

GUIDELINES AND APPLICATION FORM: VARIANCE

PURPOSE

Each zoning classification within the City establishes specific development standards such as setbacks or building height. There are occasions, however, when the strict application of such standards may be inappropriate because of special characteristics of the property. The Variance procedure is designed to permit minor adjustments to the zoning regulations when there are special or extraordinary circumstances, applying to a parcel of land or a building which prevent the property from being used to the extent intended by the zoning. Under the law, Variances are granted in general if the following conditions exit:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property, structure, or use referred to in the application, including location, shape, size, surroundings, or topography which do not apply generally to property, structures, or uses in the same zoning district, so that the strict application of this code denies the property owner privileges enjoyed by other property owners in the vicinity and under an identical zoning district.
2. Granting the Variance is necessary for the preservation and enjoyment of substantial property rights.
3. Granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.
4. Granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is located.
5. Granting the Variance will not, under the circumstances of the particular case, be materially detrimental to the public interest, health, safety, convenience, or welfare of the city or injurious to the property or improvements in the vicinity and zoning district in which the property is located.

In the Mount Shasta Municipal Code, in Chapter 18.28, these specific findings must be made in order for the Planning Commission to grant a Variance:

- (A) The physical characteristics of the property are unique and its shape, topography, or location of access is different from other properties in the same zoning district and the general vicinity.
- (B) Strict interpretation of the Land Development Code with granting a variance means that the property owner cannot develop the land in conjunction with basic property entitlement of the zoning district.
- (C) The relief being granted by approval of the variance is the minimum relief necessary to restore the property entitlement.
- (D) Approval of the variance does not adversely affect other properties in the area or within the same zoning district.
- (E) The approval does not undermine the purpose and development standards of the zone.

It is important to stress that a Variance can be granted **only when the findings above can be made**. A Variance cannot be granted to simply make property development less costly, to expand the use of the property, to allow greater intensification, or to result in approval of a use not otherwise allowed by the zoning or General Plan.

Essentially, the shape of a property must result in an undue hardship and make a variance necessary to normally develop the subject property.

All Variance are performed pursuant to the California Government Code and Chapter 18.28 of the Mount Shasta Municipal Code.

PROCESS

Pre-application Discussion with Staff

It is required that the applicant review the request with City Staff prior to the submission of the formal application. This will allow an opportunity to discuss the feasibility of the request as well as any possible alternatives that may eliminate the need for a Variance or improve the chance of the Variance being granted. In addition, staff and the applicant can review the required data and procedures to be followed through the process. Usually, this first step is the most important step and helps a project move faster through the process. Please see the handout titled "pre-application meeting."

- (A) An application signed by the property owner shall be submitted to the City.
- (B) The City will review the variance application and determine to which public agencies or entities the application will be submitted for review and comment. The application will be reviewed to ensure a complete, accurate, and legible submittal. Incomplete applications are returned to the applicant pursuant to California law.
- (C) When the City accepts the application as complete, the scope of environmental review shall be determined.
- (D) The variance application shall be scheduled for a public hearing before the Planning Commission.
- (E) The recommendation of the Planning Commission, including its findings and conditions, shall be chronicled in writing by a staff report and a resolution of action.
- (F) The decision of the Planning Commission may be appealed to the City Council pursuant to the provisions of Chapter 18.32 (Appeals).

Environmental Review

Most Variance applications are exempt from environmental review because they would have a minimal impact on the environment. Some requests, however, would require that staff prepare a negative declaration or that an environmental impact report (EIR) be prepared.

