



This handout summarizes the variance process. However, it is not all inclusive. Please contact a planner at 952-939-8290 with specific questions regarding your project.

What is a Variance?

- The zoning ordinance is a document outlining all regulations associated with the use and development of residential and non-residential properties. If a proposed use and/or development of a property meets all zoning ordinance standards, as well as standards outlined in other sections of city code, the city is legally obligated to approve that use and/or development.
- If a proposed development of a property (new construction or additions) does not meet one or more zoning ordinance standards, a property owner may apply for a **Variance**. A **Variance** is defined as “a modification from the literal requirements of the ordinance.”

When can a Variance be Approved?

A variance may be granted from the literal provisions of the ordinance when strict enforcement of the ordinance would cause undue hardship. By definition, undue hardship exists when a property cannot be put to reasonable use if used under the conditions allowed by city code. (City Code 300.07.1) All variance requests are analyzed against three tests:

- 1) *Are there practical difficulties that prevent a reasonable use from complying with ordinance requirements?*
- 2) *Are there circumstances that are unique to the property, not common to every similarly zoned property, and that are not self-created?*
- 3) *Would the variance alter the essential character of the neighborhood?*

What is the Variance Process?

- A property owner or their representative completes a **Variance** application and submits this application with all required documents to the Planning Division.
- The city sends “Comment Forms” to all property owners within at least 400 feet of the property for which the **Variance** is being requested. These property owners are encouraged to comment on the requested **Variance** and return their forms to the city. These owners are further invited to attend a Planning Commission public hearing which is held to consider the request.
- City staff review the submitted application and documents and prepare a written report recommending either approval or denial of the **Variance** request. The written report, which includes all “Neighborhood Feedback” responses, is forwarded to the property owner or their representative and the Planning Commission.
- The Planning Commission holds a public hearing on the **Variance** request. During the public hearing: (1) staff makes its recommendation; (2) the applicant or their representative have an opportunity to address the commission; (3) area residents are given an opportunity to ask questions and speak for or against the request. Following the public hearing the Planning Commission discusses the request and votes to approve, deny, or table the request.
- Any person aggrieved by a Planning Commission decision may appeal that decision to the City Council. Appeals must be made in writing to the Planning Division and within 10 days of the Planning Commission's decision.