

PROCEDURE FOR AN APPLICATION FOR A VARIANCE TO THE PROVISIONS OF THE ZONING ORDINANCE

Overview: When a person wishes to maintain/build/construct a structure in a manner that does not comply with the requirements of the City's Zoning Ordinance, a variance is required. Specific requirements for property in each Zoning Use District are contained in the Zoning Ordinance. Section 1108.400 of the Code sets forth the procedure and requirements for the review of variance requests. The Code is available for review from the City's Community Development & Natural Resources (CDNR) Department.

Pre-Application Procedure: Prior to submitting an application for a variance, applicants are encouraged to meet with the CDNR Staff to discuss the following:

- Zoning requirements that apply to the property.
- Preliminary development or building plans for the property.
- The specific criteria of the Zoning Ordinance applicable to the development or building plan.
- Alternatives to the proposed development.
- Variance procedures.

If a decision is made to proceed after the advisory meeting or meetings, a formal application is made.

Process: Within ten (10) business days of submission of the application, the applicant will receive formal, written notice from the City about whether the application is complete. Within 30 days of receipt of a complete application, the CDNR Department will schedule a public hearing for review by the Board of Adjustment (Planning Commission). The Board of Adjustment must approve or deny the application within 120 days of receipt of a complete application.

Timing: Public hearings are scheduled for the Board of Adjustment on the 2nd and 4th Mondays of each month. Complete applications must be submitted to the CDNR Department at least thirty (30) days prior to the scheduled meeting to allow publication of hearing notice. The CDNR Department will publish notices in the *Prior Lake American* and notify the applicant and other affected property owners of the date and time the proposal will be heard by the Planning Commission.

Staff Report: The CDNR Department will prepare a staff report which: 1) explains the request; 2) reviews the criteria for granting variances as contained in the Zoning Ordinance; and 3) provides a recommendation.

Hearing: A public hearing will be held by the Board of Adjustment (Planning Commission). The Commission will review the staff report and hear from the applicant. Public testimony on the request will also be taken. The Board of Adjustment, after reviewing all of the information, will make a decision and may grant a variance from the strict application of the Zoning Ordinance provided that:

- (1) There are practical difficulties in complying with the strict terms of the Ordinance. "Practical difficulties," as used in connection with the granting of a Variance, means the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance. Economic considerations alone do not constitute practical difficulties.

- (2) The granting of the Variance is in harmony with the general purposes and intent of the City Subdivision and Zoning Ordinances and the Comprehensive Plan.
- (3) The granting of the Variance is necessary to permit the reasonable use of the property involved.
- (4) The practical difficulty is due to circumstances unique to the property not resulting from actions of the owners of the property and is not a mere convenience to the property owner and applicant.
- (5) The granting of the variance will not alter the essential character of the neighborhood or be detrimental to the health and safety of the public welfare.
- (6) The granting of the Variance will not result in allowing any use of the property that is not permitted in the zoning district where the subject property is located.

Applicants are invited to use the overhead projector provided, and the exhibits prepared by City Staff. Any additional exhibits submitted by the applicant (at the hearing or prior to the hearing) such as photographs, petitions, etc. must be entered into the public record and submitted to the CDNR Department for the file.

Appeal: The decision of the Board of Adjustment may be appealed to the City Council by submitting a letter to the City requesting an appeal within 5 business days of the Board of Adjustment hearing. The applicant, property owner or any affected owner or property within 350 feet of the site may appeal the decision of the Board of Adjustment. Appeals are considered by the City Council following a public hearing before the Council. Upon receipt of an appeal, the CDNR staff will schedule a public hearing, publish notice of the hearing in the *Prior Lake American*, and notify owners of property within 350 feet of the site.

Recording: If the variance or variances are approved, the applicant is responsible for recording a copy of the certified resolution at the Scott County Recorder's Office. The certified copy of the resolution must be stamped by the County Recorder as proof of recording and returned to the CDNR Department of the City of Prior Lake before the issuance of a building permit for the project. The applicant must provide proof of recording to the city and received a building permit within one (1) year from the date of approval or the variance becomes null and void.

APPLICATION INSTRUCTIONS

No application will be considered until all required information is submitted. The following information, along with the attached checklist, is required for a complete application. The City also reserves the right to request additional information when needed to review an application.

- **Application Fee:** Check payable to the “City of Prior Lake”. The filing fee is \$150.00 for a single family residential properties & \$200.00 for all other properties.
- **Signed Application:** A completed application form signed by the owner or owners of the property. Include authorization from the property owner on the application form or by attached letter of authorization if an agent signs the application.
- **Application Checklist:** The attached checklist identifies the necessary information. *Failure to provide any of the required information will result in an incomplete application.* The Application Checklist will expedite the review of your application. **Attach the checklist with the application materials.**

VARIANCE APPLICATION CHECKLIST

PROPERTY ADDRESS: _____
DEVELOPER: _____

FILE NUMBER
DATE SUBMITTED
REVIEWED BY

For City Use Only

REQUIRED INFORMATION	LOCATION	VERIFIED (for City use only)
The following data is required as part of a variance application according to the City of Prior Lake Zoning Ordinance.	Indicate where this information is provided in the application materials such as sheet #, narrative, or other attached report.	Reviewed by city staff to ensure required materials were submitted.
Application (Zoning Ordinance Section 1108.400)		
1. A complete Application Form, signed by the applicant and the fee owner of the property.		
2. A radius map and a list and 2 sets of labels of the names and addresses of the owners of property located within 350' of the subject site. These shall be obtained from and certified by an abstract company.		
3. The required filing fee of \$150.00 for single family residential properties and \$200.00 for all other properties.		
4. A certificate of survey of the property showing the existing and proposed development in relation to: <ul style="list-style-type: none"> • Property lines • Structures, both existing and proposed • Topography • Easements • Ordinary High Water Mark and bluff setbacks, where applicable. • Impervious surface calculations and lot coverage calculations. • Setbacks for structures on adjacent lots, where setback averaging applies 		
5. If the survey is larger than 11" by 17", ten (10) full-scale copies of the survey and supporting data and one 11"X 17" reduction of each sheet must be provided.		