\_\_-\_\_\_\_. \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to  
Section 10-106 of the City Zoning Regulations, appeals the decision  
of the Zoning Administrator who has \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on property  
zoned as the \_\_\_\_\_ District.

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General location: \_\_\_\_\_  
\_\_\_\_\_

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

DATED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

/s/ \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals

(Published once in \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.)

OFFICIAL NOTICE OF ZONING APPEALS HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on \_\_\_\_\_, 20\_\_, the Board of Zoning Appeals of the City of Douglass, Kansas will consider the following application at \_\_\_\_:\_\_\_\_ p.m. in the Council Room at the City Hall in Douglass, Kansas:

Case No. BZA-A-\_\_\_\_-\_\_\_\_. \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to  
Section 10-106 of the City Zoning Regulations, appeals the decision  
of the Zoning Administrator who has \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on property  
zoned as the \_\_\_\_\_ District.

Legal description: (A complete legal description is available for public inspection which is on file with the Secretary of the Board of Zoning Appeals at City Hall.)

General location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

/s/ \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals

**NOTICE TO PROPERTY OWNERS OF AN APPEAL  
FROM A DECISION OF THE ZONING ADMINISTRATOR**

An application has been filed by \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to Section 10-106 of the  
City Zoning Regulations, requesting an appeal from the decision of the Zoning  
Administrator who has \_\_\_\_\_

\_\_\_\_\_ on property zoned as  
the \_\_\_\_\_ District.

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General location: \_\_\_\_\_  
\_\_\_\_\_

This application has been assigned Case No. BZA-A-\_\_\_\_-\_\_\_\_. It will  
be considered by the Douglass Board of Zoning Appeals at its meeting on  
\_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ p.m., in the Council Room at the City Hall  
in Douglass, Kansas.

You may appear at this time either in person or by agent or attorney, if  
you so desire, and be heard on the matter. After hearing the views and wishes  
of all persons interested in the case, the Board of Zoning Appeals may close the  
hearing and render a decision. The public hearing may be recessed and continued  
from time to time without further notice.

If you have any questions prior to the hearing, please call me at (316)  
747-2109 and refer to the above case number.

/s/ \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals

cc: Appellant  
Planning Commission Secretary  
Zoning Administrator

CITY OF DOUGLASS, KANSAS

\_\_\_\_\_, 20\_\_

NOTICE TO PROPERTY OWNERS OF AN APPEAL  
FROM A DECISION OF THE ZONING ADMINISTRATOR

An application has been filed by \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to Section 10-106 of the  
City Zoning Regulations, requesting an appeal from the decision of the Zoning  
Administrator who has \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on property zoned as  
the \_\_\_\_\_ District.

Legal description: (A complete legal description is available for public  
inspection which is on file with the Secretary of the Board of Zoning Appeals at  
City Hall.)

General location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This application has been assigned Case No. BZA-A-\_\_\_\_-\_\_\_\_. It will  
be considered by the Douglass Board of Zoning Appeals at its meeting on  
\_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ p.m., in the Council Room at the City  
Hall in Douglass, Kansas.

You may appear at this time either in person or by agent or attorney, if  
you so desire, and be heard on the matter. After hearing the views and wishes  
of all persons interested in the case, the Board of Zoning Appeals may close the  
hearing and render a decision. The public hearing may be recessed and continued  
from time to time without further notice.

If you have any questions prior to the hearing, please call me at (316)  
747-2109 and refer to the above case number.

\_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals

cc: Appellant  
Planning Commission Secretary  
Zoning Administrator

APPEAL REPORT \*

CASE NUMBER: BZA-A-\_\_\_\_\_ - \_\_\_\_\_

APPELLANT/AGENT: \_\_\_\_\_  
\_\_\_\_\_

REQUEST: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CASE HISTORY: \_\_\_\_\_  
\_\_\_\_\_

LOCATION: \_\_\_\_\_  
\_\_\_\_\_

SITE SIZE: \_\_\_\_\_

ADJACENT ZONING AND EXISTING LAND USE:

North:

South:

East:

West:

\* **NOTE:** This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing in order to decide on an appeal from a decision of the Administrator with respect to the interpretation, application or enforcement of the Zoning Regulations. Procedures for an appeal are found in Section 10-106 of the regulations. The responses provided need to be evaluated with the evidence from the hearing and reworded as necessary to reflect the Board of Zoning Appeal's considered opinion.

**BACKGROUND FACTS:**

1. Was the appeal made within 30 days of the decision by the Zoning Administrator?

Date of decision: \_\_\_\_\_ Date of Appeal: \_\_\_\_\_

2. Has Appellant submitted a statement attached to this report specifying the grounds for appeal? Yes \_\_\_ No \_\_\_

If no, provide explanation: \_\_\_\_\_

3. If requested by the Chairperson, has the Appellant submitted a drawing attached to the report? Not requested: \_\_\_ Yes \_\_\_ No \_\_\_

If no, provide explanation: \_\_\_\_\_

4. Has the Zoning Administrator transmitted to the Chairperson all the record upon which the appeal is based? Not applicable: \_\_\_ Yes \_\_\_ No \_\_\_

If no, provide explanation: \_\_\_\_\_

5. Have all legal proceedings, if applicable, been stayed in accordance with Section 10-106C of the Zoning Regulations?

Not applicable: \_\_\_ Yes \_\_\_ No \_\_\_

If no, provide explanation: \_\_\_\_\_

\_\_\_\_\_

**BACKGROUND INFORMATION:**

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

**CONCLUSION:**

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

cc: Appellant

## DOUGLASS BOARD OF ZONING APPEALS

### CHECK LIST FOR CONDUCTING A PUBLIC HEARING ON AN APPEAL FROM THE DECISION OF THE ZONING ADMINISTRATOR

#### PURPOSE:

This check list is to assist: (1) the Chairperson in conducting the hearing; (2) the Secretary in an orderly process of minute taking; (3) the appellant in presenting their appeal; and (4) any property owners or the persons who have questions or concerns or wish to know their rights in the matter. Although the order of the outline should be followed, the material will need to be modified to relate to the nature and extent of the particular case and the number of persons to be heard. The Chairperson will find it helpful to mark up a check list on each case prior to the hearing so that important procedural points are not inadvertently missed.

#### CALL TO ORDER:

It is \_\_\_\_:\_\_\_\_ p.m. and I now call Agenda item #\_\_\_\_ which is a public hearing on Case No. BZA-A-\_\_\_\_-\_\_\_\_ pursuant to Section 10-106 of the City Zoning Regulations as an appeal from a decision of the Zoning Administrator with respect to the interpretation, application or enforcement of the Zoning Regulations. We would like to welcome everyone interested in this hearing and lay out a few ground rules:

1. It is important that you present any facts or views that you have as evidence at this hearing so that findings can be made as a basis of facts for the decision of this Appeals Board.
2. This Board is authorized by state statutes to make a decision appealable only to District Court and not to the Governing Body.
3. I will call upon the Zoning Administrator to describe his/her decision and then the appellant to make his/her appeal. After them, we will hear from other interested parties. After all have been heard, each party will have an opportunity for final comments. The Board will close the hearing to further public comments and will then consider their decision during which time they may direct questions to the Zoning Administrator, appellant, the public, the staff or our consultant.
4. In presenting your comments, you should be aware that the Board may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator. Furthermore,

the Board may issue or direct the issuance of a zoning permit and/or occupancy certificate. Conditions may be attached to such a decision that could have otherwise been available to the Zoning Administrator in making the initial decision. The Board shall render a written decision in the form of a resolution on the appeal without unreasonable delay after the close of the hearing, but within at least 45 days after the close of the hearing.

5. Please write your name and address on the form being circulated among you so we will have a record of who is present and for any future communications if necessary. Anyone wishing to speak must be recognized by the Chairperson and give their name and address. Please use the podium and speak clearly so that your comments may be (picked up by the tape recorder to be) summarized for the minutes by our Secretary.

