

BOARDS OF ADJUSTMENT *AND VARIANCES*

Reid C. Wilson
Wilson Cribbs + Goren

Wilson Cribbs + Goren

Boards of Adjustment *and Variances*

Zoning Structure

Board of Adjustment

Authority

Organization

Super-Majority Vote

Quasi-Judicial

Wilson Cribbs + Goren

Standards

TEX. LOC. GOV'T CODE § 211.009 (a):

“The board of adjustment may...authorize in specific cases a variance from the terms of a *zoning ordinance* if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary *hardship*, and so that the spirit of the ordinance is observed and substantial justice is done....”

Most ordinances mimic

Additional requirements or limitations permitted

Wilson Cribbs + Goren

Why have Variances?

- Prevent takings (no reasonable use possible) *Swain v. Univ. Park*
- Permit “fullest” use. Other “reasonable use” does not preclude variance. *Currey v. Kimple*
- Variances upheld:
 - Semi-completed house w/ permit
 - Pool
 - Tennis court
 - Trees
 - Use on irregular/substandard lots
- EQUITY- Prevent unfair results in atypical situations

Wilson Cribbs + Goren

Analysis - Elements

“The board of adjustment may authorize in specific cases a variance from the terms of the zoning ordinance...”

- Discretion
- Permit violation
- Specific facts.

Wilson Cribbs + Goren

Analysis - Elements

- *“[I]f the variance is not contrary to the public interest...”*
 - Public interest considered
 - Balance the equities

Wilson Cribbs + Goren

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Boards of Adjustment and Variances

Also available as part of the eCourse

[2016 Land Use Fundamentals eConference](#)

First appeared as part of the conference materials for the
2016 Land Use Fundamentals session

"Boards of Adjustment and Variances"