

Chapter VI - Variances

Zoning Variance

Many Planned Developments allow administrative (staff) approval of variances under 10% of the requirement, such as setbacks. All other code deviations must either be approved on a Site Development Plan or Planned Development by Town Council, or as a separate variance application to the Board of Adjustment. Please contact the Development Services Department for zoning variance questions and applications.

The Board of Adjustment is responsible to hear and decide requests for zoning and sign variances (Section 17.06.020) based on specific review criteria for zoning variances or for sign variances (Section 19.04.080). The Board of Adjustment also hears and decides variances reasonable accommodations for persons with a disability (Section 17.06.020). Finally, the Board of Adjustment is responsible for hearing appeals to any order, requirement, decision or determination made by administrative official (Section 17.06.020). Decisions of the Board of Adjustment are final subject to judicial review. Unless otherwise approved, the applicant has six months to apply for a building permit in accordance with the variance, and all new construction shall be completed within one year from the time the building permit is issued (Section 17.06.020).

Submittal Requirements for Zoning Variance:

- Application and fee(see Development Services Fee Schedule)
- Proof of Property Ownership/Approval of Property Owner
- Site plan and/or architectural drawings showing property lines, setbacks, location of existing structures, location or proposed/new structures on the subject property and building elevations, and photos, as necessary.
- Narrative stating the applicants' request. If the applicant is requesting a variance from the Municipal Code regulations, the narrative should include a description of the practical difficulty or unnecessary hardship caused to the applicant if strict enforcement of the regulations is applied.

Review Process for Zoning Variance:

1. Applicant submits the application, filing fee, and other documentation.
2. For variances that can be processed administratively, staff issues approval or denial. If staff denies a variance, the applicant may appeal the decision, which is reviewed by the Board of Adjustment as described below.
3. For variances that must be reviewed by the Board of Adjustment, the applicant must comply with the public hearing notice requirements in Section 17.04.050.
4. The Board of Adjustment reviews the request in a public hearing and approves, approves with conditions, or denies the variance.
5. If the variance is approved, the Board of Adjustment formulates a written finding as part of the record, stating the practical difficulties or unnecessary hardship involved and whether adverse effect on public health, safety and welfare, is caused by approval of the applicants' request. The Board of Adjustment has final authority, subject to judicial review in District Court.

Downtown Variance

A variance to the provisions outlined in the Downtown Overlay District, ([Chapter 17.42](#)) must be submitted to staff for review and then reviewed and approved by the Design Review Board. Often times, Downtown variances are processed concurrently with Downtown Site Development Plan. Please contact the Development Services Department with questions regarding proposed changes to Downtown buildings, facades, or site improvements.

Submittal Requirements for a Downtown Variance:

- Application form and fee (\$50)
- Justification about how the request meets the Downtown Design Review Board Variance criteria, [Section 17.42.100 C](#).

Review Process for Downtown Variance:

1. Staff review of requested variance
2. Public hearing before the Downtown Design Review Board, which is typically in conjunction with Site Development Plan review.

Skyline/Ridgeline Variance

The Town's skyline/ridgeline ordinance protects vistas and natural features by limiting building heights, requiring earth tone colors, evergreen trees and limited lighting (See [Skyline/Ridgeline map](#) and [Chapter 17.48](#)). Requests for variances to the skyline/ridgeline ordinance are heard by the Planning Commission with appeals to the Town Council. Please contact the Development Services Department with questions regarding proposed skyline/ridgeline application.

Submittal Requirements for Skyline/Ridgeline Variance:

- Application form for skyline/ridgeline variance
- Application fee (\$500 for initial lot and \$10 for each additional lot)
- Site plan, architectural facade drawings, renderings, photographs, photo-simulations, Geographic Information System (GIS) mapping simulations.
- Narrative stating the applicants' request and rationale for the variance in comparison to the criteria ([Section 17.48.090 C](#)).

Review Process for Skyline/Ridgeline Variance:

1. Applicant submits the application and filing fee
2. Staff reviews the request and makes any comments on the application.
3. The applicant must comply with the public hearing notice requirements in [Section 17.04.050](#).
4. The Planning Commission hears the request in a public hearing and based on the review criteria in [Section 17.48.090 C.](#), and either approves, approves with conditions, or denies the variance.
5. Appeals to the Planning Commission's decision must be filed within 30 days ([Section 17.48.090 B](#)). Those appeals are heard by the Town Council in a public hearing who makes the final decision.

Technical Criteria Variance

A technical criteria variance is a deviation from a provision in the Town's technical manuals ([Section 17.32.050](#)). Variances to any of the provisions in the Town's technical manuals can be approved either administratively, or by Town Council following appeal of an administrative decision. Exceptions from

the provisions of the technical manuals are considered on a case-by-case basis for specific applications only, and shall not establish a precedent for any other project or future development. Please contact the Development Services Department for technical criteria variance questions and applications.

Typically, a technical criteria variance is submitted with a Site Development Plan or Construction Documents and is reviewed concurrently. A property owner/applicant may choose to request Town Council's approval of a fundamental design element in conjunction with the Planned Development Plan or Site Development Plan; staff will provide an analysis of the requested variance to Council. If a technical variance is denied by the staff, the applicant may choose to appeal an administrative denial to the Town Council (Section 17.04.110).

Submittal Requirements for Technical Criteria Variance:

- Completed technical criteria variance application form (no fee).
- Criteria from which the variance is sought.
- Identification of the alternative design, improvement, or construction technique proposed to be used.
- Supporting documentation including: justification for variance including how the intent of the criteria is still being achieved, related calculations, plan sheets, details, exhibits, etc.
- The variance request shall be signed by the owner, and the engineer or design professional.

Review Criteria for Technical Criteria Variances (Section 17.32.050 C):

A technical criteria variance may be approved if one or more of the following criteria are met:

- a. The standards may be met by an alternative method that is demonstrated to have an equivalent or better function and meet the same objective;
- b. Physical constraints exist, such as steep topography or other natural hazards, which limit the ability to install the improvement, would limit healthy plant growth, or could cause safety concerns;
- c. Site conditions, including geology, topography, indigenous soils, or issues related to environmental impacts or wildlife habitat, may be better addressed through the alternative proposal.

Documentation of a Technical Criteria Variance:

Technical criteria variances shall be documented on Construction Drawings for construction and inspection purposes and on Record Drawings for operational purposes. All variances on a project shall be listed on Site Development Plans and Construction Drawings including: the Variance Number, description of the Variance, any conditions of approval, and the approval date.