

WHAT IS A VARIANCE?

A variance is special authorization from the City to allow you to vary from the City's normal development requirements. The variance process is designed to provide relief in unique circumstances where strict adherence to City Code requirements would cause an undue burden or hardship. Variances are typically sought for relief from dimensional requirements such as building setbacks, building height, accessory structure size, residential driveway width, and so on. Please note that variances cannot be granted to permit a use not normally allowed on a parcel, or to convert a nonconforming use to a conforming use.

DO I NEED A VARIANCE?

Variances are granted by the City as a last resort, after all other reasonable solutions have been exhausted. If there is a circumstance unique to your property that would deprive you of the same use enjoyed by the owners of similarly situated property in the same zoning district, then you may be eligible for a variance.

REVIEW CRITERIA FOR VARIANCES

The following criteria are used by the City in reviewing variance requests:

- Unique circumstances and conditions, which are peculiar to the land, structure, or building, are involved, and are not the result of actions of the applicant.
- Literal interpretation and enforcement of the City's development regulations would deprive the applicant of property rights and would render unnecessary and undue hardship.
- The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure.
- Granting of the variance request will not confer on the applicant any special privilege that is

denied by the development code to other lands, buildings or structures in the same zoning district.

- The granting of the variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.

Physical hardship, such as a disability, may be considered by the City if the variance is needed to comply with federal ADA (Americans with Disabilities Act) requirements. However, financial disadvantages or inconveniences cannot be grounds, in of themselves, to justify granting a variance.

VARIANCES FOR PUD/PCD DISTRICTS

Requests for variances follow the requirements and procedures described in this brochure, except for properties located in Planned Unit Development (PUD) and Planned Commercial Development (PCD) districts.

These special zoning districts have their own variance procedures that are adopted as part of the Master Development Agreement that guide development within the PUD/PCD. The Agreement specifies how variance requests in a PUD/PCD are to be processed. Department staff can help you verify whether your request should be handled in this manner.

APPLYING FOR A VARIANCE

To request a variance, you will first need to schedule a Variance Consultation Meeting with a member of the City's Planning Staff and complete a Variance Application form. The application form is available from the Department of Community Development located on the second floor of City Hall, 1000 City Center Circle.

Variance application requirements include:

- Completed application form;
- Letter outlining the request that addresses the specific review criteria noted earlier in this brochure and demonstrates a hardship;
- Proof of ownership (deed);
- Accurate survey of property (11" x 17" maximum size) that shows the proposed improvements for which the variance is being requested; and
- Processing and review fee.

Upon receipt of a completed application, your request will be placed on the Planning Commission (PC) agenda. The PC generally meets on the fourth Thursday of each month. The submittal deadline and Planning Commission Meeting date for review and approval of Variance applications is set forth by the adopted Critical Dates Calendar for Public Hearings. Calendars and meeting schedules are available through the Department of Community Development. You should plan on at least two months to complete the variance process.

VARIANCE CONSULTATION

The first step in the variance application process is to meet with the planning staff for a variance consultation meeting. This meeting allows the applicant to discuss the issues pertaining to his or her application and also enables staff to explain the variance process and the review criteria. To schedule a consultation meeting, please call the Department of Community Development at (386) 506-5600.

ADVERTISEMENT FOR A VARIANCE

Between the time you submit an application and the PC meeting, a legal advertisement will appear in the Daytona Beach News-Journal regarding your request, a small sign will be posted on your property that describes your request, and notification will be mailed to all adjoining property owners outlining your request. These public notices are required by law.

The applicant for the variance will be required to pay the Legal Advertising Costs. The advertising fees will be billed separately through the City Clerk's Office at a later date. Please note that the Daytona Beach *News-Journal* currently charges **approximately \$372.00** for the variance ads.

VARIANCE REVIEW PROCESS

Procedurally, the City's Planning Staff provides a recommendation to the PC regarding your variance request.

The PC, a board comprised of seven citizens from the community and appointed by the City Council, will make the final determination on your request. You or your representative should attend the PC meeting to answer any questions. If you are the applicant, you will receive a copy of both the PC agenda and staff report prior to the meeting.

ADMINISTRATIVE VARIANCES

If the variance you request is less than ten percent of the required dimension (setback, height, and so on), then you may qualify for an Administrative Variance. This type of variance can be granted by the Director of Community Development and does not require approval by the PC. However, the variance request must meet the review criteria described in this brochure. If the Director does not find that your request meets the review criteria, then the variance request must be considered by the PC. Department staff can advise if you qualify for an Administrative Variance. You will need to complete an Administrative Variance Application available from the Department of Community Development located on the second floor of City Hall, 1000 City Center

Circle. Administrative Variance Applications must include all of the items that would normally be submitted with a standard variance application.

EXPIRATION OF AN APPROVED VARIANCE

Approved variances run with the property and are automatically transferred to a new property owner, unless otherwise noted by the Planning Commission.

However, any variance not utilized within two years of approval by the PC becomes void; requiring a new application and approval.

APPEALS

Any party aggrieved by a decision of the Planning Commission on a requested variance shall have the right to appeal the Commission's decision to the City Council. To file an appeal, a written request along with a processing fee of **\$100.00** must be received by the Administrative Official no later than the closure of the fifth business day after the rendition of the Commission's decision on the requested variance. However in order to file an appeal, such party must have been present at the Planning Commission Meeting and entered testimony into the record.

The City of Port Orange Department of Community Development maintains a professional staff to assist with your specific development needs. Please feel free to contact our staff by telephone or appointment at:

City of Port Orange
Department of Community Development
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5600 Telephone
(386) 506-5699 Fax
www.port-orange.org

CITY OF PORT ORANGE

VARIANCE AND ADMINISTRATIVE VARIANCE APPLICATIONS

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