

## VARIANCE PROCEDURE

Only certain items qualify for consideration of a variance under State Statutes and City Ordinance. The Board of Zoning Appeals (BOZA) may grant variances from the strict application of the provisions of the Zoning Ordinance provided that the shape or topography of the lot creates an undue hardship in developing the lot and is not merely serving as a convenience. The variance would also be necessary for the preservation of a property right as well as showing that it will not impair light and air to the surrounding properties. In addition, it would have to be demonstrated that the variance will not unreasonably impact the character of the neighborhood and proof given that the variance will not be contrary to the intent of the Zoning Ordinance.

An undue hardship as used in connection with the granting of the variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls. As well, the plight of the landowner is due to circumstances which are unique to the property, and were not or are not being created by the landowner. Economic consideration alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Persons desiring consideration of a variance from the provisions of the Zoning Ordinance are to follow the procedure explained below:

1. Before filing a variance petition, the petitioner must meet with the Asst. Zoning Administrator to discuss the proposed petition and become familiar with the requirements of the application.
2. The Asst. Zoning Administrator will provide the petitioner with the application forms if the petitioner so desires after the completion of the pre-application conference.
3. All questions on the application form must be answered. There are six parts to the variance application.
  - All items on application form must be completed.
  - Check for the appropriate amount. (Please see application form.)
  - One set of mailing labels for all the property owners within 350 feet of the boundaries for the parcel requesting the variance. **PLUS** a map or plat showing the lands proposed for a variance and all the lands within 350 feet of the subject property. Both of these items must be prepared officially by the Hennepin County Auditor's Office located on the 6<sup>th</sup> floor of the Government Center. (Telephone: 612-348-5910)
  - A current survey of the property showing the existing and any proposed buildings on the site. The survey must be dimensioned.
  - A complete and accurate legal description of the property. If the property is Torrens, a copy of the most current Certificate of Title must accompany the application. If the property is not Torrens, a copy of the most recent document which transferred title (Warranty Deed) must accompany the application.
  - A written explanation as to how the proposed variance request complies with the seven criteria listed for granting a variance. (Letters A – G)

**Applications will not be filed until all parts of the application have been received and found to be in proper order by the Asst. Zoning Administrator.**

4. All applications shall be filed 30 days prior to the meeting day.
5. The Community Development Department will notify the petitioner in writing as to the time and place the BOZA will conduct the public hearing.
6. The BOZA, at a public hearing, will consider the petitioner's request. The petitioner should be present at this meeting in order to answer questions and facilitate action by the Board.
7. If the BOZA finds that the conditions exist justifying the variance, a variance may be granted. The BOZA may deny a variance or defer action to await additional information. The Board shall adopt a resolution approving or denying the variance.
8. This resolution shall become effective after the 10-day appeal period explained below.
9. Any person aggrieved by the decision of the Board has the right to appeal that decision to the City Council. A written request for an appeal of the Board's decision in addition with a new set of mailing labels for the property owners within 350 feet of the subject property must be submitted to the Community Development Department within 10 days of the Board's final action.

**NOTE: The ordinance requires that the conditions set forth in the following items; A-G, must be satisfied in order for a variance to be granted. Explain in detail on a separate sheet of paper how your case conforms to each of these requirements. Please be specific when addressing these items. The Board must establish findings which support the application as it relates to each of these conditions.**

- A. Where by reason of narrowness, shallowness, or shape of the lot, or where by reason of exceptional topographic or water conditions or other extraordinary and exceptional conditions of such lot, the strict applications of the terms of this ordinance would result in a peculiar and practical difficulties or exceptional or undue hardship upon the owner of such lot in developing or using such lot in a manner customary and legally permissible within the zoning district in which said lot is located.
- B. Conditions applying to the structure or land in question are peculiar to such property or immediately adjoining property and do not apply generally to other land or structures in the district in which said land is located.
- C. The granting of the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
- D. The granting of the proposed variance will not impair an adequate supply of light and air to the adjacent property, unreasonably increase the congestion in the public streets, increase the danger of fire, or endanger the public safety.
- E. The granting of the variance will not unreasonably impact on the character and development of the neighborhood, unreasonably diminish or impair established property

values in the surrounding area or in any other way impair the health, safety, comfort, or morals of the area.

- F. The granting of the proposed variance will not be contrary to the intent of the Zoning Ordinance or Comprehensive Plan.
- G. The granting of the variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable undue hardship or difficulty.

#### **ISSUANCE OF A BUILDING PERMIT**

A building permit will not be issued until a variance has been approved, and the 10-day appeal period has expired. A completed building permit application and two (2) sets of construction drawings and specifications must be submitted to the Inspections Department for review prior to permit issuance. The review process may take up to five (5) working days for residential projects and ten (10) working days for commercial projects.

## **VARIANCE APPLICATIONS**

Variance applications are reviewed by the BOZA on the fourth Thursday of the month.\* To be eligible for consideration, a **COMPLETE** application package must be received by the Community Development Department on the following dates:

### **2012 BOZA Meeting Dates**

<b>Application Deadline</b>	<b>To be considered on</b>
November 22, 2011	December 22, 2011
December 27, 2011	January 26, 2012
January 23, 2012	February 23, 2012
February 22, 2012	March 22, 2012
March 26, 2012	April 26, 2012
April 24, 2012	May 24, 2012
May 28, 2012	June 28, 2012
June 26, 2012	July 26, 2012
July 23, 2012	August 23, 2012
August 27, 2012	September 27, 2012
September 25, 2012	October 25, 2012
October 26, 2012	November 27, 2012*
November 27, 2012	December 27, 2012

An application is not considered complete and will not be accepted until all the requirements are satisfied.

\* If the fourth Thursday of the month is a holiday, the meeting will be held on the following Tuesday.

## CITY OF ST. LOUIS PARK APPLICATION FOR VARIANCE

Single Family Dwelling      \$300.00  
 All Others                      \$500.00  
 Recording Fee:  
     Single Family Res.      \$ 50.00  
     Other Uses                \$120.00  
 Total                              \_\_\_\_\_

Asst. Zoning Admin. \_\_\_\_\_  
 Filing Date \_\_\_\_\_  
 Case No. \_\_\_\_\_

Address of  
 Subject Property \_\_\_\_\_

Name of  
 Applicant \_\_\_\_\_ Phone No. \_\_\_\_\_

Address of  
 Applicant \_\_\_\_\_  
 \_\_\_\_\_

Name of  
 Fee Owner \_\_\_\_\_ Phone No. \_\_\_\_\_

Address of  
 Fee Owner \_\_\_\_\_  
 \_\_\_\_\_

Present Use	Proposed Use	Present Zoning	Date Property Acquired
_____	_____	_____	_____

Variance from the following  
 Section(s) of the Zoning Ordinance

Requirements of above  
 mentioned Section(s)

Why is variance  
 being requested?

**ACKNOWLEDGEMENT AND SIGNATURE**

The **undersigned** hereby represents upon all the penalties of law, for the purpose of inducing the City of St. Louis Park to take the action herein requested, that all the statements herein are true and that all the work herein mentioned will be done in accordance with the ordinance of the City of St. Louis Park and the laws of the State of Minnesota.

BY: \_\_\_\_\_  
(Name of Applicant – please print)

Signature \_\_\_\_\_

\_\_\_\_\_  
Fee owner if different from applicant  
or attach letter from fee owner