

**VARIANCES**  
**ZONING CODE: 153.036**

**Variance Application Checklist**

The following documents are required to initiate the Variance application review process:

- A completed Variance Zoning Application form with project narrative
- Submitted Application Fee and Escrow Deposit per the current City Fee Schedule
- Financial bill-back agreement
- Certificate of Survey showing existing and proposed conditions
- A detailed written description of the variance request, including an explanation of compliance with the variance criteria set forth in the Zoning Ordinance.
- Evidence of ownership or an interest in the property
- Building floor plans, elevations, and sections
- Grading and drainage plans
- Verification that all there exist no delinquent property taxes, special assessments, interest, or utility fees
- Electronic copies of all submittal documents
- Other information as required by the City

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#### **Variance Process**

A variance allows for deviations or variances from the provisions of the Zoning Code in instances where the strict enforcement of those provisions would cause practical difficulties due to circumstances unique to individual property. Practical difficulties means that a property owner has proposed a reasonable use of his/her property that is not consistent with the Zoning Code. The review process includes formal Planning Commission review and final decision.

#### **Information Required for a Variance Application**

The applicant shall submit one electronic copy and one paper copy of the required information to the Community Development Department along with application fee and escrow deposit. Paper copies shall be provided upon request by the City or may be submitted if electronic copies are not available. If paper copies are submitted, a large scale copy must be submitted. The following information shall be submitted to the City along with a variance application:

1. Current certificate of survey prepared by a registered land surveyor which includes:
  - i. Scale not exceeding 1 inch = 100 feet
  - ii. North point indicator
  - iii. Original and proposed lot boundaries
  - iv. Existing and resulting parcel legal descriptions
  - v. Location of existing structures on the site
  - vi. Existing and proposed driveway locations
  - vii. Existing easement locations
  - viii. Environmental constraints of the site
  - ix. Delineated wetlands and waterbodies, drainage flows, and drainage improvements
  - x. Existing parks, streets, and utility easements
  - xi. Individual sewer treatment systems and/or well locations
2. Evidence of ownership or an interest in the property
3. A detailed written description of the variance request, including an explanation of compliance with the variance criteria set forth in the Zoning Ordinance.
4. Building floor plans, elevations, and sections
5. Grading and drainage plans
6. Verification that all there exist no delinquent property taxes, special assessments, interest, or utility fees

7. A signed financial bill-back agreement that consents to the applicant being billed by the for all legal, engineering and administration costs pertaining to the City review of the application
8. Other information as required by the City

### **Procedure for Filing and Review of Variance Application**

1. *Application.* The required application form and all required documentation, along with the fee and escrow deposit as prescribed by the City Council must be received in order for an application to be considered complete.
  - a. *Incomplete Application.* The City shall have authority to request additional information. An incomplete application may not be heard by the Planning Commission. City staff will notify the applicant of missing or incomplete information within 15 days of receiving the application. Failure to provide the necessary application information may be grounds for a denial of the request.
2. *Placement on the Planning Commission Agenda.* The City must receive a complete application with all required information. Upon receipt of a complete application, the request will be placed on a Planning Commission agenda at least 30 days after the date of application. Community Development staff shall submit copies of the application and required information to requisite staff, committees, consultants, or agencies as appropriate, who may make written recommendations and comments to the Planning Commission.
  - a. At least 10 days prior to the scheduled Planning Commission meeting, notice will be published in the City's designated newspaper. Notice will also be mailed to all property owners within 350 feet of the property in question.

### **Approval or Denial of a Variance Application**

1. The variance application shall be submitted to the Planning Commission for review and a decision (approval or denial). The Planning Commission shall review and comment on the acceptability of the variance in relation to the following:
  - a. Because of the particular physical surroundings, shape, or topographical conditions unique to the specific parcel of land involved, a practical difficulty to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
  - b. The property owner proposes to use the property in question in a reasonable manner not permitted by the zoning code. Economic considerations alone (or desire to increase the value or income potential of the land) shall not constitute practical difficulties if reasonable use of the property exists under the terms of the Zoning Ordinance;
  - c. The plight of the landowner is due to circumstances unique to the property not created by the landowner;

- d. The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity of the parcel or land, nor shall it alter the essential character of the locality;
  - e. The proposed variance is in keeping with the spirit and intent of the Zoning Ordinance and thus approval of the variance will not:
    - i. Impair an adequate supply of light and air to adjacent property;
    - ii. Substantially increase the congestion of the public streets;
    - iii. Increase the danger of fire;
    - iv. Endanger the public safety; or
    - v. Substantially diminish or impair property values within the neighborhood; or
    - vi. Cause drainage issues for an adjacent property.
2. Inadequate access to direct sunlight for solar energy systems may be considered a practical difficulty. Variances shall be granted for earth sheltered construction, as defined in M.S. § 216C.06, Subd. 14, when in harmony with the Zoning Ordinance.
  3. The City shall have the authority to request additional information from the applicant.
  4. The applicant or the applicant's representative may appear before the Planning Commission to present information and answer questions concerning the request.
  5. The Planning Commission shall issue its decision granting or denying the request supported by findings of fact.
  6. In granting a variance, the Planning Commission, after considering the recommendations of the City staff, shall impose such conditions as it deems necessary to carry out the purpose of the Zoning Ordinance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

### **Expiration of a Variance**

Any variance granted by the City shall run with the land in perpetuity. However, if no building permit has been issued or substantial work performed on the project within one (1) year of approval, the variance shall be null and void. The Planning Commission may, at its discretion, extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely effected by an extension. If the variance is part of an approved site and building plan, extension of the time for construction shall be contingent upon a similar extension of the time for the site and building plan by the Planning Commission as required by the Zoning Code. Upon completion of a project, the variance becomes perpetual.

### **Limitation of a Variance**

A variance shall be valid only for the project for which it was granted. Construction of any project shall be in substantial compliance with the building plans and specifications reviewed and approved by the City.