

REQUEST FOR A VARIANCE

Purpose. Each zoning classification indicates specific development standards such as setback and height restrictions. There are occasions, however, when the strict application of such standards may be inappropriate because of special characteristics of the property. The variance procedure is designed to permit minor adjustment to the zoning regulations where there are special or extraordinary circumstances applying to a parcel of land or building that prevent the property from being used to the extent intended by the zoning. Special circumstances may include factors such as the size, shape, topography, vegetation, wetlands or other unique characteristics of the land. Variances will not be granted for residential density standards or type of use.

The Planning Commission may grant a variance, but only when all of the following conditions are found:

- (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:
 - (i) 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;
 - (ii) The plight of the landowner is due to circumstances unique to the property and that are not created by the landowner; and
 - (iii) The variance, if granted, will not alter the essential character of the neighborhood.

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 merits.

Project Consideration. Early in the consideration of a potential project, a determination shall be made whether a variance is needed. If you have questions pertaining to a possible variance, contact the Stillwater Community Development Department at 651-430-8820. Speaking to Planning Staff before submittal is always encouraged. Materials can be submitted to the City of Stillwater via mail, drop off or submitted electronically to PlanningDept@ci.stillwater.mn.us.

Preapplication Conference. It is recommended the applicant make an appointment with a Community Development staff member prior to submitting an application to discuss the feasibility of the request as well as any possible alternatives that may eliminate the need for a variance or improve the chance of the variance being granted. It is recommended that a preliminary site plan be prepared to review project design as it relates to the zoning requirements.

Filing the Application. A completed application should be submitted to the Community Development Department. Planning Commission public hearings follow the Department's Development Review Schedule. All fees are located within the City Fee Schedule. The fees are to designed cover staff's time processing the application and the cost of mailing notices of hearings to property owners within 350 feet. **Additional costs may be required if engineering or legal assistance is required to review the request. The City may adopt additional fees and surcharges that apply to all applications. Please inquire with Community Development staff if additional fees or surcharges are applicable.**

Staff Review. CDD staff will review and evaluate the project conformance to the Zoning Code, the Comprehensive Plan, relevant area plans, including adopted design guidelines and standards, and all lawful regulations. Staff will develop a report which, in most cases, will include a recommendation for approval or denial. Recommendations for approval may be accompanied by staff recommended conditions of approval. Staff will distribute this report to the applicant in advance of the scheduled meeting(s) and hearing(s).

Planning Commission Review. The Planning Commission and applicant will receive a staff report evaluating the project conformance to zoning requirements including, in most cases, a recommendation for approval or denial. At that hearing, the chairman of the Planning Commission or staff member will explain the nature of the request. The applicant or representative must be present to present testimony giving reasons or need for the variance. The meeting is open to the public, neighbors or interested parties are invited to testify in support or against the request. These meetings are normally operated on an informal basis and take place in the City Council Chambers at Stillwater City Hall, 216 North Fourth Street.

The Planning Commission will approve or deny the request once the hearing has been closed and an informal discussion has been made. They may, at their discretion, table the hearing to a later Planning Commission meeting. This happens when insufficient information has been submitted or additional information is needed to make a decision on the variance.

Appeals Period. There is a ten-day period in which the applicant or any other individual aggrieved by the decision of the Planning Commission may submit an appeal to the City Council. The cost is \$50.

The City Council will then consider the appeal of the Planning Commission decision at a public hearing.

Permitting. Once the ten day appeals period has ended or the City Council makes a final decision on an appeal, the applicant will receive a Zoning Permit 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.

Building Permits. If a building permit is required, the submittal of the building permit to the Building Department may occur any time after the meeting date, however, issuance will not occur until after the appeal period is over. Any permit submitted prior to the meeting date will not be reviewed. All work must be in accordance with the HPC/CPC approvals and follow all conditions of approval.

After the signed permit form is received and all charges are paid, the permit is recorded on the property with the Washington County Recorder.

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Checklist for Planning Applications

Planning Staff can help determine what materials are necessary. **Speaking to Planning Staff before submittal is always encouraged**, 651-430-8820. **Materials can be submitted to the City of Stillwater via mail, drop off or submitted electronically to PlanningDept@ci.stillwater.mn.us.**

Incomplete or unclear applications/plans will be returned to the applicant and may result in delay of application processing.

All Applications Must Include:

- The application form completed and signed by the property owner.
- A complete legal description of subject property. This is found on the property deed. Incomplete or abbreviated legal descriptions are not sufficient.
- Letter describing the proposed use in detail and indicating how this use will effect, or is compatible with adjacent uses or areas. If the request is for a variance, the narrative must address the 'practical difficulty' provision.
- Other information, such as a business plan, and photographs, to make the required findings for approval of the specific type of application.

Applications Involving New Construction or Exterior Improvements Must Also Include:

- Building plans clearly dimensioned and scaled.
- A site plan depicting the following.
 - o Exterior property lines, easements, lot width and depth and lot area.
 - o Location, elevation, size, height of building or addition, dimensions, materials and proposed use of all buildings and structures (including walls, fences, signs, lighting and hooding devices) existing and proposed for the site (if the site is in a Design Review District, additional design detail maybe required).
 - o Distances between all structures and from all property lines or easements to structures.
 - o Buildings on adjacent properties, together with distances from property lines.
 - o All adjacent streets or right of ways, with street names labeled.
 - o Pedestrian, vehicular and service points of ingress and egress; distances between driveways and street corners.
 - o All off-street parking spaces, driveways, loading docks and maneuvering areas with dimensions for driveway widths and parking space sizes.
 - o Existing significant natural features such as rock outcroppings or water courses (existing and proposed marked accordingly).
 - o All major existing trees on the site (4 inch caliper or greater), giving type, location, size and other site coverage conditions.

Applications Involving Changes in Grading or Landscaping Must Also Include:

- Existing and proposed grading plan showing direction and grade of drainage through and off the site; indicate any proposed drainage channels or containment facilities.
 - o Applications for new structures on slopes of 12 percent or greater must include an accurate topographic map. The map must contain contours of two-foot intervals for slopes of 12 percent or greater. Slopes over 24 percent shall be clearly marked.
- Landscape plan showing number of plants, location, varieties and container sizes (landscape plan).

ANY DOCUMENTS LARGER THAN 11 X 17 MUST BE SUBMITTED IN PAPER AND IN PDF FORMAT.
OVERSIZED PLANS (GREATER THAN 11X17) WILL NEED TO SUBMIT FIVE COPIES.