

I. What is a Variance?

A Variance is a "variation" from the requirements of the Zoning Code for a certain type of construction or use. Variances are granted by the Board of Adjustment (a panel of University City residents) and are discretionary types of relief granted to property owners when they cannot meet the minimum requirements of the Zoning Code. Variances are only granted in special situations (see Section VI. Standards for Granting Variances). They should be viewed only as a last resort option. Variances basically allow the recipient to be permitted to violate a city zoning ordinance while all other citizens must still be required to abide by it. That is why Variances should only be granted when conditions at the subject property are so unusual and atypical that they warrant such special treatment. An example of a typical Variance is to allow someone to construct a new home closer to the rear property line than is permitted by the Zoning Code because the topography of the land does not permit them to build any other way.

II. Pre-Submission Meeting with Zoning Administrator

It is strongly encouraged that you schedule a meeting with the Zoning Administrator in advance of the deadline for submitting your application for Variance. Such a meeting will ensure that you have met all submission requirements. Applicants who do this tend to get through the process with less difficulty than those who do not. For appointment call (314) 505-8501.

III. Forms to Complete / Drawings to Provide / Submission

A. Application Form:

Complete Application Form (print legibly or prepare on computer). Use additional sheets if necessary. Twelve (12) copies of the application form are required, including one with an original signature.

B. Memo

In addition to submitting the completed application, the applicant shall be required to submit twelve (12) copies of a memo detailing the following information:

1. Name, address, and telephone number of the legal owners of the property(s) proposed for the Variance and, if different, the person or firm submitting the plan
2. Common street address of the property(s) proposed for the Variance
3. Description of the proposed Variance, in narrative form. Please include why you feel the required "Standards for Granting Variance" (see Section VI.) and "Review Considerations" (see Section VII.) have been fully met and submit any other information that will help the Board of Adjustment in their decision
4. Estimated impact of the Variance on the surrounding properties and adjacent streets

C. Site Plan

Attach twelve (12) copies of an accurate site plan, survey, or diagram drawn to scale depicting:

1. The entire lot boundaries of the property in question
2. All existing improvements
3. All proposed improvements or construction
4. The subject of the requested Variance i.e. sign(s), air-conditioner condenser(s) or room addition and the proposed dimensions to property lines
5. The closest adjacent structure(s) or home(s) which could be affected by the proposed use
6. All driveways, parking areas and adjoining streets or other rights-of-way
7. A North arrow

D. Additional Information

At the applicant's option, letters from neighbors or others potentially affected by the requested Variance, photographs depicting elevations and/or construction drawings should be available for review by the Board if appropriate to explain the situation, circumstances or particular hardship. Additional information, beyond the requirements listed above, may be requested by the Zoning Administrator or Board of Adjustment when such additional information is determined to be necessary for evaluating the proposal.

E. Owner Permission Letter

If the applicant is not the current owner of the property, an originally signed letter from that current owner is required granting permission for the applicant to file the application.

F. Submission

Forward the executed application forms and all supporting documents to the Zoning Administrator, 6801 Delmar Boulevard, Fourth Floor, University City, Missouri, 63130. The Zoning Administrator will not accept a Variance application without complete supporting drawings and documents (see Deadlines).

IV. Fees

All applications must be accompanied by a \$250 application fee. Make checks payable to "City of University City." Application fees are non-refundable, regardless of whether a Variance is approved or denied.

V. The Public Hearing Process

Deadlines

The Board of Adjustment meets on the third Monday of every month (unless otherwise noted on the City Calendar). To be added to a particular meeting's agenda, turn in the fully completed application (per Section III) by noon, no later than twenty-eight (28) days prior to the scheduled meeting date. No new material or information for that month's meeting will be accepted after the deadline. It is strongly encouraged that the application be submitted several days early to allow time to remedy any deficiencies.

Hearings for incomplete applications at deadline time will be postponed to the following month or the next month the completed application is received before a deadline.

Meeting Date

Once the Variance submittal is complete, the Zoning Administrator will add the application to the next regularly scheduled meeting's agenda. The applicant will be notified by mail of the meeting date.