**DISQUALIFICATION DECLARED AND QUORUM DETERMINED:**

Before we proceed with the hearing, I'll ask the Board members if any of them intend to disqualify themselves from voting on this case because they or their spouse own property in the notification area or have a conflict of interest. (Let the minutes show that \_\_\_\_\_ has disqualified himself/herself because \_\_\_\_\_ and has temporarily disassociated himself/herself from our assembled Board.) According to our Bylaws, those members who only abstain from voting are still part of the quorum. I now declare that we have a quorum of \_\_\_\_\_ present for the hearing.

**NOTIFICATION:**

According to the Secretary, a notice for this hearing was published in the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_ and notices were mailed to the appellant and \_\_\_\_\_ real property owners of record in the area of notification on \_\_\_\_\_, 20\_\_\_\_. Unless there is evidence to the contrary from anyone present, I'll declare that proper notification has been given.

**EX PARTE COMMUNICATIONS:**

Although we do not encourage such communications, I will ask the Board members if any of them have received any ex parte verbal or written communications prior to this hearing which they would like to share with all the members at this time. As you know, it is not necessary to disclose the names of the parties, but to share important information.



**BACKGROUND FACTS:** (See Appeal Report.)

There are certain preliminary background facts which we need to determine.

1. Was the appeal made within 30 days of the decision by the Zoning Administrator?

When was the date of the decision and date of the application for appeal? Unless I hear to the contrary, I will declare that the 30-day statutory appeal period has (not) been met. (If the appeal period has been exceeded, the Chairperson should declare that the Board does not have jurisdiction over the case and, therefore, the appeal must automatically be denied.)

2. Has the Appellant submitted a statement specifying the grounds for appeal? (Determine if such a statement has been submitted and if the Board has received a copy?) If not, what explanation is there?
3. If requested by the Chairperson, has the Appellant submitted a drawing attached to the application? (Determine whether a drawing, if requested, has been submitted for the Board's review.)
4. Has the Zoning Administrator transmitted to the Chairperson all the record upon which the appeal is based? (If the record is not available, hearing should be recessed or deferred until the record is made available.)
5. Have all legal proceedings, if applicable, been stayed in accordance with Section 10-106 C of the Zoning Regulations? (If not, provide explanation and make a determination if deemed necessary.)

**ZONING ADMINISTRATOR'S DECISION:**

I now call on our Zoning Administrator to provide us with a background report on his/her decision. (See Appeal Report.)

Thank you for your presentation. Are there any questions for the Zoning Administrator from the Board, the staff or consultant?

**APPELLANT'S APPEAL:**

I now call upon the appellant to make his/her presentation on the appeal.

Thank you for your presentation. Are there any questions now for the appellant from the Board, the staff or consultant?

**PUBLIC COMMENTS:**

Are there any members of the public who wish to speak on this case? (Recognize first come, first served; obtain name and address; and continue until all public comments are completed. People can also be asked not to repeat what has already been said, but to indicate that they hold similar views.)

**WRITTEN COMMUNICATIONS:**

Are there any written communications or petitions from the public? (Secretary could be asked to read them.)

**ZONING ADMINISTRATOR'S RESPONSE TO APPELLANT'S APPEAL AND PUBLIC COMMENTS:**

Does the Zoning Administrator wish to respond to the appellant's appeal or public comments?

**APPELLANT'S RESPONSE TO ZONING ADMINISTRATOR'S DECISION AND PUBLIC COMMENTS:**

Does the appellant wish to respond to the Zoning Administrator's decision or public comments?

**FINAL PUBLIC COMMENTS:**

Does anyone from the public wish to respond to the Zoning Administrator's or appellant's statements?

**CLOSE THE HEARING:**

Hearing no further comments, I hereby close the public hearing. There will be no further comments unless the Board wishes to ask questions to clarify information.

**APPEALS BOARD DELIBERATIONS:**

The Board will now deliberate the appeal for which we need to make findings of fact. Based on these facts, we need to determine whether we would have made the same decision as the Zoning Administrator or whether it should be reversed or modified. Our Board should proceed to review the evidence presented at this hearing and either by consensus or vote make a list of the findings of fact that provide the basis for the decision.

**DECISION:**

Having discussed and reached conclusions on our findings of fact, I now call for a motion:

**SAMPLE MOTIONS:**

To affirm, reverse or modify

Having considered the evidence at the hearing for Case No. BZA-A-\_\_\_\_-\_\_\_\_ and determined the findings of facts as stated for the record, I (\_\_\_\_\_) move that the Chairperson be authorized to sign a Resolution (affirming) (reversing) (modifying) the (order) (requirement) (decision) (determination) by the Zoning Administrator.

To table application

Having considered the evidence at the hearing and the findings of fact, I (\_\_\_\_\_) move that Case No. BZA-A-\_\_\_\_-\_\_\_\_ be deferred until \_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ p.m. in this same meeting room for more (information) (and) (study) in regard to \_\_\_\_\_

---

(According to Section 10-106E, the Board shall render a written decision within 45 days after the close of the hearing.)

Having heard the motion by \_\_\_\_\_, is there a second? Having been seconded by \_\_\_\_\_, is there any discussion of the motion? Is the Board ready to vote on the motion? All those in favor say, "Aye." All those opposed say, "Nay." (If divided vote, ask for a show of hands and Secretary will record a roll-call vote.) The motion (passes) (fails) by a (unanimous) vote of \_\_\_\_ to \_\_\_\_\_. (An affirmative vote must be at least a majority of the members present and voting. See Bylaws to settle other voting procedures including abstentions, disqualifications and Chairperson voting.)

**CLOSING REMARKS:**

A Resolution will be prepared and made available to the appellant by \_\_\_\_\_, 20\_\_. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after the Resolution is signed and filed with the Zoning Administrator.

We want to thank all of you for participating in this hearing and you are welcome to stay for the remainder of our meeting. I now call for Agenda item #\_\_\_\_\_.



CITY OF DOUGLASS, KANSAS

RESOLUTION ON CASE NO. BZA-A-\_\_\_\_ - \_\_\_\_  
CONCERNING AN APPEAL

WHEREAS, \_\_\_\_\_ of \_\_\_\_\_, has appealed from a decision of the Zoning Administrator with respect to the interpretation or application of the City Zoning Regulations under Section 10-106 in relation to the following property zoned as the \_\_\_\_\_ District and legally described as follows: \_\_\_\_\_

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

General location: \_\_\_\_\_; and

WHEREAS, proper notice has been given according to the Zoning Regulations and the rules of the Board of Zoning Appeals; and

WHEREAS, the Board did at their meeting of \_\_\_\_\_, 20\_\_ consider said application at a public hearing and make specific findings of fact as stated for the record; and

WHEREAS, the Board has proper jurisdiction and authority to make such a decision under Section 10-106E of the Regulations.

NOW, THEREFORE, BE IT RESOLVED by the Douglass Board of Zoning Appeals, that the decision of the Zoning Administrator is (affirmed) (reversed) (modified).

ADOPTED on \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Chairperson  
Douglass Board of Zoning Appeals

\_\_\_\_\_, Secretary

cc: Appellant  
Zoning Administrator



## PART 2

### ADMINISTRATIVE FORMS FOR A VARIANCE

<u>Form</u>	<u>Name of Form (Number of Pages)</u>
BZA-V-1	Status Report on Board of Zoning Appeals Variance Case (1)
BZA-V-2	Instructions to the Applicant Requesting a Variance from the Zoning Regulations before the Board of Zoning Appeals (2)
BZA-V-3	Application for a Variance from the Zoning Regulations (2)
BZA-V-4	Official Notice of Zoning Appeals Hearing (1) (Variance case with legal description)
BZA-V-5	Official Notice of Zoning Appeals Hearing (1) (Variance case without legal description)
BZA-V-6	Notice to Property Owners of a Variance Requested from the Zoning Regulations (1) (With legal description)
BZA-V-7	Notice to Property Owners of a Variance Requested from the Zoning Regulations (1) (Without legal description)
BZA-V-8	Variance Report (3)
BZA-V-9	Check List for Conducting a Public Hearing on a Variance Requested from the Zoning Administrator (6)
BZA-V-10	Resolution on Case No. BZA-V-_____-_____ Concerning a Variance (3) (To grant a variance)
BZA-V-11	Resolution on Case No. BZA-V-_____-_____ Concerning a Variance (3) (To not grant a variance)

STATUS REPORT ON BOARD OF ZONING APPEALS VARIANCE CASE

This form is to be maintained in a file by the Zoning Administrator as a status report on the progress of a variance case. The date on which action occurred should be entered in the blank spaces accompanied by the initials of the recorder.