ESTIMATED TIME REQUIREMENTS

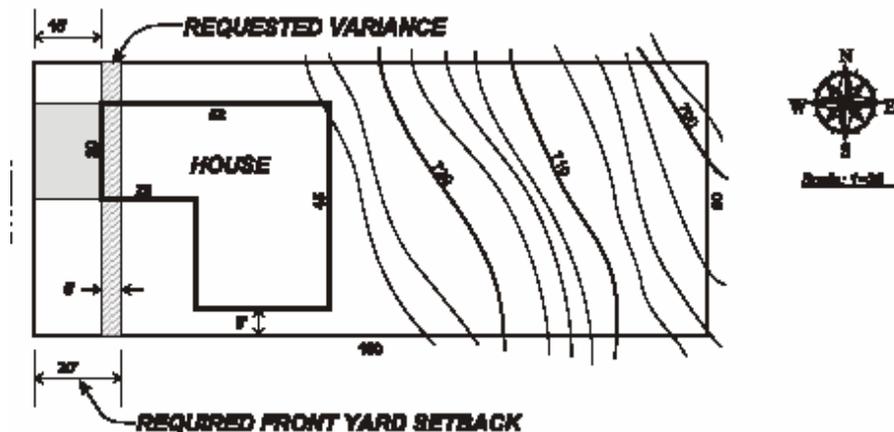
Requests that are found categorically exempt may be completed in three to four weeks after the application is determined to be complete. Requests requiring environmental review generally require five to seven weeks, **including appeal periods**. The actual decision by the Planning Commission will occur in three to five weeks, but no building permits may be obtained until after the ten-day appeal period. It cannot be overemphasized that the burden for meeting the time periods rests largely on the applicant. Without a **complete and accurate** application, a five-week time frame is impossible.

APPLICATION SUBMITTAL REQUIREMENTS

1. Application completed and signed. Attach Preliminary Title Report, not older than 12 months.
2. Filing fee. Make check payable to the City of Mt. Shasta.
3. Site photographs showing details such as topography, vegetation, landscaping, and existing and adjacent structures.
4. Written statement addressing how each of the five findings provided above can be made for the proposed variance.

5. Signed Verification that applicant has reviewed the guidelines and understands the requirements
6. Site Plan and Diagrams – not larger than 24" x 36" (3 copies), and (1) reproducible copy not larger than 11" x 17". Required data (where applicable), is shown below. Use as many separate sheets as necessary, but combine data when possible.
 - a) Exterior boundary lines of the property indicating easements, dimensions, and lot size(s).
 - b) Label all adjacent streets and rights-of-way.
 - c) The location, elevations, size, height, dimensions, materials, and proposed use of all buildings and structures (including walls, fences, signs, lighting, and hooding devices) existing and intended to be on the site.
 - d) Distances between all structures and between all property lines, easements, and structures.
 - e) Any existing significant natural features such as rock outcroppings or water courses.
 - f) Show scale and north arrow on plan. Bar scale preferred as copies may be reduced for distribution.
 - g) Vicinity map indicating nearby cross streets in relation to the site (need not be to scale).

An example of a site plan for a variance is below:



**CITY OF MT SHASTA PLANNING DEPARTMENT
 305 NORTH MT. SHASTA BOULEVARD
 MT. SHASTA, CALIFORNIA 96067
 (530) 926-7510 TELEPHONE *** (530) 926-0339 FAX**

APN _____

PROJECT NO. _____

VARIANCE APPLICATION

PLANNING DEPARTMENT

CASHIER

_____ Application Received
 _____ Accepted as Complete
 _____ Received By

_____ Application Fee
 _____ Receipt Number
 _____ Received By

APPLICANT: NAME _____
 ADDRESS _____
 TELEPHONE / FAX # _____

OWNER: NAME _____
 ADDRESS _____
 TELEPHONE / FAX # _____

REPRESENTATIVE: NAME _____
 ADDRESS _____
 TELEPHONE / FAX # _____

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PROPERTY OWNER SIGNATURE REQUIREMENT

I hereby certify that the facts, statements, and information presented within this application are true and correct to the best of my knowledge and belief. I hereby understand and certify that any misrepresentation or omissions of any information required in this application form may result in my application being delayed or not approved by the City of Mt. Shasta. I hereby certify that I have read and fully understand all the information required in this application form.

By signing this application, I (we) hereby authorize City, County, State and Federal agencies, requested to review this application, to enter my property for the purpose of reviewing and commenting on this application. The authorization is valid from the date of filing this application until the City formally acts to approve or deny this project.

Signature

Printed Name

Address

City/State/Zip

Date

Signature

Printed Name

Address

City/State/Zip

Date

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APPLICANT SIGNATURE REQUIREMENT

I have read and understand the application guidelines and submitted all listed requirements.

Signature

Printed Name

Date