

## VARIANCE DEFINITION

Variances from provisions of the Zoning Code are permitted when, strict enforcement of the code would cause practical difficulties in carrying out reasonable permitted uses of real property (Excelsior Zoning Code, Article 6). Variance requirements are found in Minnesota State Statute, Chapter 462.35, Subdivision 6 (2) which defines "practical difficulties": the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute practical difficulties.

The City Council may not permit as a Variance any use on a property that is not permitted in that zoning district. The City Council may permit as a variance the temporary use of a one family dwelling as a two-family dwelling. The City Council may impose conditions in the granting of a variance to ensure compliance and to protect adjacent properties.

## APPLICATION REQUIREMENTS

Unless waived by the Planning Department, the applicant must provide all of the following items with the Variance application. An incomplete application will not be accepted.

- A Complete Land Use Application
- 1 copy (11"x17") of the following drawings:
  - Registered Survey, including:
    - All applicable setbacks
    - Impervious surface coverage
    - Driveways and sidewalks
    - Existing principle and accessory Structures
    - Location of all significant trees
  - Grading/Drainage Plan with existing and proposed two-foot contours
  - Building renderings/elevations specifying building materials
- Application Fee: Residential - \$600 Commercial - \$750
- A narrative answering the following questions:
  1. What are the practical difficulties that would prohibit reasonable development without a Variance?
  2. What are the unique circumstances on the property that create the practical difficulties?
  3. What other alternatives have you considered that do not require a variance? Why are these alternatives not acceptable?
  4. How is the variance not the result of deliberate actions of the applicant or property owner?
  5. How does the Variance, if granted, not alter the essential character of the locality (neighborhood).
  6. How is the Variance consistent with the Comprehensive Plan?
- Architectural elevations showing proposed structure or project in relation to structures on adjacent properties.
- Electronic copy of the Variance application.

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## PROCEDURE

1. The applicant shall meet with Planning staff to explain proposed project and to receive information from staff relative to the site and Application requirements, prior to commencing project design.
2. The completed Application and required fee must be submitted four weeks prior to the Planning Commission meeting. See the Application schedule on the City website.

**Late and/or incomplete submittals will not be placed on the Planning Commission agenda.**

3. City staff will schedule a Public Hearing with the Planning Commission and prepare a report and recommendation. Property owners within 350 feet of the property will be notified of the Public Hearing.
4. The Applicant is expected to attend the Planning Commission meeting. Depending on the Planning Commission recommendation, the proposal will either go on to the City Council or continue to the next Planning Commission meeting for further review.
5. Following action by the Planning Commission, the Application will be presented to the City Council. The City Council meets on the first and third Mondays of each month. Approval of a Variance request requires 4/5 vote of the City Council.
6. If a request for a Variance or modification of a Variance receives approval by the City Council, the applicant shall record such with the Hennepin County Recorders Office within thirty (30) days of the City Council approval date. The applicant shall furnish the City written proof within ten (10) days of recording. No building permits for the property in question shall be granted until such written proof of recording is furnished to the City.

## NOTES

1. Discuss your proposal with adjacent property owners before you submit a formal application. Any conflicts that you can resolve ahead of time will make it easier and faster for the City to process your application.
2. At its discretion, the City may require an outside consultant review the proposed application and provide written comment. Such consultants may include: attorney, engineer, city planner, landscape architect or forester. If the City requires such review and comment, the applicant must provide cash escrow to the City to cover the cost of the review. City staff will notify applicants that such review is require prior to hiring the consultant(s).