VARIANCE REQUEST
BOARD OF ADJUSTMENT APPLICATION

General Information: The Planning and Zoning Commission of the City of Milford is responsible for enforcing the City Zoning Ordinance. If you feel that the local Zoning Ordinance imposes unreasonable restrictions upon the use of your property, you may appeal to the Board of Adjustment to correct for such unreasonable restrictions. It is your responsibility, to prove to the Board of Adjustment that the Zoning Ordinance, as applied in your case, produces unnecessary hardship or deprives you of reasonable use of your property. The Board of Adjustment is authorized to approve variance requests only in those cases where the findings are in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

The attached forms are required to be submitted to the Board of Adjustment before your appeal can be heard. It is important that all forms be correctly completed and submitted to the City Clerk's office.

Please take time to carefully complete the form entitled "Appeal Justification". It is your responsibility to demonstrate to the Board of Adjustment that your appeal satisfies the variance criteria listed on page 5 of this application. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

Additional Variance Conditions: In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XIX of this ordinance.

Lapse of Variance: Unless a longer time period shall be specifically established as a condition of approval, a variance shall become void one (1) year following the date on which the variance became effective, unless prior to the expiration of one (1) year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application, or the site is occupied if no building permit is required.

Revocation of Variance: Upon violation of any applicable provision of this ordinance, or if granted subject to the conditions, upon failure to comply with conditions, a variance shall be revoked upon notification to the owner of the use or property.

Variance to Run with Land or Structure: Unless otherwise specified at the time a variance is granted, a variance shall run with the land and shall continue to be valid upon a change of ownership of the site or structure to which it applies.

VARIANCE REQUEST
BOARD OF ADJUSTMENT APPLICATION

APPLICANT_____

Mailing Address_____

Email_____ Phone #_____ Cell Phone #_____

PROPERTY OWNER_____

Mailing Address_____

Email_____ Phone #_____ Cell Phone #_____

To the Members of the Board of Adjustment:
I hereby appeal from the decision of the Zoning Administrator rendered on _____day of _____, 20_____

Location (address) of proposed variance _____

Legal description & Parcel # _____

Zoning District_____ Principal Use of Property _____

I request a variation from the current zoning requirement for:

☐ Front Yard ☐ Side Yard ☐ Rear Yard ☐ Fence ☐ Height ☐ Sign ☐ Parking ☐ Other_____

Brief statement regarding the variance desired _____

_____

Brief statement explaining how your request meets the following criteria:
Describe special conditions specific to the property (irregular lot boundary, size, unusual topography, etc.) that make it difficult to meet the ordinance requirements and explain why the rules cause an unnecessary hardship that does not affect surrounding properties the same way:

_____

_____

_____

_____

_____

The Board of Adjustment will grant or deny a variance in accordance with the standards set forth herein and with the intent and purpose of Section 20.6 VARIANCES of the Milford Zoning Ordinance. The Board of Adjustment shall have the following powers and duties to authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

COMPLETE SUBMITTALS ARE REQUIRED FOR REVIEW:

- ☐ A Complete and notarized application
- ☐ A certified abstracters list of all property owners within 200 feet of the subject property
- ☐ Nonrefundable fee of $400 with a check payable to City of Milford
- ☐ Two (2) copies of a drawing to scale illustrating the request and showing the following:
  - ✓ Property boundary lines, dimensions and area
  - ✓ If substantial topographic change is proposed contour lines at intervals of not more than (5) feet may be requested by city staff
  - ✓ The availability and location of existing utilities
  - ✓ The total square feet of building floor area, both individually and collectively
  - ✓ The proposed location, sizes, shape and type of all buildings or structures
  - ✓ The site plan shall include a vicinity sketch showing adjacent land uses
  - ✓ Rights-of-way, street improvements, easements, drainage courses, etc.
  - ✓ Parking areas, number of parking spaces proposed, type of surfacing to be used, etc.
  - ✓ Walkways, driveways, outside lighting, walls, fences, signs, monuments & other man-made structures
  - ✓ Landscaping to be used for screening purposes shall be illustrated
  - ✓ Walls, fences or other artificial screens to be used as buffers shall be shown in elevation as well as plan with proposed height and structural material to be used
  - ✓ Storm water retention and displacement shall be shown on the plan, indicating site drainage of storm water and runoff control provisions
  - ✓ Measures shown to preserve and protect existing or unique natural features of the site
  - ✓ The Zoning Administrator reserves the right to request or waive any of the above requirement
  - ✓ The Zoning Administrator may require a drainage plan when a zoning compliance permit is applied for

I hereby deposit and day that all of the above statements and the statements contained in the papers submitted herewith are true.

_____

Print Name *(Signature of Applicant)*

Signed and sworn to before me, this

_____day of _____, 20_____

_____ _____

Print Name *(Signature of Property Owner)* *(Notary Public)*

Office Use Only

--Notary Seal--

Paid ___CC ___Cash ___Check #_____

Date received _____

Scheduled Meeting Date_____

Filed with assessor_____

VARIANCE REQUEST
BOARD OF ADJUSTMENT APPLICATION

TO: Milford Board of Adjustment Applicant

RE: Approval of Variance or Special Exception by the Milford Board of Adjustment

You may be considering submittal of a request for variance or a special exception permit to the Milford Board of Adjustment. As you consider your options in this matter please consider the following information.

