

Variance

Facts to Know



RELATED FACTS TO KNOW:

Accessory Structures, Approved Plant List, Bulk Standards (for the relevant zone district), Condition Compliance/Renewal, Development Plan/PUD Permit Fees, Fences, Helpful Contact Information, Landscape Plan, Neighborhood Meeting, Park and School Fees, Pre-Application Meeting, Severed Mineral Rights, and Subdivision (Plat).

INTRODUCTION:

On occasion, there are unique circumstances that exist on a specific property that make the strict application of the bulk standards in the Land Development Code (LDC) or PUD unfeasible. The variance process is intended to provide flexibility for these unique situations.

GENERAL TIMEFRAME:

- In order to maximize the efficient processing of an application, **it is in the applicant's best interest to ensure that a complete and thorough application has been submitted** and that subsequent submittals adequately address comments that were provided.
- No building permit may be submitted for review until all development review applications have been approved.
 - ➔ The length of time to process a variance can vary depending on the complexity of the request and whether or not the variance is accompanied by another development review application. Generally, a stand-alone variance application can be processed in **10 to 16 weeks**.

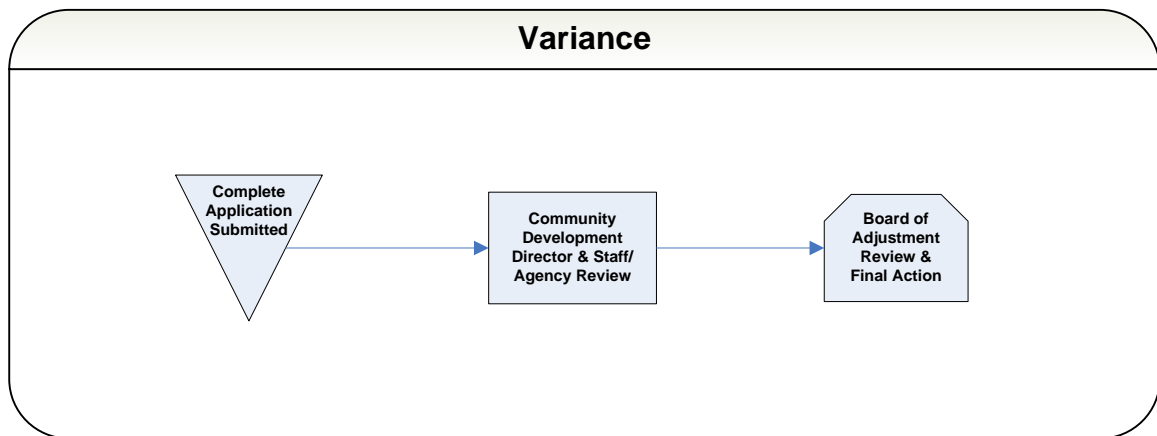
GENERAL NOTES:

- A variance is granted to a specific property and will run with the land, regardless of ownership.**
- The variance process cannot be used to allow a use of land that is not authorized by the applicable zoning classification, also known as a *use variance*.
- The final approval or denial of a variance is determined by the Board of Adjustment at a public hearing.
 - ➔ The Board of Adjustment hearings take place on the 2nd Tuesday of every month in the City Council Chambers located at 7887 East 60th Avenue and begin at 5:30 p.m. (staff determines whether or not an application is ready to be heard by the Board of Adjustment).
 - ➔ The Board of Adjustment is comprised of 5 sitting members, and it takes 4 affirmative votes in order to approve a request.
- The Board of Adjustment is authorized to impose on the approval of an application any condition(s) necessary to carry out the general purpose and intent of the Land Development Code (LDC) or the Comprehensive Plan.

FTK: Variance

- ➔ Failure to comply with any conditions of approval may result in the Board of Adjustment revoking the variance.
- ❑ Prior to submitting a variance application for review, a pre-application meeting with staff should be scheduled to discuss the application and any additional requirements.
- ❑ Occasionally, the city may require a neighborhood meeting when it appears that an application may impact the surrounding area.
- ❑ The applicant or a qualified representative of the applicant must be present at the public hearing. If the applicant or a qualified representative is not present, the request may be postponed to a future hearing date.
- ❑ An approval shall only authorize the development described in the approved application.
- ❑ The right to develop in accordance with an approved variance shall lapse if a building permit has not been issued and construction diligently pursued within 1 year of the approval (unless otherwise approved by the Board of Adjustment). If no new structure is required, the variance shall lapse if the development is not commenced within 180 days of approval.

