



VARIANCE APPLICATION & REVIEW PROCESS

Purpose: The variance is intended to allow relief from practical difficulties that may arise from the strict application of zoning regulations on properties where unique circumstances (e.g., parcel size and shape, topography, vegetation, wetlands, obsolete structures, etc.) are present which may prevent the property from being used to the extent intended by the zoning regulations.

Approval: In order to approve a variance request, the City Council must find that: 1) the proposal is in harmony with the purposes and intent of the zoning ordinances; 2) the proposal puts the subject property to use in a reasonable manner; 3) there are unique circumstances to the property which were not created by the landowner; and 4) the variance, if granted, will not alter the essential character of the locality.

Initial Review: Applications will be reviewed for completeness by City staff. A letter in response to an *incomplete* application will identify the materials that are needed in order to complete the application within 10 days of receipt. Once all of the outstanding application materials are received, the 60-day action timeline will restart. A letter in response to a complete application will outline the schedule for the formal review and approval process described below.

Staff Report: City staff will prepare a report summarizing the application, reviewing it against the City's Codes, Ordinances, and policies, and providing a recommendation for the Council. A copy of this report will be provided to the applicant prior to the public hearing at the Council meeting.

Notice of Public Hearing: Minnesota State Law requires notice of a public hearing to be published in a specified, legal newspaper a minimum of 10 days prior to a public hearing. City Ordinance further requires that notices be mailed to property owners within 350 feet of the affected property. All of these notices are prepared and sent by City staff.

Public Hearing: Applicants are encouraged to attend and participate in the public hearing in order to respond to questions from the Council and/or members of the public. The public hearing will be held in the City Hall Council Chambers.

- **At the Public Hearing:** The Mayor will call the hearing to order and introduce the application and City staff will review the issues and recommendations detailed in the staff report. Council members may ask questions about the application to be answered by City staff and the applicant. Then members of the public will be invited to ask questions about the application and to make comments about the proposal. Once the public comment period has concluded, the Mayor will close the public hearing, and the Council Members will discuss the application and take action.
- **Council Action:** The Council has the authority to approve or deny an application and its decision is final. The Council will provide the rationale for its decision and adopt a motion approving or denying the variance request. If the decision is not appealed within the time allowed, the variance becomes effective, and any necessary building permits may be issued; at this time the Council resolution will be sent to Otter Tail County to be recorded against the property.

Appeals: Appeals to the City Council acting as the Board of Appeals and Adjustments may be taken by any affected person where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer of the city in the enforcement of the zoning code. No mailed or published notice of the hearing on the appeal is required but a public hearing shall be held on each appeal.

Validation: A variance approval must be validated by the applicant through the commencement of any necessary construction (subject to permit requirements) within 1 year of the date of the approval. A variance approval will automatically expire if the approval is not validated.

The City may impose conditions, safeguards and limitations as it deems appropriate for the protection of persons and property upon granting of any such variance. A condition must be directly related to, and must bear a rough proportionality to, the impact created by the variance. In order to approve a variance request, the Council shall find that:

1. the proposal is consistent with the Comprehensive Plan; and
2. the proposal is in harmony with the purposes and intent of the zoning ordinances; and
3. the proposal puts the subject property to use in a reasonable manner; and
4. there are unique circumstances to the property which were not created by the landowner; and
5. the variance, if granted, will not alter the essential character of the locality; and
6. the variance will not result in damage to adjoining properties, nor an unreasonable amount of noise or smell, and will not otherwise be materially detrimental to the public welfare; and
7. in the case of an Animal Ordinance Variance is appropriate, given the size, shape, topography and/or location of the property upon which the animals are to be kept.

State Statute 462.357, Subd. 6(2): “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. ‘Practical difficulties,’ ... means that 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 do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. ... The [Variance Board] may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.”

Additional Information Requested:

- a. **Written Narrative:** This narrative should fully explain the “practical difficulty” that justifies the departure from the strict application of the Code. Neither mere inconvenience nor reduction in value is sufficient on its own to justify a variance, and the inability to put property to its highest and best use is not considered a practical difficulty. The problem that justifies the variance must be caused by conditions beyond the control of the applicant. The applicant cannot create the condition that requires the variance.
- b. **Proposed Plans:** In addition to a scaled site plan, a landscape plan, grading and drainage plan, and exterior building elevation drawings showing building materials may also be required if deemed necessary by the City. In cases of multiple variances, the applicant may be required to submit a property boundary and building survey.



VARIANCE TO ORDINANCE APPLICATION

FEE: \$100

Please complete the application by typing or printing in ink. Use additional paper if necessary.

Name of Applicant(s): _____

Address: _____

Phone: _____ **Parcel #:** _____

Legal description: _____

Name of record owner(s) of property: (if different from above) _____

Address(es) of property involved: (if different from above) _____

Zoning designation (circle one): **Residential** **Commercial** **Industrial** **Agricultural**

Provide the number and brief description of the section of the Ordinance from which the variance request is made. You may attach a copy of the section instead of completing this question. _____

Provide the nature of the variance requesting: _____

Signature(s): By signing below, you attest that the information above and/or attached is true and correct to the best of your knowledge.

Applicant Signature: _____ **Date:** _____

Owner Signature: _____ **Date:** _____

Office Use Only:	
Council Date Approved: _____	Clerk Signature: _____
Stipulations: _____	