When variances or special exceptions are approved, the successful applicant typically proceeds ahead with construction and or lot improvements in accordance with the Board's directive. Applicants are normally eager to proceed immediately (even though State law specifically allows other parties to legally contest approval of the variance or special exception). Any aggrieved party (including any person or persons, or any board, taxpayer, department, board or bureau of the city) may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by the laws of the State of Iowa and particularly by Chapter 414, Code of Iowa. Said petition must be filed within 30 days from the date of the Board of Adjustment decision.

It should also be known that in accordance to Milford Zoning Ordinance Section 21.6 Revocation the issuance of a special exception use permit by the Board of Adjustment shall entitle the owner to continue to operate the use so long as the owner remains in compliance with the terms and conditions of the ordinance and the terms, conditions, limitations, requirements and safeguards set forth in the special exception use permit. If such a permit is granted it does expressly grant to the city, for the enforcement of this ordinance, the power and authority to enter upon the premises at any reasonable time for the purpose of inspection and enforcement of the terms of this ordinance or of the terms of the special exception use permit.

BOARD OF ADJUSTMENT
NOTICE TO
ADJACENT PROPERTY OWNERS

Notice of public hearing to adjacent property owners within 200 feet of the property is required as specified in Section 20.6 Variances (3) of the Zoning Ordinance. This Notice informs adjacent property owner of the date, time, and place of the Board of Adjustment hearing. This Notice in no way indicates approval of or objection to the variance request. Statements in support or against the variance request will be considered at the Board of Adjustment hearing.

It is the responsibility of the applicant to provide a certified abstracters list of all property owners within 200 feet of the subject property.

BOARD OF ADJUSTMENT
APPEAL
JUSTIFICATION

Variance Applicant:

Because zoning regulations are uniform in nature and apply equally to all properties in Milford, applicants are responsible for providing information to the Board of Adjustment justifying variance approval. A variance is proper only if all four findings are affirmative findings of fact on each of the following criteria:

a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
c. That the special conditions and circumstances do not result from the actions of the applicant;
d. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

A variance request meeting the four tests noted above is generally construed to mean that the zoning regulation is creating an unnecessary hardship, thereby warrants approval of the variance. The Board of Adjustment shall make findings that the applicant for the variance has met the requirements of Section 20.6 Variances.

In the space provided below (use additional pages if necessary), please explain the specific characteristics of your request which you feel justify the variance approval. You must convince the Board of Adjustment from the terms of the Zoning Ordinance will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

_____

_____

_____

_____

_____

_____

BOARD OF ADJUSTMENT
APPEAL
JUSTIFICATION (CONTINUED)

VARIANCE REQUEST PROCEDURES
SECTION 20.6
FOR OFFICE USE ONLY

☐ Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the Variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exist.

☐ Schedule Board of Adjustment meeting to schedule a public hearing in relation to variance request

☐ Publish public hearing in newspaper not less than 7 days or more than 20 days prior to meeting

☐ Notice of public hearing shall be given to immediately adjacent property owners and to those within 200 feet of the Property, as required by law.

VARIANCE REQUEST
DEPARTMENT REVIEW
FOR OFFICE USE ONLY

Applicant: _____

Owner: _____

Address of Proposed Variance: _____

Parcel #: _____

Type: Variance _____ Special Exception_____

DEPARTMENT REVIEW:
Zoning Administrator: _____
comments: _____
_____

City Administration: _____
comments: _____
_____

MMU/Utilities: _____
comments: _____
_____

Public Works: _____
comments: _____
_____

Airport Board (if Airport land use or height overlay Zoning Ordinance needs to be considered):
comments: _____
_____

Other: _____
_____

BOARD OF ADJUSTMENT
RESOLUTION ON
VARIANCE DECISION

Case #_____

Applicant: _____
Date of Hearing: _____

The decision of the Board of Adjustment is to: _____ GRANT_____DENY
Reasons for the denial or conditions for the approval are:

Motion by_____2nd by_____ AYES: _____
NAYS: _____
ABSTAIN: _____

_____
Secretary,
Zoning Board of Adjustment

In the event the action is granted, the applicant hereby agrees to all conditions and safeguards above. The applicant further agrees that in the event the specified conditions and safeguards are not complied with, within the time specified, approval of this appeal shall become null and void.

Signature of Owner: _____ Date: _____

BOARD OF ADJUSTMENT
RESOLUTION ON
VARIANCE DECISION

FACT-FINDING STATEMENT:
The Milford Board of Adjustment hereby finds the following facts:

1. That special conditions and circumstances exist that are peculiar to the land, structure, or building involved that are not applicable to other lands, structures, or buildings within the same district are:

2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance are:

3. That the special conditions and circumstances do not result from the actions of the applicant.

4. That granting of the variance requested does not confer on the applicant any special privileges to the applicant that are denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

5. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

6. The Board of Adjustment shall further make a finding that the granting of the variance is in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

   Board Member Signatures:

_____ _____

_____ _____

_____