



# VARIANCE

A **variance** (or exception) from land use regulations may be granted in cases where unique circumstances create difficulties in reasonably using a property. An example of a variance case might be a request for placement of a building within the required setback area because of a ravine or poor soil conditions on the lot.

Variance requests are generally heard and decided by the City Planning Commission. Exceptions apply.

**Variance Criteria:** In order for a variance to be granted, the applicant must demonstrate that **all** of the following criteria are met:

1. There must be **practical difficulties** which deny the applicant reasonable use of the property. An issue of cost by itself does not constitute a practical difficulty.
2. There must be unusual or **unique circumstances** related to the property or building which do not apply to other properties/buildings in the same zone or vicinity and that were not created by the applicant and/or property owner.
3. The variance must not alter the **character of the property or neighborhood**.
4. The variance must be **consistent** with the **Comprehensive Plan**.
5. The variance must be in **harmony** with the **purposes and intent** of the Zoning Ordinance.

## **Process:**

1. An application for a variance is submitted to the Community Development Department. Applications can be found online at the city's website.
2. The application is reviewed by the Administrative Review Committee (ARC). ARC is made up of staff members who review the request to determine whether or not it meets the variance criteria. ARC members may request additional information and/or ask that changes be made to the proposal.
  - > ARC meets on Thursdays at 10:30 a.m. Applications are due one week before the ARC meeting.
  - > An ARC meeting is generally not held for single-family residential Variances. ARC members submit comments to the Community Development Department, and those comments are conveyed to the applicant.
3. Applications must be submitted at least **28 days** before the scheduled hearing and must be complete at least **14 days** before the hearing. The Planning Commission meets on the **4th Monday of each month** at 7:00 p.m.

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**ZONING CODE**  
**SECTION 547.11**

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4. The Planning Commission conducts a public hearing. Notice of the hearing is mailed to property owners and occupants within 350 feet of the subject property and is published in the *Richfield Sun-Current* newspaper.
5. The Planning Commission shall render a decision and a written decision including supportive findings shall be mailed to the applicant.
6. The applicant must record an approved variance with the Hennepin County Recorder or Registrar of Titles prior to the issuance of building permits.

**Application Review Timeline:** The City is required to notify applicants within 15 business days of receiving a zoning application as to whether or not an application is complete. Once an application is complete, the City has 60 days to issue a decision.

The City has the option of extending the 60-day review period by an additional 60 days if written notice describing the reason why an extension is needed is provided to the applicant. The City makes every attempt to process applications within 60 days.

**Appeals:** Any party aggrieved by the decision of the Planning Commission may appeal the decision within 10 days of the date of the decision. A decision on the appeal will be made within the original 60 day time frame unless the City Council extends the deadline. Any applicant who starts construction before the appeal period has expired assumes the risk that the decision may be reversed upon appeal.

**Rehearings:** An applicant may apply for a rehearing of a denied variance within 7 days of the date the decision by the Planning Commission if significant new factual evidence can be presented. The request for rehearing shall state the nature of the new evidence and why it was not previously available. If a rehearing is allowed the Planning Commission's decision shall be withdrawn.

**Expiration Date of Variance:** Any variance granted shall expire one year after it has been granted. If the applicant is unable to complete the project, the City Council may extend a variance for an additional period of time if the person or corporation holding the variance submits a written request for an extension before the end of the one year period. An additional fee is required for an extension.

**Additional Information:**

- Conditions may be imposed when granting a variance in order to ensure compliance and protect adjacent properties.
- A cash escrow may be required by the Planning Commission in order to insure compliance with any conditions of the variance. A cash escrow is required for any required landscape improvements.

**Application Fee:**

The fee for a variance application are as follows:

- Residential variance = \$350
- Non-residential variance = \$500
- Variance appeal = \$350

**This is a guide to the most common questions and problems. It is not intended nor shall it be considered a complete set of requirements.**