

CITY OF GREAT FALLS
PLANNING & COMMUNITY DEVELOPMENT DEPT.
P.O. BOX 5021, GREAT FALLS, MT, 59403-5021
406.455.8431 • WWW.GREATFALLSMT.NET

VARIANCE APPLICATION

Date:

Application Number:

\$1,250 Application Fee ☐

Public Hearing Notice ☐

Paid (Official Use ONLY): ☐

CONDITION FOR VARIANCE

Montana Statutes require an *unnecessary hardship* as a condition for a variance. "Variance" means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

Owner / Representative Name:

Mailing Address:

Phone:

Email:

Requested Action: A variance from Title:

Chapter:

Article:

Basis for Request:

PROPERTY DESCRIPTION LOCATION:

Mark/Lot/Block:

Addition:

Section:

Township:

Range:

Street Address:

ZONING:

LAND USE:

Current:

Current:

I (We) the undersigned understand that the filing fee accompanying this application is not refundable. I (We) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (We) further understand that public hearing notice requirements and associated costs for land development projects are my (our) responsibility. I (We) further understand that other fees may be applicable per City Ordinances. I (We) also attest that the above information is true and correct to the best of my (our) knowledge. NOTE: If the applicant is not the owner of record, the signature of the owner of record must also be obtained.

Property Owner's Signature:

Date:

Representative's Signature:

Date:

Variance Application Checklist

A complete Variance Application shall include but is not limited to the requirements listed in Table 1 below. Additional information may be required prior to a Variance Application being deemed complete.

Table 1: Application Requirements		Staff	App.
Variance Application	Complete basic applicant and project information included on page 1.	<input type="checkbox"/>	<input type="checkbox"/>
Application Fee	Non-refundable Variance Application Fee - \$1,250	<input type="checkbox"/>	<input type="checkbox"/>
Variance Description	Condition for variance: Montana statutes mention “unnecessary hardship” as a condition for a variance. Please attach a description that includes: Requested action: state Title and Section specifically related to the request Basis for the request:: specifically state the reason for the request	<input type="checkbox"/>	<input type="checkbox"/>
Complete Site Plan	2 Copies	<input type="checkbox"/>	<input type="checkbox"/>

Variance Site Plan Requirements

Table 2, below, contains the requirements for a complete Variance application site plan. The requirement must be submitted unless waived by a planner at a pre-submittal meeting. City Staff will place an X in the box for all required submittal items. Applicant will complete the checklist by placing an X in the App. box of each item to indicate that it has been submitted.

Table 2: Site Plan Requirements		Staff	App.
Project Information	(a) Project name (b) Developer and landowner name (c) Preparation date (d) Name of preparer	<input type="checkbox"/>	<input type="checkbox"/>
Survey Information	(a) North arrow (b) Graphic scale (c) Legal description (d) Property boundaries (bearings, lengths, curve data) (e) Acreage of subject property	<input type="checkbox"/>	<input type="checkbox"/>
Project Development Information	(a) Easements/rights-of-ways (location, width, purpose, ownership) (b) No build/alteration zones, if any (c) No ingress/egress zones, if any	<input type="checkbox"/>	<input type="checkbox"/>
Setting	(a) Property boundaries within 150' of subject parcel (b) Names of property owners within 150' of subject parcel (c) Adjacent land uses within 150' of subject parcel (d) Municipal boundaries, if applicable	<input type="checkbox"/>	<input type="checkbox"/>
Site Features (Existing and Proposed)	(a) Wetlands (b) Woodlands (c) Wildlife habitat, including critical wildlife habitat (d) Environmentally sensitive features (e) Water resources (rivers, ponds, etc.) (f) Floodplains (g) Irrigation canals including diversion point(s), etc. (h) Other hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, high-pressure natural gas lines, and others as appropriate.	<input type="checkbox"/>	<input type="checkbox"/>

Site Plan Requirements Cont.

GENERAL INFORMATION		Staff	App.
Transportation Facilities (existing and proposed)	(a) Roads (names, ownership, etc)	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Driveways and road access onto public and private roads		
Buildings/ structures (footprint, use, etc.)	(a) Existing and proposed within project	<input type="checkbox"/>	<input type="checkbox"/>

Citizen's Guide to Zoning Variances

Introduction

A city does not stand still; it is constantly changing and thus requires guidance for orderly growth to take place. The City of Great Falls Land Development Code and several detailed community plans provide guidance, and the zoning ordinance is the principal tool used to actually control growth and protect property values through regulating land uses. However, it is occasionally necessary to allow situations contrary to the strictest interpretation of the zoning ordinance. A variance is such a degree of leniency without which, an unnecessary hardship would be suffered by the property owner. Such variance cases are decided by the Board of Adjustment.

The Board of Adjustment and its Authority

Montana State Law grants the Board its authority. The Board consists of five voting members appointed by the City Commission for three year terms. These Board members are lay citizens not City Staff, selected from various walks of life.