Zoning Application for \_\_\_\_\_

Name of Applicant/Agent \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

General location \_\_\_\_\_

Application received \_\_\_\_\_, 20\_\_

Official Notice published \_\_\_\_\_, 20\_\_  
(20 days must elapse between publication date and hearing.)

Notice to Property Owners mailed \_\_\_\_\_, 20\_\_  
(20 days must elapse between mailing date and hearing.)

Platted: Yes \_\_\_\_ No \_\_\_\_ Exempt from platting: Yes \_\_\_\_ No \_\_\_\_

Board of Zoning Appeals hearing \_\_\_\_\_, 20\_\_

Board of Zoning Appeals action \_\_\_\_\_, 20\_\_  
Granted \_\_\_\_ Not Granted \_\_\_\_

Resolution signed by Chairperson \_\_\_\_\_, 20\_\_

Resolution signed by Secretary \_\_\_\_\_, 20\_\_

Resolution mailed to Applicant/Agent \_\_\_\_\_, 20\_\_

Resolution filed with Zoning Administrator and placed in file \_\_\_\_\_,  
20\_\_

Approved Minutes placed in file \_\_\_\_\_, 20\_\_

Period of validity for Variance \_\_\_\_\_, 20\_\_  
(180 days from date of the decision.)

Tape which recorded the hearing recycled for reuse. \_\_\_\_\_, 20\_\_

NOTES \_\_\_\_\_

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



\*\* The cost of recording documents, plats, publications, writs, engineering costs and inspections are payable in addition to filing fees. These, if any, will be billed to the applicant.

There are publication costs associated with Rezoning, Variances, Special Uses and Conditional Uses.



CITY OF DOUGLASS, KANSAS

INSTRUCTIONS TO THE APPLICANT REQUESTING A VARIANCE FROM  
THE ZONING REGULATIONS BEFORE THE BOARD OF ZONING APPEALS

1. Applicants are advised that the City Board of Zoning Appeals is only authorized to consider variances from the City Zoning Regulations as listed in Section 10-107C.
2. An applicant must complete an application form and all blanks should be filled in or noted as N/A. See Section 10-107 of the Zoning Regulations for procedures pertaining to a variance.
3. Applicant must submit a current ownership list of names, mailing addresses and zip codes of all real property owners within 200 feet of the exterior boundary of the area in the City described in the application both within the city limits and extending outside the city limits. If such area is located adjacent to but inside the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area. (See Section 10-103 of the Zoning Regulations for Notice of Hearing.)
4. The applicant must submit a statement in writing providing information as required by Section 10-107A 1-4 of the Zoning Regulations.
5. The applicant must also submit a sketch required by Section 10-107 A5 which is drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed that necessitate the request. All appropriate dimensions should be included and any other information which would be helpful to the Board of Zoning Appeals in consideration of the application. A professionally drawn sketch is not necessary.
6. The above application and accompanying documents shall be filed in a timely manner with the Zoning Administrator before the next regular Board meeting, together with a fee to the City as established by the Fee Schedule in Section 9-104 of the Zoning Regulations. See the Administrator for Fee Schedule information and Meeting and Closing Schedules for applications. Incomplete applications will be returned to the applicant.
7. Notice of the public hearing by the Board of Zoning Appeals will be published in the official city newspaper by the Secretary so that **at least 20 days elapse** between the date of publication and hearing date. Notices of the hearing will also be mailed by the Zoning Administrator to all property owners on the ownership list, the applicant and the Secretary of the City Planning Commission so that **at least 20 days shall elapse** between the mailing date and the hearing date.

8. Prior to the hearing, applicants are advised to study the standards for granting variances in Section 10-107D of the Zoning Regulations of which Section 10-107D1 are required by state statutes and will be the basis for the Board of Zoning Appeals' decision.
9. If the variance is granted, it shall be valid for only 180 days unless within such period a zoning permit is obtained and the variance requested is started. The Board of Zoning Appeals may grant extensions not exceeding 180 days each, upon written application, without further notice or hearing.
10. When your variance is decided, a resolution will be signed and filed with the Zoning Administrator. If the variance is granted, you may apply for a zoning permit.
11. A decision of the Board of Zoning Appeals is considered final unless appealed to the District Court under Section 10-105 of the Zoning Regulations within 30 days after the date of filing the resolution with the Zoning Administrator.
12. Please note that the City is processing your application for a variance under the minimum time period prescribed by state law.

APPLICATION FOR A VARIANCE FROM THE ZONING REGULATIONS

This is an application for a variance. The form must be completed in accordance with directions on the accompanying instructions and filed with the Zoning Administrator at 322 South Forrest, Douglass, Kansas 67039 or FAX: (316) 747-3159.

(AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.)

- 1. Name of Applicant \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Name of Agent, if any \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_

Relationship of applicant to property is that of \_\_\_\_\_  
(Owner, Tenant, Lessee, etc.).

- 2. Application is made for a variance as provided for in Section 10-107 of the City Zoning Regulations to permit (describe request):

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

for property located at \_\_\_\_\_

\_\_\_\_\_

and legally described as \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

in the City which is zoned as the \_\_\_\_\_  
District.

3. The applicant herein or his/her authorized agent acknowledges:
- a. That he/she has received instruction material concerning the filing and hearing of this matter; and
  - b. That he/she has been advised of the fee requirements established and that the appropriate fee is herewith tendered; and
  - c. That he/she has been advised of his/her rights to bring action in the District Court of the County to appeal the decision of the Douglass Board of Zoning Appeals; and
  - d. That all documents are attached hereto as noted in the instructions; and
  - e. That the Board has the authority to require such conditions as are deemed necessary and reasonable in order to serve the public interest.

\_\_\_\_\_ Applicant \_\_\_\_\_ Date \_\_\_\_\_ Agent (If any) \_\_\_\_\_ Date

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OFFICE USE ONLY

This application was received at \_\_\_\_:\_\_\_\_ (a.m., p.m.) on \_\_\_\_\_, 20\_\_ by the Zoning Administrator acting for the Board of Zoning Appeals. It has been checked and found to be complete and accompanied by the required documents and fee of \$\_\_\_\_\_.

\_\_\_\_\_  
Zoning Administrator

cc: Applicant

(Published once in \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.)

OFFICIAL NOTICE OF ZONING APPEALS HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on \_\_\_\_\_, 20\_\_, the Board of Zoning Appeals of the City of Douglass, Kansas will consider the following application at \_\_\_\_:\_\_\_\_ p.m. in the Council Room at the City Hall in Douglass, Kansas:

Case No. BZA-V-\_\_\_\_-\_\_\_\_. \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to  
Section 10-107 of the City Zoning Regulations, requests a variance  
of \_\_\_\_\_ from the required \_\_\_\_\_  
\_\_\_\_\_ limitation for the purpose of  
\_\_\_\_\_ on property  
zoned as the \_\_\_\_\_ District.

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General location: \_\_\_\_\_  
\_\_\_\_\_

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

/s/ \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals

(Published once in \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.)

OFFICIAL NOTICE OF ZONING APPEALS HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on \_\_\_\_\_, 20\_\_, the Board of Zoning Appeals of the City of Douglass, Kansas will consider the following application at \_\_\_\_:\_\_\_\_ p.m. in the Council Room at the City Hall in Douglass, Kansas:

Case No. BZA-V-\_\_\_\_-\_\_\_\_. \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to  
Section 10-107 of the City Zoning Regulations, requests a variance  
of \_\_\_\_\_ from the required \_\_\_\_\_  
\_\_\_\_\_ limitation for the purpose of  
\_\_\_\_\_ on property  
zoned as the \_\_\_\_\_ District.

