

# Guide

## *Applying for a Variance*

### ***What is it?***

A Variance is a request for relief from strict application of zoning regulations to alleviate an unusual hardship to a particular property. For example, a homeowner may request that a room addition be permitted to cover more of the property than the Zoning Ordinance would normally allow.

### ***When would I need one?***

Check with the Planning Department to determine the zoning district in which your property is located. A Variance can restore to a property rights that other, similar properties typically have, but which that property cannot enjoy because of certain **physical** limitations. Such limitations may include the property's size, shape, topography, location, or surroundings. For example, you might request a Variance for a reduced setback if your property is unusually narrow or on a steep slope.

### ***When can it be granted?***

Special circumstances must exist before a Variance can be granted. A Variance cannot give special privileges that other properties do not have, nor can it approve a land use that is otherwise prohibited in the Zoning District.

By law, Alameda County must make the following findings to grant a Variance.

1. There are special circumstances applicable to the property, which deprive the property of privileges enjoyed by other properties in the vicinity under identical zoning classification.
2. The granting of the application will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone.
3. Granting the application will not be detrimental to persons or property in the neighborhood or to the public welfare.

### ***Who decides whether to approve it?***

Either the West County Board of Zoning Adjustments or East County Board of Zoning Adjustments, depending on where the property under application is located.

### ***What is the process?***

1. **Prior to application submittal** – Talk to a Planning Department staff member to determine what materials you need to prepare.
2. **Application Filing** – Submit the required applications and materials to the Planning Department. You must contact the Planning Department and set up an appointment with a Senior Planner to review the proposed application.
3. **Staff Review** – Planning Department staff will review the materials to ensure that the proposed project meets the minimum zoning requirements, and then refer your application to public agencies such as school, park, and fire districts. Staff will visit your property and write a report and make a recommendation to the Board of Zoning Adjustments or Planning Commission. We will notify you of a public hearing date and send you a copy of the staff report prior to the hearing. We will also mail and post public hearing notices in your neighborhood.
4. **CEQA Review** – Generally applications of this type are exempt from the California Environmental Quality Act (CEQA). However, there may be exceptions depending on the project, and further environmental review and time may be necessary at additional cost.
5. **Public Hearing** – At the hearing, the Board of Zoning Adjustments will consider your testimony as well as that from any other interested person. The Board of Zoning Adjustments will then decide to approve, conditionally approve or deny your request for a Variance. A written resolution will be mailed

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to you 2 days later. If the Variance application is part of a Conditional Use Permit, Site Development Review, or Subdivision, the Castro Valley Municipal Advisory Council may hear it with the other. In rare cases will the Castro Valley Municipal Advisory Council hear a stand-alone Variance.

6. **Appeal Period** – There will be a 10-day appeal period, after which time the Board of Zoning Adjustment's action will be final, unless a written appeal is filed with the Board of Supervisors.

### *Who decides whether to approve it?*

Either the West County Board of Zoning Adjustments or East County Board of Zoning Adjustments, depending on where the property under application is located; or in some cases the Planning Commission.

### *What must I submit?*

- A complete **Standard Application** form signed by the property owner.
- A complete **Application Supplement Variance** form.
- **\$2,500** at cost deposit for all districts.
- Project drawings, drawn to a reasonable (legible) scale. A sample plot plan is included in the **Application Supplement**. Variance application form.
- A brief written statement explaining how your proposed use relates to each of the three findings required by law for a Variance to be granted.
- Any additional materials requested by the Planning Department.

### *How long is the process?*

In most cases, two to three months, depending on the proposed use and the complexity of the project. Some applications will require much more time to process. An Appeal will add approximately two months to the processing time.

### *What is the filing fee?*

The filing fee is a deposit which covers the costs of processing the Variance request. The deposit is \$2,500 for all districts.

Many if not most applications are processed at actual cost. Your required deposit may be more or less than this amount, depending on the complexity or magnitude of the proposed Variance. If the deposit is depleted, you must deposit additional money for application processing to continue. We will refund any excess funds to you.

### *What information should I include in my written statement?*

You may include any information that you believe will support your application and written findings. You should include information describing the size, hours and days of operation, number of employees, lighting, noise generation, and parking issues the project may generate. Common sense, factual information is very useful. You may also submit any drawings or other materials that would support your application and written findings.

Be sure the drawings clearly show all relevant views of any structures. Remember, you as the applicant probably know more about your proposed project than anyone else. Let us know what you know. We also appreciate photos.

### *Is there a public hearing?*

Yes. A public hearing is required for a Variance. Either the West County Board of Zoning Adjustments or East County Board of Zoning Adjustments will hear your application, depending on where the property under

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application is located, or in certain cases (larger projects such as schools) the Planning Commission.

