

**City of Westminster
Planning Department
Applicant's Guide For:**

VARIANCES

PURPOSE

Variations are requested deviations from the development standards (such as setbacks, area or number of signs, required parking stalls, height of structures, etc.) as set forth in the City's "Land Use Ordinance," which is Section 17.00 of the Westminster Municipal Code. Variance applications will only be accepted if the applicant can provide sufficient evidence presented in a Letter of Justification for a Variance indicating what special circumstances exist at the property and how those meet the code required minimum findings needed for the granting of a variance.

Specifically, the Planning Commission may grant variances only if the application meets the following five (5) criteria:

- 1) The strict interpretation of the zoning ordinance would cause unnecessary hardship on the property owner;
- 2) The unique condition of the property or special circumstances applicable to the property were not brought about by the owner's own conduct and are not common to other parcels of land in the district
- 3) The unique conditions of the property or special circumstances applicable to the particular property deprive the property owner of privileges possessed and enjoyed by owners of other properties in the district
- 4) The proposed use will be compatible with the General Plan and will not impair the use, character and integrity of the adjacent properties;
- 5) The granting of the variance will not amount to a special privilege or right, which is not afforded other property owners.

Therefore, along with any application, please include a letter of justification for a variance that addresses each of the five (5) points listed above.

PROCESS

Scoping Meeting: Prior to endeavoring on this process, the applicant should consult with staff to determine if the proposed variance is acceptable at the proposed site and if there are any design alternatives which would eliminate the need for a variance.

Preliminary Plan Review: Preliminary plan review may be required for applications needing Planning Commission review. Staff can provide the applicant with information such as general staff consensus, possible conditions, fees and what additional plans or data is necessary to complete the process through

the preliminary plan review process. The pre-application process also helps determine if the project is feasible prior to paying for the full expenses including filing the formal application, detailed plans and variance filing fees. This is also the appropriate time for staff to assist the applicant with eliminating or reducing the scope of the variance and provide historical insight as to how the Planning Commission has acted on similar requests in the past. ***Not all variance projects require a preliminary review.***

Filing the Formal Application: After the preliminary plan review concerns have been resolved, the applicant may file a formal application. The applicant is required to submit a completed application, filing fees, along with the required information and plans specified to the Planning Department. A Planner will be assigned to review the material and make sure the submittal is complete. The applicant will be notified within 30 days after filing of the project, if the application and materials submitted are complete. If the project application and materials is complete, the project will be placed on the next available Planning Commission agenda. If the project is determined to be incomplete, a letter will sent, which outlines those items still needed to complete the submittal, in order to have the application scheduled for the next available Planning Commission agenda.

Environmental Review: All variance requests are required to have an environmental assessment to determine whether it is necessary to prepare a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report (EIR).

Staff Review: The Planning staff reviews the relationship of the variance application with the Zoning Ordinance and General Plan and each of the City's departments is encouraged to provide input and list any potential impacts the project may have on its functions. A written staff report is prepared for the Planning Commission which includes a description of the proposal, staff recommendation, potential design alternatives, the precedent setting nature of the variance request and recommended conditions of approval. The staff report is available to the applicant, property owner and the Planning Commission the Friday before the scheduled Planning Commission meeting. Copies of reports are also available to the public after they have been sent to the Planning Commission.

Planning Commission Review: At least one Planning Commission public hearing is held for variance applications. At least 10 days prior to the meeting, owners of property within 500 feet of the subject site are notified by mail of the forthcoming hearing. A notice of public hearing is also posted at the subject site, City Hall and outside the City Council Chambers. At the meeting, staff makes a presentation on the application, which is followed by questions from the Commissioners. The public hearing is then open, first hearing from people on favor of the application, then by project opponents and finally rebuttal statements. The Planning Commission then closes the public hearing and makes a decision either approving, conditionally approving, or denying the request or deferring action to a later date. The Planning Commission's decision is final, unless appealed, 15 days after the action.

Appeal: An appeal of a Planning Commission decision may be filed with the City Council within 15 days of the Planning Commission's action, with receipt of a filing fee and a detailed explanation for the appeal. The City Council public hearing process is carried out in the same manner as the Planning Commission meeting. The City Council may refer the matter back to the Planning Commission for further consideration or reverse, affirm or modify the conditional approval of the Commission's

decision. City Council decisions are final.