Legal description: (A complete legal description is available for public inspection which is on file with the Zoning Administrator at City Hall.)

General location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

/s/ \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals



NOTICE TO PROPERTY OWNERS OF A VARIANCE  
REQUESTED FROM THE ZONING REGULATIONS

An application has been filed by \_\_\_\_\_ of \_\_\_\_\_, pursuant to Section 10-107 of the City Zoning Regulations, requesting a variance of \_\_\_\_\_ from the required \_\_\_\_\_ limitation for the purpose of \_\_\_\_\_ on property zoned as the \_\_\_\_\_ District.

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General location: \_\_\_\_\_  
\_\_\_\_\_

This application has been assigned Case No. BZA-V-\_\_\_\_-\_\_\_\_. It will be considered by the Douglass Board of Zoning Appeals at its meeting on \_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ p.m., in the Council Room at the City Hall in Douglass, Kansas.

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

If you have any questions prior to the hearing, please call me at (316) 747-2109 and refer to the above case number.

\_\_\_\_\_  
\_\_\_\_\_, Zoning Administrator

cc: Applicant  
Planning Commission Secretary

NOTICE TO PROPERTY OWNERS OF A VARIANCE  
REQUESTED FROM THE ZONING REGULATIONS

An application has been filed by \_\_\_\_\_ of \_\_\_\_\_, pursuant to Section 10-107 of the City Zoning Regulations, requesting a variance of \_\_\_\_\_ from the required \_\_\_\_\_ limitation for the purpose of \_\_\_\_\_ on property zoned as the \_\_\_\_\_ District.

Legal description: (A complete legal description is available for public inspection which is on file with the Zoning Administrator at City Hall.)

General location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This application has been assigned Case No. BZA-V-\_\_\_\_-\_\_\_\_. It will be considered by the Douglass Board of Zoning Appeals at its meeting on \_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ p.m., in the Council Room at the City Hall in Douglass, Kansas.

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

If you have any questions prior to the hearing, please call me at (316) 747-2109 and refer to the above case number.

\_\_\_\_\_  
\_\_\_\_\_, Zoning Administrator

cc: Applicant  
Planning Commission Secretary

VARIANCE REPORT \*

CASE NUMBER: BZA-V-\_\_\_\_\_ - \_\_\_\_\_

APPLICANT/AGENT: \_\_\_\_\_  
\_\_\_\_\_

REQUEST: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CASE HISTORY: \_\_\_\_\_  
\_\_\_\_\_

LOCATION: \_\_\_\_\_  
\_\_\_\_\_

SITE SIZE: \_\_\_\_\_

ADJACENT ZONING AND EXISTING LAND USE:

North:

South:

East:

West:

\* NOTE: This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing so as to base their decision for a variance on the required five findings found in Section 10-107 D 1 of the Zoning Regulations. The Board may grant a request upon specific written findings of fact when all five conditions, as required by state statutes, are found to exist. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Board of Zoning Appeals considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

**BACKGROUND INFORMATION:**

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**DOES THE EVIDENCE DEMONSTRATE THAT:**

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced; \_\_\_\_\_

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2. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property; \_\_\_\_\_

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3. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; \_\_\_\_\_

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4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

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**SPECIFIED CONDITIONS TO BE MET:**

The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented at the hearing so that all five of the

conditions required by K.S.A 12-759(e) have been met which are listed below. If any of the conditions cannot be met, the condition(s) needs to be reworded from a positive to a negative statement and the variance not granted.

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant because \_\_\_\_\_  
\_\_\_\_\_;
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents because \_\_\_\_\_  
\_\_\_\_\_;
3. That strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application because \_\_\_\_\_  
\_\_\_\_\_;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare because \_\_\_\_\_  
\_\_\_\_\_;
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations because \_\_\_\_\_  
\_\_\_\_\_.

**CONDITIONS:**

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

cc: Applicant



DOUGLASS BOARD OF ZONING APPEALS

CHECK LIST FOR CONDUCTING A PUBLIC HEARING ON  
A VARIANCE REQUESTED FROM THE ZONING REGULATIONS

PURPOSE:

This check list is to assist: (1) the Chairperson in conducting the hearing; (2) the Secretary in an orderly process of minute taking; (3) the applicant in presenting their request; and (4) any property owners or the persons who have questions or concerns or wish to know their rights in the matter. Although the order of the outline should be followed, the material will need to be modified to relate to the nature and extent of the particular case and the number of persons to be heard. The Chairperson will find it helpful to mark up a check list on each case prior to the hearing so that important procedural points are not inadvertently missed.

CALL TO ORDER:

It is \_\_\_\_:\_\_\_\_ p.m. and I call Agenda item #\_\_\_\_\_ which is a public hearing on Case No. BZA-V-\_\_\_\_\_-\_\_\_\_\_ pursuant to Section 10-107 of the City Zoning Regulations requesting a variance of \_\_\_\_\_ from the required \_\_\_\_\_ limitation for the purpose of \_\_\_\_\_ on property zoned as the \_\_\_\_\_ District. We would like to welcome everyone interested in this hearing and lay out a few ground rules:

1. It is important that you present any facts or views that you have as evidence at this hearing so that findings can be made for the decision of this Board. In order to grant a variance, five specific written findings of fact must all be met according to the state statutes and the City Zoning Regulations.
2. This Board is authorized by state statutes to make a decision appealable only to District Court and not to the Governing Body.
3. After our Zoning Administrator provides us with some background information, I will call upon the applicant and then we will hear from other interested parties. After all have been heard, each party will have an opportunity for final comments. The Board will close the hearing to further public comments and will then consider their decision during which time they may direct questions to the applicant, the public, the staff or our consultant.

4. In presenting your comments, you should be aware that the Board can require such conditions to be attached to the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 10-107D which would reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Failure to comply with any of the conditions attached to a zoning permit for a variance shall constitute a violation of the regulations.
5. You should also be fully aware that if the applicant chooses to describe various features of their development plans, the City can only enforce those provisions which are covered in zoning and other City codes.
6. Please write your name and address on the form being circulated among you so we will have a record of who is present and for any future communications if necessary. Anyone wishing to speak must be recognized by the Chairperson and give their name and address. Please use the podium and speak clearly so that your comments may be (picked up by the tape recorder to be) summarized for the minutes by our Secretary.

**DISQUALIFICATION DECLARED AND QUORUM DETERMINED:**

Before we proceed with the hearing, I'll ask the Board if any of them intend to disqualify themselves from voting on this case because they or their spouse own property in the notification area or have a conflict of interest. (Let the minutes show that \_\_\_\_\_ has disqualified himself/herself because \_\_\_\_\_

\_\_\_\_\_ and has temporarily disassociated himself/herself from our assembled Board.) According to our Bylaws, those members who only abstain from voting are still part of the quorum. I now declare that we have a quorum of \_\_\_\_\_ present for the hearing.

**NOTIFICATION:**

According to the Secretary, a notice for this hearing was published in the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_ and notices were mailed to the applicant and \_\_\_\_\_ real property owners of record in the area of notification on \_\_\_\_\_, 20\_\_\_\_. Unless there is evidence to the contrary from anyone present, I'll declare that proper notification has been given.

**EX PARTE COMMUNICATIONS:**

Although we do not encourage such communications, I will ask the Board if any of them have received any ex parte verbal or written communications prior to this hearing which they would like to share with all the members at this time. As you know, it is not necessary to disclose the names of the parties, but to share important information.



**APPLICANT'S INFORMATION:**

Has the applicant submitted information with their application to answer the issues in Section 10-107A? Yes \_\_\_\_ No \_\_\_\_

If no, provide explanation: \_\_\_\_\_

**ZONING ADMINISTRATOR'S REPORT:**

I now call on our Zoning Administrator to provide us with a background report on the case. (See Variance Report.)

Thank you for your presentation. Are there any questions for the Zoning Administrator from the Board, the staff or consultant?

**APPLICANT'S REQUEST:**

I now call upon the applicant to make his/her presentation on the request and any response to the Zoning Administrator's report.

