



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

VARIANCE APPLICATION GUIDE

WHAT IS A VARIANCE? Land use rules say what kinds of uses can go where in a community and regulate what happens on an individual piece of property. Zoning classification indicates specific development standards such as setbacks or parking requirements for a property. There are occasions, however, when the strict application of such standards may be inappropriate because of special characteristics of the property. The variance procedure was 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 that prevent the property from being used to the extent intended by the zoning. Special circumstances may include factors such as the size, shape, topography, location, and surroundings of a piece of property. A change of use or increased density cannot be permitted by the variance procedure. Generally, financial hardship, community benefit, or the worthiness of the project is not a consideration in determining whether to approve a variance. Further, decision makers must support their decision with findings (see below). Such findings explain why the project is or is not justified under the circumstances, citing specific facts of the project to support approval or denial.

REQUIRED FINDINGS FOR THE GRANTING OF A VARIANCE

- 1. Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this title.**
- 2. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified on the same zoning district.**
- 3. Strict or literal interpretation and enforcement of the specified regulations would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.**
- 4. Granting of the variance will not constitute a grant of special privileges inconsistent with the limitations of other properties classified in the same zoning district.**
- 5. The granting of the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity.**

PROCESS: Following receipt of a completed application, the planning staff will study the application and research similar proposals in the area as well as make an investigation of the site.

Upon determination that the application is complete and no new information is needed for the processing and recommendation of the application, the application will be scheduled for a public hearing before the Zoning Administrator. At least ten (10) days prior to the hearing, property owners within 300 feet of the subject property will be notified by mail of the forthcoming hearing. The notices will give the time, date, and place of the meeting as well as identify the location and project description of the variance application.

At the hearing the Zoning Administrator or a staff member will explain the nature of the variance request and applicable code provisions. The applicant or representative may then present testimony giving reasons or the need for the variance. Since the meeting is open to the public, neighbors or other interested parties are invited to testify (in person or in writing) in support of or against the request. Any written comments received will be included in the record. These meetings are normally operated on an informal basis and take place in the City offices. The Zoning Administrator will make a decision on the project or continue the hearing to a future meeting date prior to making a final decision. Conditions as deemed necessary to protect the best interests of the surrounding area or neighborhood as set forth in the City's Zoning Ordinance and General Plan may be imposed. Decisions by the Zoning Administrator may be appealed to the Planning Commission within ten (10) days after decision is made. The estimated processing time from completed application to the Zoning Administrator meeting is about 30-45 days.