### ***What conditions might be applied?***

Conditions vary depending on the particular use and its proposed location. Possible conditions include restrictions on hours of operation, the type of structure, that may be used, and the length of time the permit is valid.

### ***What if my application is denied?***

You or another interested party may appeal the Board of Zoning Adjustments or the Planning Commissions decision to the Board of Supervisors, who will reconsider your request. The Board of Supervisors decision is final.

### ***How is an appeal filed?***

You or any other person, who is not satisfied with the decision, may appeal the action to the Clerk of the Board of Supervisors within 10 calendar days of the decision. To appeal, you must file an appeal letter and submit a fee (\$250 for applicant or other interested parties) to the Board of Supervisors, which will then set a date for a public hearing to consider the appeal.

### ***Where are public hearings held?***

**Municipal Advisory Council (MAC)** hearings are held at various locations, depending on which MAC body has jurisdiction: Castro Valley MAC, Eden MAC, Fairview MAC, or Sunol MAC. Staff will let you know the place and time of the public hearing, if one is held.

**East County Board of Zoning Adjustments** hearing is held on the 4<sup>th</sup> Thursday of the month at 1:30 p.m. The Board meets in the Public Works Operations Building at 5825 Gleason Drive in Dublin.

**West County Board of Zoning Adjustments** hearings are held on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays of the month at 6:30 p.m. (2<sup>nd</sup> Wednesday) and 1:30 p.m. (4<sup>th</sup> Wednesday). The Board meets in Room 160 of the

Alameda County Community Development Agency offices at 224 West Winton Avenue in Hayward.

**The Alameda County Planning Commission** hearings are held on the 1<sup>st</sup> and 3<sup>rd</sup> Mondays of the month at 6:00 p.m. The Commission meets in Room 160 of the Alameda County Community Development Agency offices at 224 West Winton Avenue in Hayward.

**The Alameda County Board of Supervisors** generally holds hearings on planning and zoning matters on the second Tuesdays of the month at 1:00 p.m. in the board of Supervisors chambers, 5<sup>th</sup> floor, 1221 Oak Street, in Oakland.

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## Variance

- For complete filing instructions, see the **Standard Application** form.
- For general procedures and guidelines, read the handout “*Applying for a Variance*”
- You must make an appointment with a Planning Department staff member to determine if materials or information (in addition to those listed below) are needed to evaluate your project.
- If Variance involves new construction or additions, then subject information required per Site Development Review Supplemental forms.
- If you have any questions, please call (510) 670-5400.

1. Applicant Name: \_\_\_\_\_
2. Contact the Planning Department at (510) 670-5400 to make an appointment with a Senior Planner to submit the following materials to the Alameda County Planning Department (Zoning Counter) at 399 Elmhurst Street, Hayward, California. **We will not accept incomplete applications.** Please use the following checklist to ensure the application is complete.

### Required

- Standard Application** form.
- Application Supplement:** *Variance* form.
- Filing Deposit:** Make check payable to “**Treasurer, County of Alameda.**”

**\$2,500** deposit for all Districts. If this deposit is depleted, the Planning Staff will advise you that additional funds must be deposited to continue the processing of this application. Any remaining unexpended money will be refunded.

- Project Drawings:** Show all information as shown on the **Sample Plot Plan** on the back of this form.

To start the submittal process:

- Electronic files of the drawings, .pdf formatted.
  - Site Plans
  - Floor Plans
  - Building Elevations (including color drawings)
  - Preliminary Grading Plan
  - Preliminary Landscape Plan (including color drawings)
  - If on a Hillside: Building Section Drawings

During the project review phase:

- Paper drawings in the quantity and paper size as requested by Planning Department staff.
- Materials and Color Board

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<b>V-</b>	<b>Variance Application Supplement</b>
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**Written Statement:** On an attached sheet, briefly explain how your property specifically relates to each of the following findings required to approve a Variance.

1. There are special circumstances applicable to the property, which deprive the property of privileges enjoyed by other properties in the vicinity under identical zoning classification.
2. The granting of the application will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone.
3. Granting the application will not be detrimental to persons or property in the neighborhood or to the public welfare.

**Supporting Documents:** Other documents to support the project may include elevations, floor plans, applicable permits from other County, State or Federal agencies.

**Other Information requested by Planner:** \_\_\_\_\_

**If Variance involves new construction or additions,** then subject information required per Site Development Review Supplemental forms.