Thank you for your presentation. Are there any questions for the applicant from the Board, the staff or consultant?

**PUBLIC COMMENTS:**

Are there any members of the public who wish to speak on this case? (Recognize first come, first served; obtain name and address; and continue until all public comments are completed. People can also be asked not to repeat what has already been said, but to indicate that they hold similar views.)

**WRITTEN COMMUNICATIONS:**

Are there any written communications or petitions from the public? (Secretary could be asked to read them.)

**APPLICANT'S RESPONSE TO PUBLIC COMMENTS:**

Does the applicant wish to respond to the public comments?

**FINAL PUBLIC COMMENTS:**

Does anyone from the public wish to respond to the applicant's comments?

**CLOSE THE HEARING:**

Hearing no further public comments, I hereby close the public portion of the hearing. There will be no further public comments unless the Board wishes to ask questions to clarify information.

## APPEALS' BOARD DELIBERATIONS:

The Board will now deliberate the request. First, we need to determine if the request is one of the instances under which the Zoning Regulations authorize us to grant a variance. For example, it cannot be a "use" variance. Those permitted (are found in Section 10-107C and) are listed as follows:

1. To vary the applicable minimum lot area, lot width and lot depth requirements.
2. To vary the applicable bulk regulations, including maximum height and lot coverage and minimum yard requirements.
3. To vary the dimensional provisions for permitted obstructions in required yards including fences in Section 3-103F.
4. To vary the applicable number of required off-street parking spaces and the amount of off-street loading requirements of Article 5.
5. To vary the applicable dimensional sign provisions of Section 7-102 regarding general standards and Section 7-104 regarding district regulations.
6. To vary the applicable requirements in Sections 10-107 C1 through 5 above in conjunction with conditional use applications for nonconforming, nonresidential structures and uses under provisions of Section 8-105.
7. To vary the applicable provisions permitted by the floodplain district.

Based on the application, this request meets the criteria for number \_\_\_\_ above pertaining to \_\_\_\_\_.  
(If the application does not meet one of the criteria, a motion should be passed to not grant the request based on that reason.)

In determining whether the evidence presented supports the conclusions of the five findings required by Section 10-107D1, the Board shall now consider the extent to which the evidence demonstrates that: (See Variance Report.)

- a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;
- b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
- c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and

- d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

Each of the five statutory conditions under which a variance can be granted will be reviewed and our findings of fact will be summarized for the minutes. Please keep in mind that the conditions are worded to indicate a positive answer to the requirements. If our findings on any one of them creates a negative response, it is necessary for us to alter the wording by appropriately inserting or deleting the word "not". If one or more of the findings of fact indicates a negative response, the variance cannot be granted. (See Variance Report.)

- a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant because:
- b. That granting of the variance will **not** adversely affect the rights of adjacent property owners or residents because:
- c. That strict application of the provisions of these regulations from which a variance is requested will not constitute unnecessary hardship upon the property owner represented in the application because:
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare because:
- e. That granting the variance desired will not be opposed to the general spirit and intent of these regulations because:

#### DECISION:

Having discussed and reached conclusions on our findings of fact in the Variance Report, I now call for a motion and, if granted, any conditions that might be attached:

#### **SAMPLE MOTIONS:**

##### To Grant a Variance

Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report (as amended) have been found to exist that support all the five conditions set out in Section 10-107D1 of the Zoning Regulations and K.S.A. 12-759(e) of the state statutes which are necessary for granting of a variance, I (\_\_\_\_\_) move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-\_\_\_\_\_-\_\_\_\_\_ as (requested) (modified). (, subject to the condition[s] listed:)

To Not Grant a Variance

Having considered the evidence at the hearing and determined that \_\_\_\_\_ of the findings of fact in the Variance Report (as amended) (has) (have) not been found to exist that support the five conditions set out in Section 10-107D1 of the Zoning Regulations and K.S.A. 12-759(e) of the state statutes which are necessary for granting of a variance, I (\_\_\_\_\_) move that the Chairperson be authorized to sign a Resolution not granting the variance for Case No. BZA-V-\_\_\_\_\_-\_\_\_\_\_.

To table application

Having considered the evidence at the hearing and discussed the findings of fact in the Variance Report, I (\_\_\_\_\_) move that Case No. BZA-V-\_\_\_\_\_-\_\_\_\_\_ be deferred until \_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ p.m. in this same meeting room for more (information) (and) (study) in regard to \_\_\_\_\_.

(According to Section 10-107F, the Board shall render a written decision within 45 days after the close of the hearing.)

Having heard the motion by \_\_\_\_\_, is there a second? Having been seconded by \_\_\_\_\_, is there any discussion of the motion? Is the Board ready to vote on the motion? All those in favor say, "Aye." All those opposed say, "Nay." (If divided vote, ask for a show of hands and Secretary will record a roll-call vote.) The motion (passes) (fails) by a (unanimous) vote of \_\_\_\_\_ to \_\_\_\_\_. (An affirmative vote must be at least a majority of the members present and voting. See Bylaws to settle other voting procedures including abstentions, disqualifications and Chairperson voting.)

CLOSING REMARKS:

A Resolution will be prepared and made available to the applicant by \_\_\_\_\_, 20\_\_\_. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after the Resolution is signed and filed with the Zoning Administrator.

We want to thank all of you for participating in this hearing and you are welcome to stay for the remainder of our meeting. I now call for Agenda item #\_\_\_\_\_.

CITY OF DOUGLASS, KANSAS

RESOLUTION ON CASE NO. BZA - V - \_\_\_\_\_ - \_\_\_\_\_  
CONCERNING A VARIANCE

WHEREAS, \_\_\_\_\_ of \_\_\_\_\_, requests a variance as provided for in Section 10-107 of the City Zoning Regulations, to permit a \_\_\_\_\_ (reduction from) (increase in) the required \_\_\_\_\_ limitation for a \_\_\_\_\_ on property zoned as the \_\_\_\_\_ District and legally described as follows:

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

General location: \_\_\_\_\_; and

WHEREAS, proper notice has been given according to the Zoning Regulations and the rules of the Board of Zoning Appeals; and

WHEREAS, the Board did at their meeting of \_\_\_\_\_, 20\_\_ consider said application at a public hearing and make specific findings of fact; and

WHEREAS, the Board has proper jurisdiction and authority to permit a variance in the district as stated which may be further subject to conditions as provided for in Section 10-107E of the Regulations; and

WHEREAS, the Board has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district and is not created by an action or actions of the property owner or the applicant because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ; and

WHEREAS, the Board has found that the granting of the variance will not adversely affect the rights of adjacent property owners or residents because

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WHEREAS, the Board has found that the strict application of the provisions of the Zoning Regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application because \_\_\_\_\_

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WHEREAS, the Board has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare because \_\_\_\_\_

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WHEREAS, the Board has found that granting the variance desired will not be opposed to the general spirit and intent of the Zoning Regulations because

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WHEREAS, the Board has found that all of the above five conditions have been met as required by K.S.A. 12-757(e) and Section 10-107D1 of the Zoning Regulations before a variance can be granted.

NOW, THEREFORE, BE IT RESOLVED by the Douglass Board of Zoning Appeals, that this application be granted for a variance to permit a \_\_\_\_\_ (reduction from) (increase in) the required \_\_\_\_\_ limitation for the purpose of \_\_\_\_\_







CITY OF DOUGLASS, KANSAS

RESOLUTION ON CASE NO. BZA - V - \_\_\_\_\_ - \_\_\_\_\_  
CONCERNING A VARIANCE

WHEREAS, \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, requests a variance as provided for in  
Section 10-107 of the City Zoning Regulations, to permit a \_\_\_\_\_  
(reduction from) (increase in) the required \_\_\_\_\_  
limitation for a \_\_\_\_\_ on property  
zoned as the \_\_\_\_\_ District and  
legally described as follows:

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

General location: \_\_\_\_\_  
\_\_\_\_\_ ; and

WHEREAS, proper notice has been given according to the Zoning Regulations  
and the rules of the Board of Zoning Appeals; and

WHEREAS, the Board did at their meeting of \_\_\_\_\_, 20\_\_ consider  
said application at a public hearing and make specific findings of fact; and

WHEREAS, the Board has proper jurisdiction and authority to hear a variance  
application in the district as stated; and

(NOTE: Insert the word "not" on the lines indicated or leave it blank to effect a  
negative response to the particular condition.)

