

Variations

What is a Variance?

Variance is a term that is often highly misunderstood. A variance allows you to 'break' a zoning requirement in order to meet your design, if there is a justifiable reason. A variance is an actual application. The Planning Commission can allow a landowner a variance from the requirements of the code *if* they can satisfy the *specific* criteria outlined from the Code below.



(a) That there are circumstances or conditions affecting the property or use that preclude strict adherence the Code standards.

This means a stream or some physical constraint is preventing you from complying with a setback or other standard. Financial hardships, or the fact that setbacks might not work with your design, do not count to satisfy this criteria.

(b) That the Variance is necessary for the proper design and/or use of the proposed development or land division.

In other words, if the project can be designed in any other way to avoid the need for a variance, then you cannot use the variance.

(c) That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.

This means you will probably have to analyze how this will impact your neighbors. Talk to the City Planner for more details.

(d) That the granting of the Variance will not conflict with the purposes and objectives of the Comprehensive Plan and other related ordinances of the City.

This is a tough one. You will need to explain how your request complies with all applicable requirements of the Development Code, the Comprehensive Plan, and possibly other City Ordinances. All are found online.

But I really want to!

"I really want to" is not adequate justification to support a variance request. You need to satisfy the Code requirements. Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs. Again, a financial hardship is not justification for a variance

But the neighbors don't mind!

Neighborhood opinion alone can play a role in the hearing, but it does not help justify the request. Commissioners may feel a desire to respect the will of the residents, however, the request **must** meet Code requirements. Neighborhood opinion is not one of the stated criterion.

What do I need to provide?

- **A Site Plan.** You need to provide a site plan showing the property boundaries, the structure, and the issue that is causing the need for a variance.
- **The Narrative.** In Oregon it is the applicant's responsibility to show that they meet all City requirements, or "criteria." The applicant **must** provide a narrative explaining how they meet each requirement of the Code, specifically those on the other side of this page. Try not to give short, declarative answers; we need detail rich responses to assure you meet the requirements. Yes or no answers will not suffice. Include any other details that show you meet the criteria.
- **Application and Checklist.** The City uses one application for all land use case-types. You can find the application here- <http://cityofmillersburg.org/planning-forms/>. For all other items you will need, see the application checklist.

Who decides? How long does it take?

The Planning Commission decides a variance application and the process requires a full hearing. The entire process from the application submission usually takes about 2-3 months. If you are applying for other land use applications like Site Plan Reviews or Conditional Use Permits, the variance would be processed together with the other applications.

