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. Pre-Application – 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.

- **$1,500** at cost deposit for all districts.

- Twenty (20) copies of plot plan drawn to a reasonable (legible) scale. A sample plot plan is included at the back of the **Application Supplement Variance** 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 $1,500 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.

**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 Conditional Use Permit. 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 application is located, or in certain cases (larger projects such as schools) the Planning Commission.
**Applying for a Variance**

**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?**

**Castro Valley Municipal Advisory Council** hearings are held on the 2nd and 4th Mondays of the month at 6:00 p.m. The Council meets in the Boardroom of the Castro Valley Unified School District offices at 4400 Alma Avenue in Castro Valley.

**East County Board of Zoning Adjustments** hearing is held on the 4th Thursday of the month at 1:30 p.m. City of Pleasanton Council Chambers, 200 Old Bernal Avenue, Pleasanton.

**West County Board of Zoning Adjustments** hearings are held on the 2nd and 4th Wednesdays of the month at 6:00 p.m. (2nd Wednesday) and 1:30 p.m. (4th 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 1st and 3rd Mondays of the month at 6:00 p.m. (1st Monday) and 1:30 p.m. (3rd Monday). 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 1st Thursday of the month at 9:00 a.m. in the Board of Supervisors chambers, 5th floor, 1221 Oak Street, in Oakland.
Variance Application Supplement

Variance

- For complete filing instructions, see the Standard Application form.
- For general procedures and guidelines, read the handout “Applying for 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) 670-5410.

1. Applicant Name: _____________________________________________

2. Contact the Planning Department at (510) 670-5410 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.”

$1,500 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.

- [ ] Plot plan (20 copies): Show all information as shown on the Sample Plot Plan on the back of this form. Minimum paper size is 8½ x 11 inches. Larger plans shall be folded to 8½ x 11 inches.
- [ ] 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: _____________________________________________
Variance Application Supplement

- 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:

<table>
<thead>
<tr>
<th>Applicant Signature</th>
<th>Date</th>
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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.

Revised 4/13

Alameda County Planning Department
224 West Winton Avenue, Room 111, Hayward, CA 94544
Phone: (510) 670-5400  Fax: (510) 785-8793  Web: http://www.acgov.org/cda/planning