



Fee: \$250, with \$1,000 escrow

City Code Section: §500

Purpose

The variance procedure is designed to provide for deviations from the City's zoning regulations in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Unique circumstances may include factors such as the size, shape, topography, vegetation, wetlands or other unique characteristics of the land. Any variances granted must be in keeping with the spirit and intent of the City's Zoning Code. Use variances will not be granted.

Review Criteria

A variance may only be granted if:

1. The variance is in harmony with the general purposes and intent of this chapter.
2. The variance is consistent with the comprehensive plan.
3. The applicant for the variance establishes that there are practical difficulties in complying with this chapter. "Practical difficulties," as used in connection with the granting of a variance, means that all of the following must be found to apply:
 - a. The property owner proposes to use the land in a reasonable manner for a use permitted in the zone where the land is located, but the proposal is not permitted by other official controls;
 - b. The plight of the landowner is due to circumstances unique to the property and that are not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the neighborhood.
4. The variance requested is the minimum variance necessary to accomplish the intended purpose of the applicant.
5. The basis for the variance review will be the written justification and supplementary graphics submitted with the application.

Economic considerations alone do not constitute practical difficulties. A previous variance will not be considered to have set a precedent. Each case must be considered on its own merits.

Process

Filing the Application

Variance requests should be filed with the Planning Commission on an official application form. The applicant will also be required to pay an application fee and escrow. These fees are to cover staff's time processing the application and the cost of mailing notices of hearings to property owners within 350 feet. The variance request will be placed on the agenda of the first possible Planning Commission meeting occurring fourteen (14) days after the date of submission of the complete application.

Planning Commission Review

Once the application is complete, the Planning Commission will conduct a public hearing for the proposed variance. Staff will prepare a report evaluating the project's conformance to zoning requirements and provide it to

the Planning Commission and the applicant. The applicant must be present at the Planning Commission meeting to answer any questions concerning the proposed variance. The meeting is open to the public, and neighbors or interested parties are invited to testify in support of or against the request. The Planning Commission will then report its findings and make a recommendation of approval or denial of the request to the City Council.

City Council Review

After the Planning Commission reviews the variance request and provides findings of fact and a recommendation, the request will be scheduled on the agenda of the next City Council meeting. The City Council will review the application and may choose to conduct a public hearing on the request. The City Council will then approve or deny the request by a majority vote of the Council. If the variance request is approved, the applicant must record the variance with the County Registrar of Titles. No building permit for the property will be granted until the applicant has provided proof of the variance recording to the City.

Appeals:

All decisions by the City Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Hennepin County District Court. Once the appeals period has ended, the applicant will receive a variance form indicating the approval and listing any conditions of approval that must be incorporated into the project design or use. The conditions of approval must be shown on the plans submitted for a building permit or included in a statement of compliance when the building permit is issued. The variance is not issued until the permit form is signed and returned to the city.

After the signed permit form is received and all charges are paid, the permit is recorded on the property with Hennepin County. Building permits as required can then be issued.

Application Checklist

- Explanation of the reasons that the variance is justified in order to make reasonable use of the land, structure or building
- PDF copies of detailed written and graphic material fully explaining the proposed change, development, or use. Please submit all plans as scalable PDFs at a scale of 1:20 but no smaller than 1:50.
- Certified survey of subject site including:
 - Present topography
 - Boundary lines
 - Other significant features including structures, significant landscape features
 - Features from the adjacent properties within twenty (20) feet of the subject property or sufficient enough to determine line of site setbacks.
 - Location of easements and underground utilities (sewer, water)
- Building elevations and 3D renderings as needed to help demonstrate variance need and impacts on site lines or views.