Notice

The Zoning Administrator notifies the public of the hearing in a newspaper of general circulation. Also property owners within a one hundred eighty-five (185) foot radius are mailed notice of the public hearing on the application.

Visits to the Property

Members of the Board of Adjustment may very likely visit the property in question a few days before the public hearing in order to familiarize themselves with the conditional use request and its potential impact on the surrounding area.

Procedure At the Variance Hearing

At the public hearing the applicant should be prepared to present the issues cited in the application and give reasons why the Variance should be granted (see Section VI. Standards for Granting Variances). Applicants may represent themselves or have an attorney, contractor, architect, engineer or other professional person represent them and make the presentation on their behalf. The Chairperson calls the meeting to order, gives a brief overview of Variance procedure, and then introduces the Zoning Administrator who gives the Staff comments. The Chairperson then introduces the applicant. The applicant makes a presentation before the Board. Then members of the public are invited to speak on the proposal.

VI. Standards for Granting Variances

Section 34-142.4 requires that the Board of Adjustment shall not grant a Variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it that support the following conclusions:

1. The Variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
2. The strict application of the provisions of the Zoning Code from which a Variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
3. The Variance requested will not adversely affect the adjacent properties or public health, safety, order, convenience, or general welfare of the community; and
4. Granting the Variance desired will not violate the general spirit and intent of the Zoning Code.

Please Note

All of the above standards **MUST** be found by the Board prior to the granting of a Variance. The burden of proof is on the applicant to prove to the Board that the standards are met.

VII. Review Considerations

In determining whether the evidence presented supports the findings required in Section VI, the Board of Adjustment shall consider the extent to which the evidence demonstrates that:

1. The particular physical surroundings, shape, or topographical condition of the property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee, or occupant, as distinguished from an inconvenience, if the provisions of the Zoning Code were literally enforced;
2. The request for a Variance is not based primarily upon the desire of the owner, lessee, occupant or applicant to secure a greater financial return from the property;
3. The granting of the Variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located; and
4. The proposed Variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

VIII. Non-Conforming Situation is not a Basis for Variance

The existence of any non-conforming situation anywhere in the City shall not itself be considered grounds for the issuance of a Variance to the regulations applicable to other property.

IX. Decisions on Variance Applications

Please Note: The concurring vote of at least four (4) of the five (5) members of the Board of Adjustment is necessary in order to grant a Variance of the Zoning Code.

Once the Board of Adjustment are satisfied that they have heard all relevant facts, they shall make a decision by vote (and later by written decision) whether the Variance should be approved, denied, or approved with conditions. The Board of Adjustment normally vote on the application during the same meeting as the public hearing.

1. Decision

The Board of Adjustment shall render a written decision on an application for a Variance without unreasonable delay.

2. Period of Validity

No Variance granted by the Board of Adjustment shall be valid for a period longer than one (1) year from the date on which it grants the Variance, unless within such period a) A building permit is obtained and the construction, alteration, or moving of the structure is commenced; and/or b) If applicable, an occupancy permit is obtained and the use commenced. The Board of Adjustment may grant extensions not exceeding one hundred eighty (180) days each, upon written application, without notice or hearing.

3. Resubmittal of Variance Request

In the event that a Variance is denied, no request for the same Variance shall be accepted by the City for a period of one (1) year from the time the Board denied the original request.

X. Conditions, Restrictions and Duration

1. Conditions and Restrictions

In granting a Variance, the Board of Adjustment may impose such conditions and restrictions upon the property benefitted by the Variance as may be necessary to reduce or minimize any potentially injurious effect of such Variance upon other property in the neighborhood, and to carry out the general purpose and intent of the Zoning Code.

2. Duration

A Variance may be issued for a specified duration as it applies to the existence of the structure for which the Variance was granted.

XI. Other Permits Required

Granting of the Variance does not automatically cause the issuance of the building permit (or any other required permit). Therefore, you must check with the Department of Community Development about the requirements for and status of all permits.