WHEREAS, the Board has found that the variance arises from such condition  
which is \_\_\_\_\_ unique to the property in question and which is \_\_\_\_\_ ordinarily  
found in the same zoning district and is \_\_\_\_\_ created by an action or actions  
of the property owner or the applicant because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ; and

**WHEREAS**, the Board has found that the granting of the variance will \_\_\_\_\_ adversely affect the rights of adjacent property owners or residents because

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**WHEREAS**, the Board has found that the strict application of the provisions of the Zoning Regulations from which a variance is requested will \_\_\_\_\_ constitute unnecessary hardship upon the property owner represented in the application because \_\_\_\_\_

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**WHEREAS**, the Board has found that the variance desired will \_\_\_\_\_ adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare because \_\_\_\_\_

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**WHEREAS**, the Board has found that granting the variance desired will \_\_\_\_\_ be opposed to the general spirit and intent of the Zoning Regulations because

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**WHEREAS**, the Board has found that \_\_\_\_\_ of the above five conditions have not been met as required by K.S.A. 12-757(e) and Section 10-107D1 of the Zoning Regulations before a variance can be granted.

NOW, THEREFORE, BE IT RESOLVED by the Douglass Board of Zoning Appeals, that this application not be granted for a variance since one or more of the conditions required by the state statute and the Zoning Regulations cannot be met.

ADOPTED on \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Chairperson  
Douglass Board of Zoning Appeals

\_\_\_\_\_  
\_\_\_\_\_, Secretary

cc: Applicant  
Zoning Administrator



PART 3

ADMINISTRATIVE FORMS FOR A CONDITIONAL USE

<u>Form</u>	<u>Name of Form (Number of Pages)</u>
BZA-CU-1	Status Report on Board of Zoning Appeals for a Conditional Use Case (1)
BZA-CU-2	Instructions to the Applicant Requesting a Conditional Use before the Board of Zoning Appeals as Provided for in the Zoning Regulations (2)
BZA-CU-3	Application for a Conditional Use Under the Zoning Regulations (2)
BZA-CU-4	Official Notice of Zoning Appeals Hearing (1) (Conditional Use case with legal description)
BZA-CU-5	Official Notice of Zoning Appeals Hearing (1) (Conditional Use case without legal description)
BZA-CU-6	Notice to Property Owners of a Conditional Use Requested Under the Zoning Regulations (1) (With legal description)
BZA-CU-7	Notice to Property Owners of a Conditional Use Requested Under the Zoning Regulations (1) (Without legal description)
BZA-CU-8	Conditional Use Report (3)
BZA-CU-9	Check List for Conduction a Public Hearing on a Conditional Use (6)
BZA-CU-10	Resolution on Case No. BZA - CU- _____ - _____ Concerning a Conditional Use (2) (To grant a conditional use)
BZA-CU-11	Resolution on Case No. BZA - CU- _____ - _____ Concerning a Conditional Use (1) (To not grant a conditional use)

STATUS REPORT ON BOARD OF ZONING APPEALS FOR A CONDITIONAL USE CASE

This form is to be maintained in a file by the Zoning Administrator as a status report on the progress of a conditional use case. The date on which action occurred should be entered in the blank spaces accompanied by the initials of the recorder.

Zoning Application for \_\_\_\_\_

Name of (Applicant/Agent) \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

General location \_\_\_\_\_

Application received \_\_\_\_\_, 20\_\_

Official Notice published \_\_\_\_\_, 20\_\_  
(20 days must elapse between publication date and hearing.)

Notice to Property Owners mailed \_\_\_\_\_, 20\_\_  
(20 days must elapse between mailing date and hearing.)

Platted: Yes \_\_\_\_ No \_\_\_\_ Exempt from platting: Yes \_\_\_\_ No \_\_\_\_

Board of Zoning Appeals hearing \_\_\_\_\_, 20\_\_

Board of Zoning Appeals action \_\_\_\_\_, 20\_\_  
Granted \_\_\_\_ Not Granted \_\_\_\_

Resolution signed by Chairperson \_\_\_\_\_, 20\_\_

Resolution signed by Secretary \_\_\_\_\_, 20\_\_

Resolution mailed to Applicant/Agent \_\_\_\_\_, 20\_\_

Resolution filed with Zoning Administrator and placed in file \_\_\_\_\_,  
20\_\_

Approved Minutes placed in file \_\_\_\_\_, 20\_\_

Period of validity for Conditional Use \_\_\_\_\_, 20\_\_  
(180 days from date of the decision.)

Tape which recorded the hearing recycled for reuse. \_\_\_\_\_, 20\_\_

NOTES \_\_\_\_\_  
\_\_\_\_\_

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\*\* The cost of recording documents, plats, publications, writs, engineering costs and inspections are payable in addition to filing fees. These, if any, will be billed to the applicant.

There are publication costs associated with Rezoning, Variances, Special Uses and Conditional Uses.





CITY OF DOUGLASS, KANSAS

INSTRUCTIONS TO THE APPLICANT REQUESTING A CONDITIONAL USE BEFORE  
THE BOARD OF ZONING APPEALS AS PROVIDED FOR IN THE ZONING REGULATIONS

1. Applicants are advised that the City Board of Zoning Appeals is only authorized to grant conditional uses as exceptions which are specifically provided for in the City Zoning Regulations.
2. An applicant must complete an application form and all blanks should be filled in or noted as N/A. See Section 10-108 of Zoning Regulations for procedures pertaining to a conditional use.
3. Applicant must submit a current ownership list of names, mailing addresses and zip codes of all real property owners within 200 feet of the exterior boundary of the area in the City described in the application both within the city limits and extending outside the city limits. If such area is located adjacent to but inside the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area. (See Section 10-103 for Notice of Hearing.)
4. The applicant must submit information as required by Section 10-108A and present data in support of the standards for review described in Section 10-108C of the Zoning Regulations. Such review standards shall serve as the basis for the Board's decision.
5. The above application and accompanying documents shall be filed in a timely manner with the Zoning Administrator before the next regular Board meeting, together with a fee to the City as established by the Fee Schedule in Section 9-104 of the Zoning Regulations. See Administrator for Fee Schedule information and Meeting and Closing Date Schedules for application. Incomplete applications will be returned to the applicant.
6. Notice of the public hearing by the Board of Zoning Appeals will be published in the official city newspaper by the Secretary so that **at least 20 days elapse** between the date of publication and hearing date. Notices of the hearing will also be mailed by the Zoning Administrator to all property owners on the ownership list, the applicant and the Secretary of the City Planning Commission so that **at least 20 days shall elapse** between the mailing date and the hearing date.
7. If the conditional use is granted, it shall be valid for only 180 days unless within such period a zoning permit is obtained and the conditional use requested is started. The Board of Zoning Appeals may grant extensions not exceeding 180 days each, upon written application, without further notice or hearing.

8. When your conditional use is decided, a resolution will be signed and filed with the Zoning Administrator. If the conditional use is granted, you may apply for a zoning permit.
9. A decision of the Board of Zoning Appeals is considered final unless appealed to the District Court under Section 10-105 of the Zoning Regulations within 30 days after the date of filing the resolution with the Zoning Administrator.
10. Please note that the City is processing your application under the minimum time period prescribed by state law.

APPLICATION FOR A CONDITIONAL USE UNDER THE ZONING REGULATIONS

This is an application for a conditional use. The form must be completed in accordance with directions on the accompanying instructions and filed with the Zoning Administrator at 322 South Forrest, Douglass, Kansas 67039 or FAX: (316) 747-3159.

(AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.)

1. Name of Applicant \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Name of Agent, if any \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Relationship of applicant to property is that of \_\_\_\_\_  
 (Owner, Tenant, Lessee, etc.).