**Call for appointment to meet with a Senior Planner for submittal.**

**Applicant Signature verifying that the applicant understands the application process:**

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Applicant Signature Date

<b>V-</b>	<b>Variance Application Supplement</b>
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- The following preliminary plans must be prepared and signed by a registered Civil Engineer or a licensed Land Surveyor, Architect, Landscape Architect, or Building Designer
- Graphic Information must be drawn to scale and must be legible on originals and reductions.
- The Planning Department may request more information as needed to fully review the project.
- The Planning Department may allow certain site Development Plan requirements to be consolidated, reduced or deleted depending on the size, nature and complexity of the proposed project.

**1. Site Plan**

**Title Block** showing:      **Applicant** name, address, signature and phone number;  
   **Property Owner** name, address, signature and phone number  
   **Plan Preparer** name address and phone number  
   **Project Address**  
   **Assessor's Parcel Number(s)**  
   **Note** (if applicable) "Proposed modifications to approved S-\_\_\_\_\_"

**Statement by Plan Preparer**

"I, \_\_\_\_\_, certify that this Site Plan has been prepared by me or under my direction and do attest to the accuracy of all information indicated hereon. Signature \_\_\_\_\_  
Title \_\_\_\_\_ Reg no. \_\_\_\_\_ Date \_\_\_\_\_"

- North Arrow and Scale:** Minimum scale is 1" = 20".
- Boundaries:** show parcel dimensions in distance and bearing. Show distance from parcel to nearest street intersection and distance from parcel to centerline of street.
- Buildings and Structures (existing and proposed):** Show dimensions, location and proposed uses. Delineate each residential unit or space.
- Adjacent Properties:** State use of all abutting properties. Show location, height and number of stories of buildings.
- Building Appurtenances:** Show location and dimensions of balconies, exterior corridors, steps, stairs, and roof lines.
- Access:** Show driveways, pedestrian walks, access, internal circulation, location and access of service areas (including trash enclosures), and all points of entry to all structures.
- Yards and Open Space between Buildings:** Show dimensions between structures. Indicate ground material such as paving, lawn, ground cover or other landscaping. Show signs, mailboxes, and trash enclosures.
- Statistical Data:** Indicate total square footage of site area, building coverage and Usable Open space (as defined by the Alameda County Zoning Ordinance) on project site. Indicate number of parking spaces. Indicate number of bedrooms and floor area of each residential unit.
- Utilities:** Show the location and type of all existing and proposed utility systems, including fire hydrants, PG&E transformers, meter boxes, water pumps, and underground lines.

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**2. Floor Plan**

- Floor Area:** Show dimensions, size height, conceptual floor plan, and total square footage of floor area in existing and proposed buildings.
- Use:** Indicate use of each room. Indicate occupancy load and all publicly accessible rooms (such as restaurants, meeting halls, retail floor areas, etc.) if applicable.

**3. Grading Plan**

- Topography:** Indicate existing and proposed contour lines extending 60 feet beyond project site boundaries. Use one (1) foot contours for slopes of less than 5% and two (2) foot contours for slopes in excess thereof.
- Grading:** Show finished grades, uniform cut and fill slopes, and finished floor elevations. Quantify the amount of cut and fill and off-haul off materials required. Show finished ground elevations at all corners of buildings, basements, grade breaks, lot corners and all drainage connection points.
- Retaining Walls:** Indicate location, height and materials used for all retaining walls. Indicate finished ground elevations at top and bottom.
- Storm Drainage:** Indicate storm water disposal plan. Show all catch basin elevations, pipe type, and size.

**4. Landscape Plan**

- Landscape Structures:** Show location and dimensions of major landscape structures such as fences, walls, walks, pools and trellises.
- Paving Materials:** Indicate paving materials to be used.
- Planting Plan:** Show proposed generalized planting plan.
- Existing Trees:** Indicate location and size of all trees four (4) inches in diameter or larger.

**Note:** A final landscaping plan, prepared by a licensed Landscape Architect, must be submitted and approved before a building permit can be issued.

**5. Building Elevations**

- Building Exterior:** Show front, rear and side views of existing and proposed buildings, including color finishes.
- Materials and Color Board:** Indicate colors and materials for proposed building facades.
- Section Details:** Indicate the detailing of fenestration (windows and doors) to show whether fenestration is recessed from the face of the building exterior, and/or there is framing around the fenestration.
- Context:** Show exterior building elevations of residential buildings within abutting parcels. County staff will check the residential proposal against the buildings at residential parcels on the same side of the street and within 300 feet of the subject parcel and those directly opposite these lots, to review if the prevailing buildings (60% of those surveyed) on residential lots are single story. If so, then the second story of the proposed residential building is to be stepped back at least 12 feet from the exterior front façade.

