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## Variance Procedures and Application Checklist

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### **What is a Variance?**

A variance is a legally permitted deviation from the provisions of the Zoning Code as deemed necessary by the Planning Commission and City Council when the strict interpretation of the Code would cause the landowner “practical difficulties.” For a variance to be granted, the City must find that the strict interpretation of the Zoning Code is impractical because of circumstances related to lot size, shape, topography or other unique characteristics of the property. However, it must be determined that the variance will still be within the spirit of the Zoning Code and be in keeping with the essential character of the neighborhood.

### **Review Procedure**

1. Applicant reviews proposal with City Planner before plans are finalized.
2. Applicant submits complete application and submission documents to City.
3. Planner determines whether application is complete within 15 days of submission of application and notifies applicant.
4. Planner prepares written review of application for Planning Commission and City Council (City Attorney, Engineer, Building Inspector and Fire Chief may also prepare reviews depending on issues involved in application).
5. Planning Commission reviews proposal and makes recommendation to City Council.
6. City Council reviews application and takes action.
7. City Staff processes any necessary permits.
8. Applicant commences with their project.

### **Criteria for Review**

The variance procedure in Minnesota Statutes 462.357 Subd. 6, requires the City to consider six matters collectively considered “practical difficulties” when evaluating Zoning Code variance applications:

1. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls;
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner;
3. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance;
4. The variance will not create a land use not permitted in the zone;
5. The variance will not alter the essential character of the City;
6. The variance is not for economic reasons alone;

Depending on the application, the City may include other evaluation criteria as deemed

necessary. Responses to the above six criteria must be referenced in a written statement describing the project proposal.

**Application Requirements**

The application and supporting documents must be submitted at least thirty days before the Planning Commission meeting. All application and supporting documents must be submitted in electronic format to [communitydevelopment@ci.brooklyn-center.mn.us](mailto:communitydevelopment@ci.brooklyn-center.mn.us). Please review the project checklist to ensure that all required materials have been submitted. A certificate of Survey is required for all variance applications. In some cases, the City may waive the survey requirement and allow the submittal of a Site Plan. The full Zoning Code is available online at [www.cityofbrooklyncenter.org](http://www.cityofbrooklyncenter.org).

Please provide the following information with your completed Variance Application. To seek a waiver of any item, contact the City Planner.

Project Checklist			
Complete	Incomplete	N/A	
			<b><u>Required Project Information:</u></b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completed Planning Commission Application
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A letter addressed to the Planning Commission describing the proposal, why the City should approve the request, and how the application meets the six criteria, as outlined above under “Criteria for Review”
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Fee of \$200
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No outstanding violations
			<b><u>Certificate of Survey or Site Plan*</u></b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Size of parcel and dimensions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All existing structures, their square footage, dimensions, height, distance from the property lines and setbacks (including right-of-way, and bodies of water)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All proposed structures, their square footage, dimensions, distance from the property lines and setbacks (including right-of-way, and lake)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adjacent streets, rights-of-way, and easements
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shoreland boundary (including official OHW elevation)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wetland boundary
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Name of surveyor, date, license number, scale, and north arrow
			<b><u>Other Considerations**:</u></b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Illustrations and elevation images of the proposed project
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Landscaping plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Drainage/stormwater management plan
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other plans, as appropriate to request
**Please contact the City Planner to determine if other plans will be required.			

**Complete/Incomplete Applications:** The application will be reviewed by the Planning

Commission and report its recommendations to the City Council who makes a final determination. The applicant shall receive written notice of the actions taken. Once an application is submitted, City Staff shall have fifteen (15) business days to determine if the application is complete. An incomplete application will delay process of the request. If incomplete, City Staff will notify the Applicant in writing that the application is incomplete and what information is needed in order to make the application complete. Once an application has been deemed complete it will be placed on the next available agenda.

**Escrows:** All Planning Commission Applications shall be subject to a \$1,000 escrow deposit. Costs expended in reviewing and processing an application will be charged against the cash escrow and credited to the City. Charges to the escrow may include attorney and consulting fees and/or mailing and public notice costs. The escrow amount may be reduced or increased by the City Planner on a project by project basis. If at any time a required cash escrow is depleted the applicant shall deposit additional escrow funds as determined by the City. Unused portions of an escrow deposit shall be returned to the Applicant upon successful implementation of an approved application.