2. Application is made for a conditional use as an exception as provided for in Section 10-108 of the City Zoning Regulations to permit the establishment of:

\_\_\_\_\_

\_\_\_\_\_

for property located at \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

and legally described as \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

in the City which is zoned as the \_\_\_\_\_  
 District.



(Published once in \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.)

OFFICIAL NOTICE OF ZONING APPEALS HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on \_\_\_\_\_, 20\_\_, the Board of Zoning Appeals of the City of Douglass, Kansas will consider the following application at \_\_\_\_:\_\_\_\_ p.m. in the Council Room at the City Hall in Douglass, Kansas:

Case No. BZA-CU-\_\_\_\_-\_\_\_\_. \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to  
Section 10-108 of the City Zoning Regulations, requests a condi-  
tional use as an exception to permit the establishment of \_\_\_\_\_  
\_\_\_\_\_ on property zoned as the \_\_\_\_\_ District.

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General location: \_\_\_\_\_  
\_\_\_\_\_

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

/s/ \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals

(Published once in \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.)

OFFICIAL NOTICE OF ZONING APPEALS HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on \_\_\_\_\_, 20\_\_, the Board of Zoning Appeals of the City of Douglass, Kansas will consider the following application at \_\_\_\_:\_\_\_\_ p.m. in the Council Room at the City Hall in Douglass, Kansas:

Case No. BZA-CU-\_\_\_\_-\_\_\_\_. \_\_\_\_\_ of \_\_\_\_\_, pursuant to Section 10-108 of the City Zoning Regulations, requests a conditional use as an exception to permit the establishment of \_\_\_\_\_ on property zoned as the \_\_\_\_\_ District.

Legal description: (A complete legal description is available for public inspection which is on file with the Zoning Administrator at City Hall.)

General location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all persons interested in the case, the Board of Zoning Appeals may close the hearing and render a decision. The public hearing may be recessed and continued from time to time without further notice.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

/s/ \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Douglass Board of Zoning Appeals

CITY OF DOUGLASS, KANSAS

\_\_\_\_\_, 20\_\_

NOTICE TO PROPERTY OWNERS OF A CONDITIONAL USE  
REQUESTED UNDER THE ZONING REGULATIONS

An application has been filed by \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, pursuant to Section 10-108 of the City  
Zoning Regulations, requesting a conditional use as an exception to permit the  
establishment of \_\_\_\_\_ on property  
zoned as the \_\_\_\_\_ District.

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General location: \_\_\_\_\_  
\_\_\_\_\_

This application has been assigned Case No. BZA-CU-\_\_\_\_-\_\_\_\_. It will  
be considered by the Douglass Board of Zoning Appeals at its meeting on  
\_\_\_\_\_, 20\_\_ at \_\_\_\_:\_\_\_\_ p.m., in the Council Room at the City Hall in  
Douglass, Kansas.

You may appear at this time either in person or by agent or attorney, if  
you so desire, and be heard on the matter. After hearing the views and wishes  
of all persons interested in the case, the Board of Zoning Appeals may close the  
hearing and render a decision. The public hearing may be recessed and continued  
from time to time without further notice.

If you have any questions prior to the hearing, please call me at (316)  
747-2109 and refer to the above case number.

\_\_\_\_\_  
\_\_\_\_\_, Zoning Administrator

cc: Applicant  
Planning Commission Secretary





CONDITIONAL USE REPORT \*

CASE NUMBER: BZA-CU-\_\_\_\_\_ - \_\_\_\_\_

APPLICANT/AGENT: \_\_\_\_\_  
\_\_\_\_\_

REQUEST: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CASE HISTORY: \_\_\_\_\_  
\_\_\_\_\_

LOCATION: \_\_\_\_\_  
\_\_\_\_\_

SITE SIZE: \_\_\_\_\_

ADJACENT ZONING AND EXISTING LAND USE:

North:

South:

East:

West:

\* **NOTE:** This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing in order to decide whether a conditional use as an exception should be granted as authorized by Section 10-108 of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Board of Zoning Appeal's considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

**BACKGROUND INFORMATION:**

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**DOES THE EVIDENCE SUPPORT THE CONCLUSION THAT:**

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance. \_\_\_\_\_

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2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood. \_\_\_\_\_

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3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:

a. The location, nature, size and height of buildings, structures, walls and fences on the site. \_\_\_\_\_

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b. The nature and extent of landscaping and screening on the site. \_\_\_\_\_

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4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONDITIONS:**

1. \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_  
\_\_\_\_\_

cc: Applicant



DOUGLASS BOARD OF ZONING APPEALS

CHECK LIST FOR CONDUCTING A PUBLIC HEARING ON  
A CONDITIONAL USE

PURPOSE:

This check list is to assist: (1) the Chairperson in conducting the hearing; (2) the Secretary in an orderly process of minute taking; (3) the applicant in presenting their request; and (4) any property owners or the persons who have questions or concerns or wish to know their rights in the matter. Although the order of the outline should be followed, the material will need to be modified to relate to the nature and extent of the particular case and the number of persons to be heard. The Chairperson will find it helpful to mark up a check list on each case prior to the hearing so that important procedural points are not inadvertently missed.

CALL TO ORDER:

It is \_\_\_\_:\_\_\_\_ p.m. and I call Agenda item #\_\_\_\_\_ which is a public hearing on Case No. BZA-CU-\_\_\_\_\_-\_\_\_\_\_ pursuant to Section 10-108 of the City Zoning Regulations requesting a conditional use as an exception to permit the establishment of \_\_\_\_\_ on property zoned as the \_\_\_\_\_ District. We would like to welcome everyone interested in this hearing and lay out a few ground rules:

1. It is important that you present any facts or views that you have as evidence at this hearing so that findings can be made as a basis of facts for the decision of this Appeals Board.
2. This Board is authorized by state statutes to make a decision appealable only to District Court and not to the Governing Body.
3. After our Zoning Administrator provides us with some background information, I will call upon the applicant and then we will hear from other interested parties. After all have been heard, each party will have an opportunity for final comments. The Board will close the hearing to further public comments and they will then consider their decision during which time they may direct questions to the applicant, the public, the staff or our consultant.
4. In presenting your comments, you should be aware that the Board can require such conditions be placed upon the premises and/or the applicant benefitted by the conditional use as may be necessary to comply with the standards set out in Section 10-108C. Such conditions could reduce or minimize any potentially injurious effect of a conditional use upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Failure to comply with any of the conditions attached to a zoning permit for a conditional use shall constitute a violation of the regulations.

5. You should also be fully aware that if the applicant chooses to describe various features of their development plans, the City can only enforce those provisions which are covered in zoning and other City codes.
6. Please write your name and address on the form being circulated among you so we will have a record of who is present and for any future communications if necessary. Anyone wishing to speak must be recognized by the Chairperson and give their name and address. Please use the podium and speak clearly so that your comments may be (picked up by the tape recorder to be) summarized for the minutes by our Secretary.

**DISQUALIFICATION DECLARED AND QUORUM DETERMINED:**

Before we proceed with the hearing, I'll ask the Board members if any of them intend to disqualify themselves from hearing, discussing and voting on this case because they or their spouses own property in the area of notification or have conflicts of interests or a particular bias on this matter. (Please let the minutes show that \_\_\_\_\_ has disqualified himself/herself because \_\_\_\_\_

\_\_\_\_\_ and has temporarily disassociated himself/herself from our assembled Board.) According to our Bylaws, those members who only abstain from voting are still part of the quorum. I now declare that we have a quorum of \_\_\_\_\_ present for the hearing.

**NOTIFICATION:**

According to the Secretary, a notice for this hearing was published in the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_ and notices were mailed to the applicant and \_\_\_\_\_ real property owners of record in the area of notification on \_\_\_\_\_, 20\_\_\_\_. Unless there is evidence to the contrary from anyone present, I'll declare that proper notification has been given.

