



Variance Application Checklist

City of Lakeville

Community Development Department

BOARD OF ZONING ADJUSTMENTS AND APPEALS

The City Council acts as the Board of Zoning Adjustments and Appeals.

REVIEW CRITERIA

The board of adjustment shall not approve any variance request (major or minor) unless they find failure to grant the variance will result in practical difficulties. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance. Economic considerations alone do not constitute practical difficulties. The following criteria must also be met:

- A. That the variance would be consistent with the comprehensive plan.
- B. That the variance would be in harmony with the general purposes and intent of this title.
- C. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.
- D. That the purpose of the variance is not exclusively economic considerations.
- E. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.
- F. That the requested variance is the minimum action required to eliminate the practical difficulty.
- G. Variances may not be approved for any use that is not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located.

PROCEDURES

Pursuant to Minnesota Statutes an application for a variance shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City or a time waiver is granted by the applicant. Additional City requirements are as follows:

- A. Classifications.
 - 1. Minor Variance.
 - a. Purpose. The purpose of this section is to provide for an expeditious method of processing variance requests which are defined as minor.
 - b. Qualification.
 - (1) Cases where practical difficulties to existing buildings or platted property are created as a result of public action or change in ordinance standards.
 - (2) Structure or setback deviations which are characteristic of and common to neighboring uses and which do not exceed a ten (10) percent departure from any standard of the Zoning Ordinance as applied to a specific piece of property.
 - (3) A minor variance procedure shall not be applicable or include any proposals involving fencing, shoreland, wetland, or floodplain.

2. Major Variances. All variances which are not classified as “minor” shall be deemed “major” variances.

B. Processing.

1. Minor Variances.

- a. Requests for a minor variance shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. The application as determined by the Zoning Administrator shall be considered as being officially submitted complete when the applicant has complied with all the specific informational requirements, which shall include the following:
 - (1) A written description of the request for the minor variance, including an explanation of compliance with the variance criteria set forth in this section.
 - (2) Supporting materials, as outlined in Section 11-9-13 of the Zoning Ordinance, as determined by the Zoning Administrator as applicable to be necessary for the complete and clear definition and understanding of the request.
- b. In cases when an application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten (10) days from the date of submission.
- c. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate, and provide general assistance in preparing a recommendation on the action to the Board.
- d. The City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of the Zoning Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- e. Unless excused by the Mayor, the applicant or a representative shall appear before the Board in order to answer questions concerning the proposed minor variance request.
- f. Within fifteen (15) days after receiving the City staff's report and recommendation concerning a request for a minor variance, the Board shall have the option to set and hold a public hearing if deemed necessary on the request. The Board shall hear such persons as wish to be heard. Notice of any such hearing shall be mailed not less than ten (10) days in advance to all property owners within five hundred (500) feet of the property to which the variance relates.
- g. Failure of a property owner to receive notice shall not invalidate any such proceedings.
- h. The City Council shall decide whether to approve or deny a request for minor variance within thirty (30) days after the public hearing on said request.
- i. A minor variance of the Zoning Ordinance shall be by four-fifths ($\frac{4}{5}$) vote of the full Board.

2. Major Variances.

- a. Request for a variance or appeal shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. This fee shall not be refunded. Unless modified by the Zoning Administrator, such application shall also be accompanied by fifteen (15) copies of detailed written and graphic materials necessary for the explanation of the request, and a list of property owners located within five hundred (500) feet of the subject property obtained from and certified by an abstract company.
- b. The application shall be considered as being officially submitted complete when the applicant has complied with all the specified informational requirements, which shall include the following:
 - (1) A written description of the request for the major variance, including an explanation of compliance with the variance criteria set forth in the Zoning Ordinance.
 - (2) Supporting materials, as outlined in Section 11-9-13 of the Zoning Ordinance, as determined by the Zoning Administrator as applicable to be necessary for the complete and clear definition and understanding of the request.
- c. Upon receipt of a complete application, as determined by the Zoning Administrator, the City Clerk shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing and report its findings and make recommendations to the Board. Notice of said hearing shall consist of a legal property description, description of request and property location, and be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within five hundred (500) feet of the boundary of the property in question.
- d. Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within the Zoning Ordinance.
- e. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Board.
- f. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of the Zoning Ordinance. Failure of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- g. Unless excused by the Planning Commission Chair, the applicant or a representative thereof shall appear before the Planning Commission to answer questions concerning the proposed variance.
- h. The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Commission's recommendation and the City staff's report

- shall be presented to the Board, and shall be entered in and made part of the permanent written record of the Board meeting.
- i. The Board shall not act upon the variance until the Planning Commission has held a public hearing on the request. The Board shall act upon the request within sixty (60) days from the date of submission, unless an extension has been provided, pursuant to Minnesota Statutes.
 - j. Upon receiving the report and recommendation of the Planning Commission and the City staff, the Board shall have the option to set and hold a public hearing if deemed necessary.
 - k. Subject to limitations of Minnesota Statutes, if, upon receiving said reports and recommendations of the Planning Commission and City staff, the Board finds that specific inconsistencies exist in the review process and thus the final determination of the Board may differ from that of the Planning Commission, the Board may, before taking final action, refer the matter back to the Planning Commission for further consideration. The Board shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one (1) time on a singular action.
 - l. The Board shall make findings of fact and approve or deny a request for variance within thirty (30) days after the close of the public hearing on the request.
 - m. A major variance of the Zoning Ordinance shall be by four-fifths ($\frac{4}{5}$) vote of the full Board.
 - n. In granting any major variance under the provisions of the Zoning Ordinance, the Board shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions to which the adjustment or variance is granted, as to light, air, and the public health, safety, comfort, convenience and general welfare.
 - o. The Zoning Administrator shall serve a copy of the final order of the Board upon the applicant by mail.
 - p. Whenever an application for a major variance has been considered and denied by the Board, a similar application for a variance affecting substantially the same property shall not be considered again by the Planning Commission or Board for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or Board for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by a four-fifths ($\frac{4}{5}$) vote of the full Board.

