



CHERRY HILLS VILLAGE

Variance Handout

*Note: This document is not intended to be a comprehensive list of all applicable requirements. It is the applicant's responsibility to comply with all applicable requirements.

Community Development
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Revised: June 6, 2024

What is a Variance?

On occasion, there are unique circumstances that exist on a specific property that make the strict application of certain standards of the Municipal Code infeasible. In these circumstances, the variance process can provide flexibility.

How to Submit:

Variance submittals can be made online [here](#).

Submittal Requirements:

All submitted documents must be formatted with the number of the review cycle first, the name of the document second, and the address last. For Example:

01 Site Plan 123 Main Street

1. A completed application
2. A copy of the warranty deed or title work within 90 days. Either must include the legal description for the property.
3. A detailed narrative for the requested variance.
 - a. See the end of this document for specific questions to be answered.
4. A scaled site plan showing:
 - a. Property boundaries based on an accurate survey.
 - b. The location of all structures on the property, including specific setbacks.
 - c. The location of the proposed structure.
 - d. The edge of all roadways adjacent to the property.
 - e. Accurately drawn bulk plane drawings, if applicable.
 - f. One-foot elevation contours in NAVD 88 datum with USGS elevation, if applicable.
 - g. A landscape plan, if applicable.
 - h. 50-foot sight triangles from the road edge if the property is on a corner lot, if applicable.
 - i. The location of any special flood hazard areas (100-year floodplain) located on the property.
 - j. Scaled elevation drawings of the structure.
5. Any other information that may help illustrate how the request complies with the approval criterion for a variance.
6. Approval letters from any Homeowners Associations, the South Metro Fire Rescue Authority, or any other applicable outside agencies, if applicable.

*The City or its consultants may request additional information, at their sole discretion, in order to determine compliance with applicable standards and/or requirements. The Board of Adjustment and Appeals may also request additional information, at their sole discretion, in order to determine compliance with any applicable standard and/or requirement.

Approval Criteria:

No variance shall be authorized unless the Board finds **all** of the following:

- (1). The applicant would suffer an exceptional and unnecessary hardship as a result of the application of this Chapter, which hardship is not generally applicable to other lands or structures in the same zone district because of:
 - a. The unusual configuration of the subject property boundaries;
 - b. Unique or highly unusual circumstances related to the location of existing buildings or structures thereon;
 - c. The existence of exceptional topographic conditions thereon; or
 - d. Comparable circumstances that are specific to the subject property.
- (2). There are no design alternatives or alternative locations for buildings or structures that would obviate the need for the requested variance or would reduce the amount of the variance required.
- (3). The strict enforcement of the provisions of this Chapter deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of this Chapter.
- (4). The need for the variance does not result from the intentional, reckless, or grossly negligent actions of the applicant or his agent, a violation of any provision of this Chapter, or a previously granted variance.
- (5). Reasonable protections are afforded adjacent properties.
- (6). The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.
- (7). The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (8). The reasons set forth by the applicant justify the granting of the variance. For purposes of making this finding, the Board may not consider issues of inconvenience or aesthetics.
- (9). The granting of the variance will:
 - a. Reflect the spirit of this Chapter;
 - b. Secure the public safety and welfare; and
 - c. Ensure that substantial justice is done.

General Timelines:

- 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 from all reviewers.**

- No building permit may be submitted for review until all development review applications have been approved.
- The length of time to process a variance application can vary depending on the complexity of the request, if the variance request is associated with other land use applications, or the timeliness of the response by the applicant. Generally, **a stand-alone variance application can be processed in 2 – 3 months.**

General Information:

- A variance is granted to a specific property and runs with the land, regardless of ownership.
- The variance process cannot authorize the use of a property for a use that is not authorized by the applicable zone district, known as a use variance.
- The final approval, approval with conditions, or denial of a variance is determined by the Board of Adjustment and Appeals at a public hearing.
- The Board of Adjustment and Appeals hearings occur on the first Thursday of every month at 6:30pm in Council Chambers located at 2450 E. Quincey Avenue.
- The Board of Adjustment and Appeals is comprised of five (5) members and it takes **four (4) affirmative votes to approve a variance request.**
- The Board of Adjustment and Appeals is authorized to impose any condition(s) of approval that may be necessary to carry out the general purpose and intent of the Municipal Code or the Master Plan. Failure to comply with any condition(s) may result in the revocation of the approved variance.
- Prior to submitting an application for a variance, the applicant should schedule a meeting with City staff to discuss the specifics of the request and any additional information that may be required.
- The City reserves the right to require a neighborhood meeting prior to scheduling an application to be heard by the Board of Adjustment and Appeals.
- The property owner, or the property owner's representative, is required to be present at the public hearing. If the property owner, or property owner's representative, is not present at the public hearing, the request may be postponed to a future hearing date.
- An approved variance only authorizes the scope of the requested variance. All other standards are required to be met.
- The right to construct an improvement approved by a variance shall lapse after one (1) year from the date the variance was granted by the Board of Adjustment and Appeals if a building permit is not issued.

Review Process:

- A variance request is usually initiated by the property or the property owner's representative.
- Prior to the submittal of a variance application, the applicant is required to meet with the City Manager and/or Community Development Director. This can be coordinated by Community Development staff.
- A complete application is submitted for review (**City staff has seven (7) business days from receipt of the application to review the submittal and determine whether or not the application is complete**). Incomplete applications will not be accepted and will be returned to the applicant without review.
- The City will refer the application out to various City departments, City consultants, and outside referral partners for comment and review.
- After a review cycle of **21-calendar days**, the Planning Division will issue a consolidated comment letter and associated redlines to the project representative for the application to address.
- The applicant will address the comments and redlines and resubmit to the City for an **additional review cycle of 21-calendar days**. The process of submitting revised drawings and the 21-calendar day review cycle will continue until all comments are addressed and the application is ready for public hearing.
- Once an application is deemed ready for public hearing, the following notification must occur:
 1. The subject property must be posted with a sign for **not less than 15 days before the public hearing** and remain on the property until the public hearing commences.
 2. **At least 15 days before the public hearing** a mailed notice must be sent to all property owners within **1,500-feet of the boundaries of the subject property**.
 3. Notice in a newspaper of general circulation must run **at least 15 days before the public hearing**.
- Approximately one week before the public hearing, the applicant will receive a copy of the staff report and a meeting agenda.

Narrative Questionnaire Variance

General Information:

- 1. What is the property address or Parcel Identification Number?**

- 2. What is the current zoning of the property?**

- 3. Is this a request to amend an existing variance?**
☐ Yes ☐ No

- 4. Is this application an attempt to correct a violation of some kind?**
☐ Yes ☐ No

If yes, please explain:

Specific Questions (Please use this document or a separate sheet):

Note: DO NOT ANSWER "YES" OR "NO" OR "N/A" – BE SPECIFIC!

- 5. Based on the four issues listed below, how has/would the applicant suffer an exceptional and unnecessary hardship.**
 - a. The unusual configuration of the subject property boundaries;**
 - b. Unique or highly unusual circumstances related to the location of existing buildings or structures;**
 - c. The existence of exceptional topographic conditions; or**
 - d. Comparable circumstances that are specific to the subject property**

Answer:

- 6. There are no design alternatives or alternative locations for buildings or structures that would preclude the need for the requested variance or would reduce the amount of the variance required.**

Answer:

- 7. The strict enforcement of the Municipal Code deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of the Municipal Code.**

Answer

- 8. The need for the variance does not result from the intentional, reckless, or grossly negligent actions of the applicant or their agent, a violation of any provision of the Municipal Code, or a previously granted variance.**

Answer

- 9. Reasonable protections are afforded adjacent properties.**

Answer

- 10. The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.**

Answer

- 11. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.**

Answer

- 12. The reasons set forth by the applicant justify the granting of the variance. For purposes of making this finding, the Board may not consider issues of convenience or aesthetics.**

Answer

13. The granting of the variance will:

- a. Reflect the spirit of the Municipal Code;**
- b. Secure the public safety and welfare; and**
- c. Ensure that substantial justice is done.**

Answer