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Variance Review

This guide describes the Variance process. It should be used in conjunction with the City of Trinidad Municipal Code (See Chapter 14 Land Use Code), the Comprehensive Plan, and the guide to Pre-Application Review.

Purpose

A Variance is a request for relief from certain provisions of the Zoning Ordinance. A property owner may request a Variance when a strict application of the rules and regulations causes peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon their property. Examples of unique physical circumstances or conditions could be irregularity, narrowness or shallowness of the lot, or steep slopes, etc. A common Variance request is a modification to building height or setback standards.

Variance Review

To apply for a Variance, you must schedule a Pre-Application Meeting with the Development Services Office. This meeting provides you with the opportunity to discuss your proposal and to help you in identifying the requirements and process for the application. Following the Pre-application Meeting, a formal Variance application and fee shall be submitted. A Variance application will be reviewed by the PZVC during a public hearing and approved, approved with conditions or denied.

Variance Criteria for Zoning

The PZVC may grant a Variance only if it makes findings that all of the following requirements, insofar as applicable, have been satisfied:

- ❖ That there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property;
- ❖ That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
- ❖ That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of the Zoning Ordinance;
- ❖ That such unnecessary hardship has not been created by the applicant;
- ❖ That the Variance, if granted, will not alter the essential character of the neighborhood, the Historic Preservation District, or other district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and
- ❖ That the Variance, if granted, is the minimum Variance that will afford relief and is the least modification possible of the Zoning Ordinance provision which is in question.

REVIEW PROCESS

Step 1: Pre-Application Conference. A pre-application conference in accordance with Section 14-24 is required before the City will accept a variance application for processing.

Step 2: Variance Application Submittal. The applicant shall submit a complete variance application to the Planning Division that includes the following items:

1. Land Use Application Form.
2. Development Review fee of \$700.00.
3. Completed Variance Review Process Public Information Guide Checklist.

4. Proof of Ownership.
5. Variance Review Criteria Statement. Written statement identifying the variance being requested, citation of the portion of the Trinidad Land Use Code from which relief is requested and explaining how the review criteria have been satisfied.
6. Map. Staff will dictate map requirements based on the variance being requested. The map shall typically consist of a scale drawing depicting the property affected by the variance request, including, but not limited to, required or existing setbacks and proposed setbacks from adjacent lot lines or structures and any other information that will assist the Commission in understanding the request.
7. Interested Property Ownership Report. Provide a current list (not more than thirty (30) days old) of the names, addresses and mailing addresses of property owners, mineral interest owners of record, mineral and oil and gas lessees for the property and ditch companies with legal interests in the property. The applicant shall certify that the report is complete and accurate.
8. Any other information deemed necessary by the Staff to make a fully informed and deliberate review of the variance.

Step 3: Application Certification of Completion. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the revised application to the Planning Division.

Step 4: Refer Application. Staff shall circulate the complete application to referral individuals and agencies.

Step 5: Staff Reviews Application and Prepares Comments. Staff will complete a review of the conditional use permit based on the conditional use review criteria, and referral comments received. Staff will then prepare a report and forward the report to the applicant.

Step 6: Applicant Addresses Staff Comments. The applicant shall submit the following to the Planning Division:

1. Letter addressing Staff comments; and
2. Revised conditional use map and other documents, as required.

Step 7: Final Staff Review and Report to Planning, Zoning, and Variance Commission. Staff will complete a final review of the resubmitted materials and then prepare a report to the Commission.

Step 8: Schedule Public Hearing and Complete Public Notification Process. At least ten (10) days prior to the Planning, Zoning, and Variance Commission public hearing date, the City will provide notice of the public hearing to the abutting property owners by certified mail and publish the public notice in the local newspaper of general circulation. Notice shall include application type, the date of the application, the date of the hearing and such other information as may be required to fully apprise the public of the nature of the application.

Step 9: Planning, Zoning, and Variance Commission Action. The variance application shall be presented to the Planning, Zoning, and Variance Commission for its review and action. The applicant and/or applicant agent must be present at the public hearing to address any questions by the Commission or members of the public. The Commission may approve, conditionally approve or deny the variance based on the variance review criteria.

Step 10: Notice of Decision. After the conclusion of the hearing, the Commission shall render its decision in writing. The applicant shall be issued a copy of the written decision of the Commission as soon as practicable after the decision has been rendered. Unless such decision is appealed to the City Council in accordance with Section 14-113 of the Code, the decision shall become final when the appeal period lapses.