



City of North Plains

31360 NW Commercial St. North Plains, OR 97133

Ph. 503-647-5555 Fax 503-647-2031

Email: info@northplains.org

PLANNING HANDOUT - VARIANCE

Introduction

What is a Variance?

By definition, a Variance is a "License to engage in an act contrary to a usual rule". The purpose of a variance is to provide administrative relief when a strict application of the zoning requirements of lot width, lot depth, building height, setback, access, or other dimensional or site requirements would impose practical difficulties. These difficulties may result from geographic, topographic, or other physical conditions on the site or in the immediate vicinity. For example, the location of a drainage ditch or similar feature may make it impossible for a new home to meet required yard setbacks. Due to the presence of this feature, it becomes necessary to modify the setbacks to allow construction of the home.

The City can only approve a Variance to address a hardship, and one that is a direct result of a limitation beyond control of the owner. In the above example, the location of the drainage ditch prevents the owner from constructing a home that meets the setback requirements. However, without the drainage ditch, there are likely no physical restrictions preventing compliance with building setbacks. Regulations specifically prohibit the City from approving a Variance to address individual or aesthetic preferences, personal economic factors to allow a use not otherwise permitted in the zone.

Minor variances, not to exceed 10%, from lot size, depth, width, area, coverage, landscaping and setback standards may be authorized administratively upon adequate demonstration by the applicant that the proposed variances shall be process as a Type II process. Variances outside the 10% threshold from lot size, depth, width, area, coverage, landscaping and setback standards must be process as a Type III process before the Planning Commission.

Handout Information

The Handout is part of a folder containing information to guide an applicant through the City's application process. While comprehensive, an applicant may wish to read the applicable Code Sections included in the folder as well as the information provided by City staff. This Handout includes the following information:

- 1) Process Steps
- 2) Approval Criteria
- 3) Public Hearings Procedures

Please use the following checklist to guide you through the process. **The steps in bold are those that the applicant must complete.** The City is responsible for the remaining Steps, although an applicant should track each step.

- Step 1: Pre-Application Conference**
- Step 2: Submit the Application & Pay Application Fees**
- Step 3: Notice of Complete Application – Staff has 30 days, however, in most cases, this is usually accomplished within one week of submittal.
- Step 4: Staff notifies all owners within 250 feet of the proposal and any applicable agencies of the application at least 20 days before the date of the Public Hearing of the application before the Planning Commission. A notice of the Public Hearing shall be published in the *Hillsboro Argus* at least 14 days prior to the hearing.

- Step 5: Staff prepares a Staff Report detailing the application's compliance with applicable *North Plains Zoning and Development Code* standards or other requirements that apply to a specific application.
- Step 6: Decision – the Planning Commission has 120 days from date application was deemed complete to make a decision, but this usually takes only 40-60 days and a decision is almost always made at the initial Public Hearing
- Step 7: Notice of Decision – Staff has 10 days from the date of decision by the Planning Commission to mail a Notice of Decision to the applicant, owner, a person who requests a notice, those who provided comments, and applicable agencies.
- **Step 8: Appeal:** Appeals shall be filed 15 days from the date the Notice of Decision.

Decision Criteria

- A. In order to approve an application, evidence must be presented that the request meets the following criteria, or may do so with the placement of specific development conditions;
- B. That special conditions and circumstances exist which are peculiar to the land, building or structure involved;
- C. That granting the proposed variance would be in the public interest and would be in harmony with the purpose of the underlying zoning district and the intent and purpose of this Ordinance;
- D. That the variance would result in minimal detriment to the immediate vicinity;
- E. That the variance requested is the minimum variance which would make possible the reasonable use of the applicant's land, building or structure; and
- F. That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant.
- G. An application for an Administrative Variance is limited to one lot per application.
- H. No more than three Administrative Variances may be approved for one lot or parcel in 12 months.