**Planner Initials:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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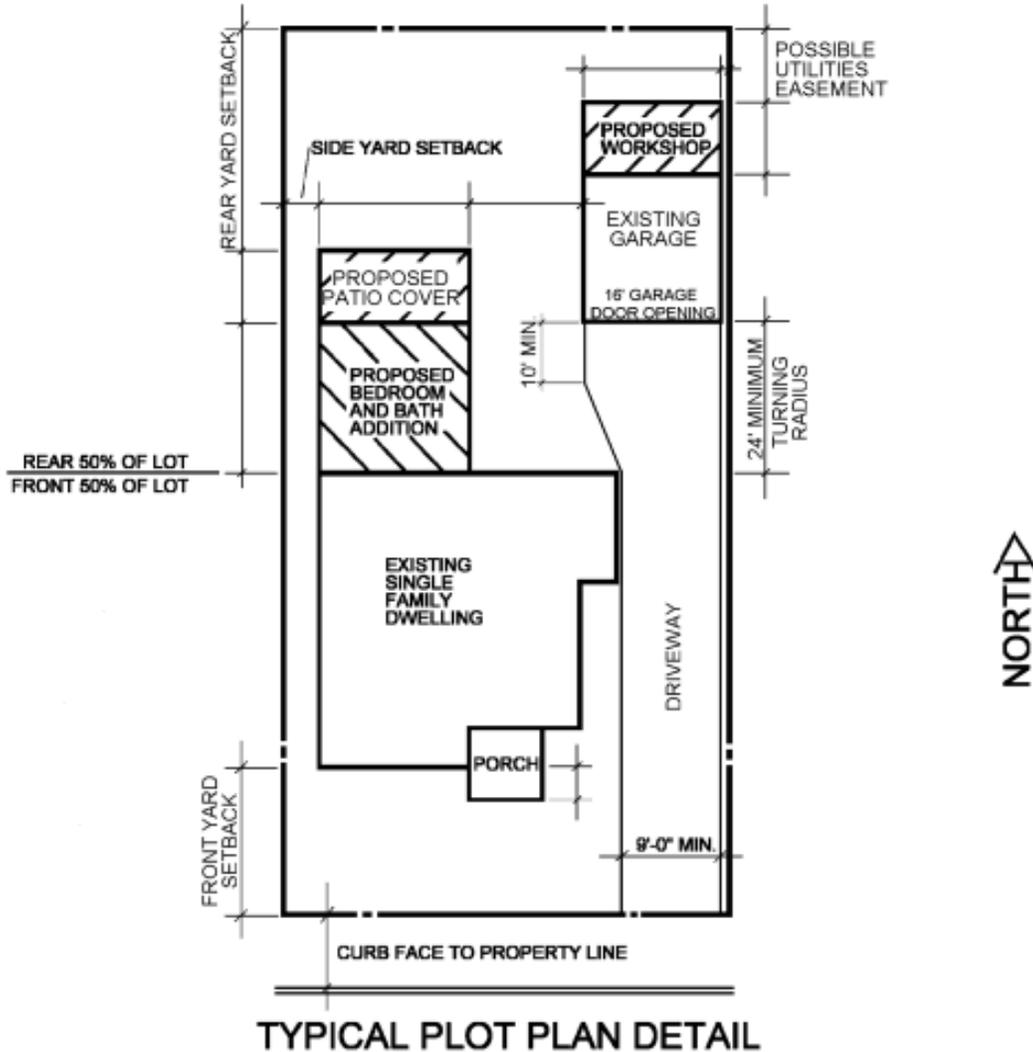
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Sample Site Plan

Site Plan should include the following:

1. North direction arrow.
2. Scale. You must use 1 inch = an even number of feet (i.e. 20 feet, 40 feet, 100 feet, or 600 feet depending on the size of your property).
3. Boundaries of the parcel, including dimensions (you may need a plot map of your property).
4. Location, dimensions, and purpose of rights-of way and easements within the property.
5. Location, dimensions, and use of all existing and proposed structures.
6. Distances of existing and proposed structures from all property lines, from rights-of way, easements, and other structures.
7. Location of all utilities labeled existing or proposed, including septic tank and drainfield, water, power, phone etc.
8. Location and dimensions of all proposed and existing roads, driveways, parking areas, patios, decks, walkways, and other impervious (paved) area(s).
9. Location of any surface water (streams, culverts, drainage ways), or any distinguishing land features such as slopes within or adjacent to the parcel.
10. Extent of area which will be disturbed by construction activity, clearing, digging, or earth moving.
11. On the back of your site plan, please provide detailed directions to the site.
12. Vicinity map.



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