EXPIRATION

Unless the Board specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this Chapter shall expire without further action by the Planning Commission or the Board, unless the applicant commences the authorized use or improvement within one (1) year of the date the variance is issued; or, unless before the expiration of the one (1) year period; the applicant shall apply for an extension thereof by completing

and submitting a request for extension, including the renewal fee as established by City Council resolution. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one (1) year shall be subject to the review and approval of the Zoning Administrator. On matters involving a major variance approval, should a second extension of time or any extension of time longer than one (1) year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the Board for a decision.

SITE IMPROVEMENT PERFORMANCE AGREEMENT AND FINANCIAL GUARANTEE

Following the approval of a variance and prior to the issuing of any building permits or the commencing of any work, the applicant as may be applicable, shall guarantee to the City the completion of all private exterior amenities as shown on the approved site plan and as required by the variance approval.

CERTIFICATION OF TAXES PAID

Prior to approving an application for a variance (major or minor), the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the variance application relates.

Information Checklist

The information required for all variance applications generally consists of the following items, and shall be submitted in both hard copy and electronically unless waived by the Zoning Administrator.

- A. Site boundaries, buildings, structures and other improvements shall be identified on site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
 - _____ 1. Scale of plan (engineering scale only, at one (1) inch equals fifty (50) feet or less.
 - _____ 2. North point indication.
 - _____ 3. Existing boundaries with lot dimension and area.
 - _____ 4. Existing site improvements.
 - _____ 5. All encroachments.
 - _____ 6. Easements of record.
 - _____ 7. Legal description of the property.
 - _____ 8. Ponds lakes, springs, rivers or other waterways bordering on or running through the subject property.

- B. Submit a certified list prepared by an abstract company and mailing labels of the names and addresses of all property owners within 500 feet of the subject property.

- C. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
 - _____ 1. Name and address of developer/owner.
 - _____ 2. Name and address of architect/designer.
 - _____ 3. Date of plan preparation.
 - _____ 4. Dates and description of all revisions.

- _____ 5. Name of project or development.
- _____ 6. All proposed improvements, including:
 - _____ a. Required and proposed setbacks.
 - _____ b. Location, setback and dimensions of all proposed buildings and structures.
 - _____ c. Location of all adjacent buildings located within one hundred (100) feet of the exterior boundaries of the property in question.
 - _____ d. Location, number dimensions, and setbacks of proposed parking spaces and drive aisles.
 - _____ e. Location, number, and dimensions of proposed loading spaces.
 - _____ f. Location, width, and setbacks of all curb cuts and driveways.
 - _____ g. Vehicular circulation.
 - _____ h. Sidewalks, walkways, trails.
 - _____ i. Location and type of all proposed lighting, including details of all proposed fixtures.
 - _____ j. Location of recreation and service areas.
 - _____ k. Location of rooftop equipment and proposed screening.
 - _____ l. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
 - _____ m. Location, sizing, and type of water and sewer system mains and proposed service connections.
- D. Grading/storm water drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
 - _____ 1. Existing contours at two (2) feet intervals (may be prepared by a Minnesota licensed surveyor).
 - _____ 2. Proposed grade elevations of two (2) foot maximum intervals.
 - _____ 3. Drainage plan, including the configuration of drainage areas and calculations.
 - _____ 4. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
 - _____ 5. Spot elevations (may be prepared by a Minnesota licensed surveyor).
 - _____ 6. Proposed driveway grades.
 - _____ 7. Surface water ponding and treatment areas.
 - _____ 8. Erosion control measures.
- E. Landscaping plan, utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
 - _____ 1. Planting schedule (table) containing:
 - _____ a. Symbols.
 - _____ b. Quantities.
 - _____ c. Common names.
 - _____ d. Botanical names.
 - _____ e. Sizes of plant material.

- _____ f. Root specification (bare root, balled and burlapped, potted, etc.).
- _____ g. Special planting instructions.
- _____ 2. Location, type and size of all existing significant trees to be removed or preserved.
- _____ 3. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
- _____ 4. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
- _____ 5. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.
- _____ 6. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
- _____ 7. Delineation of both sodded and seeded areas with respective areas in square feet.
- _____ 8. Coverage plan for underground irrigation system, if any.
- _____ 9. Where landscape or man-made materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevations.
- _____ 10. Other existing or proposed conditions which could be expected to affect landscaping.

F. Other plans and information as required by the Zoning Administrator including, but not limited to:

- _____ 1. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
- _____ 2. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
- _____ 3. Fire protection plan.
- _____ 4. Extent of and any proposed modifications to land with the Environmental Protection Districts, as established by the Zoning Ordinance.
- _____ 5. Type, location and size (area and height) of all signs to be erected upon the property in question.
- _____ 6. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
- _____ 7. Sound source control plan.
- _____ 8. Lighting plan.