Examples of Variance Requests that may be Justifiable

An extra wide utility easement which interferes with the buildable area of a lot may justify encroachment into a required area. Unusual size, shape or topography of a lot may justify some variance from what would normally be required under the ordinance.

Application Procedures

Fill out the application, in preparing your application, be as detailed and specific as possible. Incomplete information may result in your case being delayed to another hearing date or denied. You are required to define your hardship and list your justification for the variance request.

You must submit a plot plan (two copies) drawn to scale (1"=20' minimum). It should include the following information: Actual lot dimensions; size and location of all existing and proposed structures including proposed additions; locations of all hard surfacing, including driveways and parking areas; distances to nearest dwelling on adjoin properties.

A certified survey is required if there is a property line dispute.

Building elevations, floor plans and any other pertinent information should be submitted if applicable.

There is a \$1,250.00 filing fee to help defray the costs of administrative research and paperwork involved in processing the application. This fee is non-refundable whether the request is approved or not. No processing will be performed until this fee has been paid.

Requests that are Not Considered Justifiable

A hardship is not a problem that you create yourself. For instance, if you build your house in such a manner that you cannot expand the living room without encroaching into a required yard, you have created that situation and the ordinance does not recognize that as a legitimate hardship. Likewise, the fact that it might cost you less money to add an extension in a required front yard rather than adding to the house where the addition would be permitted outright, is not a hardship. If you purchased a sloping hillside lot, and wish to excavate or fill to create a flat lot and reduce building costs, you do not have a justifiable hardship. Similarly, if you purchased a home with an attached garage and the side yard is too narrow to be able to drive through to the rear yard, you may not justifiably request a variance to convert the garage into living area. By doing so you would be eliminating your required off-street parking with no way to legally provide for it.

The important point is whether you would be deprived of property rights, not desires. Financial hardship is not considered a legitimate reasons for seeking a variance.

Citizen's Guide to Zoning Variances Cont.

Processing the Application

The Board of Adjustment meets on an as needed basis. Hearings are typically conducted at 3:00 p.m. in the City Commission Chambers, however the time may be changed to accommodate scheduling. All concerned are notified of applicable times and dates.

All property owners within 150' of the subject variance are notified by letter of the request and the date and time of the hearing. They may address any comments, questions or concerns at the hearing or send written material to the Planning & Community Development Department.

All information and supporting documents become the property of the City and cannot be returned to you. They will be filed with your property file.

Appealing a Board of Adjustment Decision

Under Montana Stat Law, you have the option of appealing any ruling made by the Board of Adjustment. The applicant an/or aggrieved person may appeal a final decision, made by the Board of Adjustment, by filing an appeal with a court of competent jurisdiction within 30 days of the final decision. (See: 76-2-327(1), MCA)

The Board of Adjustment

The powers of the Board of Adjustment: City ordinance provides that the Board of Adjustment has the power to interpret ambiguous zoning codes and to hear request for variances that are dimensional in nature.

Variances: The purpose of a variance, the sole legitimate purpose, is to so modify the application of a zoning ordinance as it applies to the property in question to bring the privileges of that property to a parity with other properties similarly located and classified. A variance can be tested for validity by various known criteria including:

1. There are exceptional or extraordinary circumstances applicable to the property or to the intended use that do not apply generally to other property in the same vicinity and zoning district.
2. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but which is denied to the property in question.
3. The strict application of the ordinance would constitute unnecessary hardship.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity or zoning in which the property is located.
5. The board is bound to accept the zoning ordinance and map as correct, and should abide by its purpose and spirit.

Additional Criteria

1. The board is bound to accept the zoning ordinance and map as correct, and should abide by its purpose and spirit.
2. The financial situation of a particular individual or pecuniary hardship upon a single owner is NOT adequate grounds for the granting of a variance, if the granting of the variance will impair the intent and purpose of the zoning regulations. Both the private hardship and lack of injury to the public interest must occur.
3. Inability of the owner to rent or use the property if the zoning regulations are strictly applied may be considered, but is not in itself sufficient. The fact that the variance will depart but slightly from the intent and purpose of the law is, however, by itself a substantial argument in its favor.
4. The plight of the owner must be unique; if many lots in the same neighborhood are in need of the same variance, the remedy would be a change in the boundary of the zoning district, not a wholesale grant of variances.
5. The public need of the use of property in accordance with the variance sought is a ground for favorable consideration in granting a variance, and conversely, the fact that there is no such public need is a reason why a petition for a variance should be denied.
6. The good faith of the applicant, his ignorance of the zoning restrictions, or his expectations of a grant of a variance when he acquired the property are NOT GROUNDS for granting a variance.
7. The hardship which justifies a variance must be a hardship which arises out of the application of a particular provision of the ordinance to a particular lot or parcel of land. A variance in the use of one lot cannot be granted to alleviate hardship upon another.