VARIANCE FLOWCHART:



REVIEW PROCESS:

- ❑ A request for a variance is usually initiated by the property owner or a qualified representative through the pre-application process.
- ❑ A complete application is submitted for review.
 - ➔ At the time of submittal, staff will determine if the application is complete (**incomplete applications will not be accepted and will be returned without review**).
 - ➔ The city will refer the application to various departments within the city and to outside organizations for review and comment.

- ➔ After a review period of approximately three weeks, the case is discussed at the internal Development Review Team (DRT) meeting. After the DRT meeting, the applicant will receive a comment letter that identifies necessary revisions and questions to be answered.
- ➔ The applicant will address the comments and resubmit to the city for an additional review cycle of approximately four to 6 weeks. This process will continue until all comments are resolved (which may involve multiple review cycles) and the application is ready to be scheduled for public hearing.
- ☐ Once an application is ready for public hearing, the property will be posted with a sign for a period of 7 to 10 days, a public hearing notice will be placed in the newspaper, and neighbors will be notified in writing of the request.
- ☐ Approximately one week before the Board of Adjustment hearing, the applicant will receive a copy of the staff report and a meeting agenda.

VARIANCE APPROVAL CRITERIA:

In order to approve a variance request, the Board of Adjustment must find:

That **all** of the following criteria have been met:

1. The physical character of the property, including dimensions, topography or other extraordinary situation or condition of the property, create a situation where the strict enforcement of the standards in this land development code will deprive the property of privileges generally enjoyed by property of the same classification in the same zoning district (hardship);
2. The hardship is not self-imposed;
3. The variance will not be of substantial detriment to adjacent property; and

One of the following is met:

1. The variance granted is the minimum needed for the reasonable use of the land, building, or structure; or
2. The character of the district will not be changed by the granting of the variance.

Note:

The existence of nonconforming uses of neighboring lands, structures, or buildings in the same zone district, or permitted or nonconforming use of lands, structures, or buildings in other zoning districts, shall not be considered grounds for the issuance of a variance.

SUBMITTAL REQUIREMENTS FOR A VARIANCE:

Please note that incomplete submittals will not be accepted for review. Any inaccurate or incomplete information provided by the applicant may cause the application to be returned to the applicant and/or delay review cycles which may impact the case completion time frame. Please visit c3gov.com/etrakit for complete information for submitting for this application type. The following items will need to be included in your submittal package.

- Property Owner Authorization and the non-refundable review fee.
- General warranty deed, with a complete legal description for the subject property.
- Site plan that shows the following (example site plans are available):
 - ➔ The location of all proposed and existing buildings with their distance to all property lines.
 - ➔ The location of all existing and proposed landscaping.
 - ➔ The location of all proposed outdoor storage areas (if applicable).
 - ➔ The surface material of all portions of the site.
 - ➔ The location and type of all fencing.
 - ➔ The location and dimensions of all existing and proposed parking spaces.
 - ➔ Any other items that may be necessary in order to adequately review the proposed application.
- If new buildings are proposed and a development plan is required, two (2) paper copies of a complete development plan application (staff will determine if this is required).
- Narrative for the project.
 - ➔ The required questions to be answered can be found at the end of this handout.
- Facts to Know for Severed Mineral Rights (if applicable).
- Any other information that may help illustrate how the request complies with the variance approval criteria.
- The Board of Adjustment or staff may require additional information or technical studies on a case by case basis.

NARRATIVE QUESTIONNAIRE

VARIANCE

A. General Property Information:	
1.	Property Address or Parcel Identification Number (PIN):
2.	Applicant's Name:
3.	Property Owner's Name:
4.	Current Zoning of the Subject Property:
5.	Future Land Use Plan Designation:

B.	Background Information:	Yes	No	
1.	Is this request an amendment to an existing variance?			If yes, what was the previous case number? Case # _____
2.	Is this application an attempt to correct a violation of some kind?			If yes, please provide a copy of the violation.
3.	Do you anticipate having employees at this location?			If yes, how many employees do you anticipate? _____ employees

The following pages contain specific questions about the nature of your request. Therefore, it is in your best interest to answer them in as much detail as possible to help limit the number of questions and review cycles.

DO NOT ANSWER WITH A 'YES' OR 'NO' OR 'N/A' - BE SPECIFIC!

NARRATIVE QUESTIONNAIRE

6. Will the requested variance create or increase traffic and/or parking problems in the area?

7. Will the construction or operation for which the variance is needed create a police, fire, or building safety hazard?