**EX PARTE COMMUNICATIONS:**

Although we do not encourage such communications, I will now ask the Board members if any of them have received any ex parte verbal or written communications prior to this hearing which they would like to share with all the members at this time. As you know, it is not necessary to disclose the names of the parties, but to share important information. (If any written communications are presented, such material might better be read just before the close of the hearing.)

**APPLICANT'S INFORMATION:**

Has the applicant submitted information with their application complying with Section 10-108 A1-4? Yes \_\_\_\_\_ No \_\_\_\_\_  
 If no, provide explanation: \_\_\_\_\_

**ZONING ADMINISTRATOR'S REPORT:**

I now call on our Zoning Administrator, \_\_\_\_\_, to provide us with a background report on the case. (See Conditional Use Report.)

Thank you for your presentation. Are there any questions for the Zoning Administrator from the Board, the staff or consultant?

**APPLICANT'S REQUEST:**

I now call upon the applicant to make his/her presentation on the request and any response to the Zoning Administrator's report.

Thank you for your presentation. Are there any questions for the applicant from the Board, the staff or consultant?

**PUBLIC COMMENTS:**

Are there any members of the public who wish to speak on this case? (Recognize first come, first served; obtain name and address; and continue until all public comments are completed. People can also be asked not to repeat what has already been said, but to indicate that they hold similar views.)

**WRITTEN COMMUNICATIONS:**

Are there any written communications or petitions from the public? (Secretary could be asked to read them.)

**APPLICANT'S RESPONSE TO PUBLIC COMMENTS:**

Does the applicant wish to respond to the public comments?

**FINAL PUBLIC COMMENTS:**

Does anyone from the public wish to respond to the applicant's comments?

**CLOSE THE HEARING:**

Hearing no further public comments, I hereby close the public portion of the hearing. There will be no further public comments unless the Board wishes to ask questions to clarify information.

APPEALS BOARD DELIBERATIONS:

The Board will now deliberate the request. First, we need to determine if the request is one of the uses under which the Zoning Regulations specifically authorize us to grant a conditional use as an exception. According to the Zoning Regulations, the establishment of a \_\_\_\_\_ in Section \_\_\_\_\_ of the \_\_\_\_\_ District is (not) a listed conditional use and, therefore, does (not) permit us to consider its approval. (If the application does not meet this criteria, a motion should be passed to not grant the request based on that reason.)

In determining whether the evidence presented supports the conclusions required by Section 10-108C, the Board shall now consider appropriate findings of fact: (See Conditional Use Report.)

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.
2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.
3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
  - a. The location, nature, size and height of buildings, structures, walls and fences on the site; and
  - b. The nature and extent of landscaping and screening on the site.
4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.



**DECISION:**

Having discussed and reached conclusions on our findings of fact in the Conditional Use Report, I now call for a motion and, if approved, list any conditions that might be attached:

**SAMPLE MOTIONS:**

To Grant a Conditional Use

Having considered the evidence at the hearing and determined that the findings of fact in the Conditional Use Report (as amended) support the conclusions as set out in Section 10-108C of the Zoning Regulations which are necessary for granting of a conditional use, I (\_\_\_\_\_) move that the Chairperson be authorized to sign a Resolution granting the conditional use for Case No. BZA-CU-\_\_\_\_\_-\_\_\_\_\_ as (requested) (modified). (, subject to the condition[s] listed:)

To Not Grant a Conditional Use

Having considered the evidence at the hearing and determined that the findings of fact in the Conditional Use Report (as amended) do not support the conclusions set out in Section 10-108C of the Zoning Regulations which are necessary for granting of a conditional use, I (\_\_\_\_\_) move that the Chairperson be authorized to sign a Resolution not granting the conditional use for Case No. BZA-CU-\_\_\_\_\_-\_\_\_\_\_.

To table application

Having considered the evidence at the hearing and discussed the findings of fact in the Conditional Use Report, I (\_\_\_\_\_) move that Case No. BZA-CU-\_\_\_\_\_-\_\_\_\_\_ be deferred until \_\_\_\_\_, 20\_\_ at \_\_\_:\_\_\_ p.m. in this same meeting room for more (information) (and) (study) in regard to \_\_\_\_\_

(According to Section 10-108E, the Board shall render a written decision within 45 days after the close of the hearing.)

Having heard the motion by \_\_\_\_\_, is there a second? Having been seconded by \_\_\_\_\_, is there any discussion of the motion? Is the Board ready to vote on the motion? All those in favor say, "Aye." All those opposed say, "Nay." (If divided vote, ask for a show of hands and Secretary will record a roll-call vote.) The motion (passes) (fails) by a (unanimous) vote of \_\_\_\_\_ to \_\_\_\_\_. (An affirmative vote must be at least a majority of the members present and voting. See Bylaws to settle other voting procedures including abstentions, disqualifications and Chairperson voting.)

**CLOSING REMARKS:**

A Resolution will be prepared and made available to the applicant by \_\_\_\_\_, 20\_\_\_\_. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after the Resolution is signed and filed with the Zoning Administrator.

We want to thank all of you for participating in this hearing and you are welcome to stay for the remainder of our meeting. I now call for Agenda item #\_\_\_\_\_.

CITY OF DOUGLASS, KANSAS

RESOLUTION ON CASE NO. BZA-CU-\_\_\_\_\_-\_\_\_\_\_  
CONCERNING A CONDITIONAL USE \_\_\_\_\_

WHEREAS, \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, requests a conditional use as an exception  
as provided for in Section 10-108 of the City Zoning Regulations, to permit the  
establishment of \_\_\_\_\_ on  
property zoned as the \_\_\_\_\_ District  
and legally described as follows:

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

General location: \_\_\_\_\_  
\_\_\_\_\_;

WHEREAS, proper notice has been given according to the Zoning Regulations  
and the rules of the Board of Zoning Appeals; and

WHEREAS, the Board did at their meeting of \_\_\_\_\_, 20\_\_ consider  
said application at a public hearing and make specific findings of fact which are  
contained in the Conditional Use Report; and

WHEREAS, the Board has proper jurisdiction and the authority to permit such  
a conditional use as an exception in the district as stated which may be further  
subject to conditions as provided for in Section 10-108D of the Regulations.

NOW, THEREFORE, BE IT RESOLVED by the Douglass Board of Zoning Appeals,  
that this application be granted for a conditional use on the property as  
described herein, subject to the following condition(s):

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

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This conditional use shall be valid for a period no longer than 180 days from the date on which the Board granted the variance, unless within such period a zoning permit is obtained and the conditional use requested is started. The Board may grant extensions not exceeding 180 days each, upon written application, without further notice or hearing.

ADOPTED on \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Chairperson  
Douglass Board of Zoning Appeals

\_\_\_\_\_  
\_\_\_\_\_, Secretary

cc: Applicant  
Zoning Administrator

CITY OF DOUGLASS, KANSAS

RESOLUTION ON CASE NO. BZA-CU-\_\_\_\_\_-\_\_\_\_\_  
CONCERNING A CONDITIONAL USE

WHEREAS, \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, requests a conditional use as an exception  
as provided for in Section 10-108 of the City Zoning Regulations, to permit the  
establishment of \_\_\_\_\_ on  
property zoned as the \_\_\_\_\_ District  
and legally described as follows:

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

General location: \_\_\_\_\_  
\_\_\_\_\_;

WHEREAS, proper notice has been given according to the Zoning Regulations  
and the rules of the Board of Zoning Appeals; and

WHEREAS, the Board did at their meeting of \_\_\_\_\_, 20\_\_ consider  
said application at a public hearing and make specific findings of fact which are  
contained in the Conditional Use Report; and

WHEREAS, the Board has proper jurisdiction and the authority to hear such  
a conditional use as an exception in the district as stated.

NOW, THEREFORE, BE IT RESOLVED by the Douglass Board of Zoning Appeals,  
that this application not be granted for a conditional use on the property as  
described herein since the finding of facts does not support the conclusions  
required by Section 10-108C of the Zoning Regulations.

ADOPTED on \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Chairperson  
Douglass Board of Zoning Appeals

\_\_\_\_\_  
\_\_\_\_\_, Secretary

cc: Applicant  
Zoning Administrator