



Variance Application

For use for all variance requests with the exception of variances to sign regulations.
Please refer to Sign Variance application and review criteria.

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
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Albany, OR 97321
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TO BE FILLED OUT BY STAFF

File No. _____ Date of Preapplication Conference _____

Filing Fee (Fees subject to change every July 1)

First, or individual, variance to a Code section: \$750

Each additional concurrent variance to a Code section: \$500

Date Fee and Application Received: _____ Amount Paid: _____

Receipt No.: _____ Received By: _____

VARIANCE OVERVIEW

Variances provide flexibility for unusual situations, while still providing certainty and rapid processing. Variances are necessary for deviation of more than ten percent from numeric development standards, or for deviation from non-numeric standards. Requests for changes of 10 percent or less of a numeric standard are processed as adjustments.

Variances may not be used:

- a) To allow a primary or accessory use that is not allowed by the regulations.
- b) As an exception to any restrictions on uses or development which contain the word "prohibited."
- c) As an exception to a threshold for a review, such as the size of accessory structures.
- d) As an exception to a definition or classification.
- e) As an exception to the procedural steps of a procedure or to change assigned procedures.

A preapplication meeting is held for all applications, unless the Director determines one is not necessary. The meeting provides for an exchange of information about Development Code and Comprehensive Plan requirements and provides technical and design assistance to the applicant.

Variance applications are normally processed by the Director without a public hearing. The Director's decision is based on Code standards that are reasonably objective and may require limited discretion. If the Director determines that the proposal appears to meet the required standards, he or she will mail notice of the tentative decision to all property owners within 100 feet of the subject site.

The notice will list the relevant criteria and any conditions of approval and invite people to contact Planning staff within 10 days to request a public hearing. A public hearing may be requested if a person believes that the conditions of approval do not adequately address the approval criteria or alleviate adverse impacts on the neighborhood. If no one requests a public hearing, the tentative decision becomes final 10 days after the notice is mailed.

If a public hearing is initiated, the Director will set a date for a hearing before the Planning Commission, the Hearings Board, or the Landmarks Advisory Commission, and mail notice of such to the same people who received the original notice.

An affected party may appeal the decision of the Planning Commission, Hearings Board, or Landmarks Advisory Commission to the City Council within 10 days. There is an appeal fee. Appeal applications are available from the Community Development Department.

VARIANCE APPLICATION

Note: Some properties may have covenants or restrictions, which are private contracts between neighboring landowners. These frequently relate to density, minimum setbacks, or size and heights of structures. While these covenants and restrictions do not constitute a criterion for a City land use decision, they may raise a significant issue with regard to the City's land use criteria. It is the responsibility of the applicant to investigate private covenants or restrictions.

BASIC INFORMATION ABOUT THE SITE AND PROPOSAL

Development Code section to which you are requesting a Variance, and the amount of the Variance you are requesting _____

Property address(es) _____

Assessor's Parcel Map No. _____ Tax Lot No. _____

Total land area of the site _____

Zoning designation _____

Current use of site _____

Are there any existing structures on the site? _____

If yes, will any of these structures be removed? _____

(Before you demolish or remove any structure, you must obtain a demolition/moving permit from the City of Albany Building Division.)

Are there any historic structures or historically significant features as identified on the City's Historic Inventory? Yes _____ No _____

If yes, what are they? _____

(This information may be acquired from the Albany Planning Division.)

VARIANCE REVIEW CRITERIA

On a separate sheet of paper, prepare a detailed written response using factual statements (called findings of fact) to explain how the proposed Variance complies with each of the following review criteria [ADC 2.500]. There must be at least one finding of fact and conclusion statement for Criteria 1 through 4 or Criterion 5. See Attachment B for an example.

1. The proposal will be consistent with the desired character of the area; and
2. If more than one variance is being requested, the cumulative effect of the variances results in a project which is still consistent with the overall purpose of the zone; and
3. The requested variance is the minimum necessary to allow the proposed use of the site; and
4. Any impacts resulting from the variance are mitigated to the extent practical; or
5. Application of the regulation in question would preclude all reasonable economic use of the site.

The City may designate conditions to ensure conformance with the Albany Development Code. The City may require guarantees and evidence that such conditions will be complied with.

SITE PLAN MAP REQUIREMENTS

The Director needs an accurate Site Plan, drawn to scale, to determine if the proposed Variance complies with Albany Development Code standards. Submit **NINE (9)** full-size copies (typically 18 x 24-inch or larger paper) and **NINE (9)** reduced-size copies (on 8 1/2 x 11-inch or 11 x 17-inch paper) of the Site Plan map. The map must include the following:

- Assessor's map and tax lot number and lot and block description or other legal description.
- Scale of drawing, north arrow, name of drafter.
- Lot dimensions and total lot area.
- Location of all existing and proposed structures, including minimum distances to lot lines.
- Location of all existing or proposed improvements on the site, including driveways, sidewalks, and patios.
- Location and species of trees larger than 25 inches in circumference measured 4½ feet above mean ground level from the base of the trunk.
- Contour lines at two-foot intervals.
- Natural drainage patterns.
- Abutting streets, whether public or private.
- Locations, dimensions, and nature of all easements.
- Adjacent zoning designations and land uses, including approximate location of buildings.

LIST OF SURROUNDING PROPERTY OWNERS

The notification area includes the land to be developed and all tax lots located within 100 feet of its boundary.

- Using the County Tax Assessor's maps, submit a map that shows the development site and outlines or highlights the notification area. In addition, using the County Tax Assessor database, prepare a typed (or clearly printed) list of the names, addresses, and map and tax lot numbers of all tax lots within the notification area.
- At the bottom of the notification list, indicate the name of the preparer, the date the list was compiled, and the source of the data.

APPLICATION AUTHORIZING SIGNATURES

I hereby apply for a Variance as requested on this form and certify that the attachments are correct.

Property Owner(s)

Name (print or type) _____

Current Mailing Address _____

Daytime Telephone No. _____ Fax No. _____

Email (optional) _____

Signature _____

Name (print or type) _____

Current Mailing Address _____

Daytime Telephone No. _____ Fax No. _____

Email (optional) _____

Signature _____

Authorized Agent or Representative

Authorized agents must submit evidence of their authority to act on the property owner's behalf.

Name (print or type) _____

Current Mailing Address _____

Daytime Telephone No. _____ Fax No. _____

Email (optional) _____

Relationship to property owner(s) _____

Signature of Authorized Agent _____

ATTACHMENT B

EXAMPLE OF FINDINGS OF FACT

CRITERIA FOR FINDINGS OF FACT:

A Variance will be approved if the Director finds the application conforms with the criteria found in Section 2.500 of the Albany Development Code. Before the Director can approve an application, the applicant must submit information that adequately supports the application. If the applicant submits insufficient or unclear information, the application will be denied or delayed.

FORMAT FOR FINDINGS OF FACT:

Statements addressing individual criteria must be in a “finding of fact” format. A finding of fact consists of two parts:

1. Factual information such as the distance between buildings, the width and type of streets, the particular operating characteristics of a proposed use, etc. Facts should reference their source: on-site inspection, a plot plan, City plans, etc.
2. An explanation of how those facts result in a conclusion supporting the criterion.

EXAMPLE:

Criterion: The proposal will be consistent with the desired character of the area.

Fact: State fact(s) relating to the question – “Five of the nine homes in the affected area have side-yard setbacks of less than five feet.”

Conclusion: State conclusion – “The proposed Variance to allow a five-foot side-yard setback where eight is required is in keeping with the existing character of the neighborhood.”