

Variance

Facts to Know

1. **DEFINITION:** A Variance is a procedure which authorizes a departure from the literal requirements of the zoning ordinance. Variances fall into two (2) categories:
 - a. Area Variance - allows for a departure of one or more dimensional requirements of the ordinance (e.g., setbacks, building height, minimum lot size).
 - b. Use Variance - permits a use of land other than that required by the zoning ordinance or other applicable ordinances.
2. The application for a variance may be reviewed administratively or be referred to a public hearing. Generally a variance application can be processed within the following periods of time:
 - Administrative action - approximately 30 days.
 - Hearings process - approximately 60 days.
 - Both types of decisions require an additional 12 day appeal period.
3. Notice of an application for a variance is sent to owners of property which abuts the subject property, is posted on the subject property and is published in a local newspaper, if a hearing is held.
4. A variance is valid for a period of two (2) years after the date of approval. Permits may be extended under certain circumstances.

Application

1. A completed application form, including a brief description of the proposal, signed by the owner of the property.
2. A plot plan.
3. A Burden of Proof Statement which addresses the applicable variance criteria.
4. Filing fee.

Site Plan

A site plan may be required so that a full and accurate evaluation of your proposal can be made by the Planning Division staff. To determine whether a site plan is required for your application, inquire at the Planning Division Office.

Hearings Procedure

1. Hearing date is determined.

2. Notice mailed at least twenty (20) days prior to the hearing.
3. Staff report completed seven (7) days prior to the hearing.
4. A sign must be posted on the subject property at least ten (10) days prior to the hearing.
5. Decision of the Hearings Body is final unless appealed to the Board of Commissioners within twelve (12) days of the mailing of the written decision.

Circumstances for granting a variance

Before the Planning staff or Hearings Body can evaluate a variance request, the applicant must prove that the following circumstances exist:

Area Variance:

1. That the literal application of the Ordinance would create practical difficulties resulting in greater private expense than public benefit.
2. That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant's site.
3. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the restrictions at the time the site was purchased.
4. That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.

Use Variance:

1. That the literal application of the ordinance would result in unnecessary hardship to the applicant. An unnecessary hardship will be found when the site cannot be put to any beneficial use under the terms of the applicable ordinance.
2. Each of the findings listed under "Area Variance" above.