



Planning Department

(541) 535-2050 Fax (541) 535-5769

112 W 2nd Street/PO Box 330, Phoenix, OR 97535

VARIANCE APPLICATION

File No. VAR _____ Fee \$ _____

NOTICE TO APPLICANT: Applicants are advised to review the list of submittal requirements indicated on each application form prior to submitting an application. **Incomplete applications will not be acted upon or scheduled for a public hearing until the Planning Department receives all required submittal materials and fees. Failure to provide complete and/or accurate information may result in delay or denial of your request.**

APPLICANT _____

Mailing address _____

Phone _____ **Fax** _____ **Email** _____

Applicant's interest in property _____

Signature _____ **Date** _____

PROPERTY OWNER _____

Mailing address _____

Phone _____ **Fax** _____ **Email** _____

Property Owner's Consent: I do hereby certify that I am the legal owner of record of the property described above and as such, I am requesting that the City of Phoenix process this application in accord with state and local ordinances.

Signature _____ **Date** _____

If same as applicant, mark SAME. If there is more than one property owner, please attach additional sheets as necessary.

SITE LOCATION AND DESCRIPTION

Address _____ **Tax Map #(s)** _____ **Tax Lot #(s)** _____

Address _____ **Tax Map #(s)** _____ **Tax Lot #(s)** _____

Adjacent property under same ownership (*list tax lot ID*) _____

Frontage street or address _____ **Nearest cross street** _____

Site size (acres or square feet) _____ **Dimensions** _____

BUSINESSES Are any businesses operating on the property? If yes, please describe. _____

All businesses operating within the City of Phoenix must obtain a Business License.

SPECIFIC REQUEST **Land Division** **New Use/Construction** **Alteration** **Change of Use**

Describe _____

SUBMITTAL REQUIREMENTS

The following items must be received in order to deem an application complete and schedule it for a hearing before the Planning Commission. If you need assistance completing the forms, please contact the Planning Department. If you do not have a copy of the deed to your property to verify ownership, contact the Jackson County Assessor at (541) 774-6059 or <https://jacksoncountyor.org/assessor>

1. Original, signed **Application form**. This information is public record and must be reproduced so please type or write clearly using dark ink.
2. All information required above and below, unless specifically waived by the Planning Director.
3. The appropriate **fee**.
4. **7 copies** of all submittal materials for staff and Planning Commission distribution.

OFFICE USE ONLY.

This institution is an equal opportunity provider and employer.

120 day time limit Accepted as complete _____ Final decision by _____

DLCD 45-day notice required Y/N Date mailed _____ Date of first hearing _____

Planning Commission hearing date _____ Notice mailed _____

Notice to media Publication date _____ Emailed _____

Notice of Decision Date mailed _____ Appeal deadline _____

Associated applications _____

The following criteria must be satisfied in order to approve a request. Please tailor all responses to these criteria. All applications must also demonstrate compliance with applicable standards in Chapter 3 (Design Standards) of the LDC.

Describe in detail how the proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity:

Describe in detail how a hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district):

Describe in detail how the use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land:

Describe in detail how existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard:

Describe in detail how the hardship is not self-imposed.

Describe in detail how the variance requested is the minimum variance that would alleviate the hardship.

Use this space to provide any additional information.

Electronic submittals to accompany this application form are encouraged. All text submittals should be provided in a Microsoft Word document; plans and other images should be formatted as a PDF.

The application will not be scheduled for a hearing until deemed complete.

Use additional sheets if necessary.

City of Phoenix Land Development Code Chapter 5.2 – Variances

5.2.1 – Purpose

- A. Purpose.** The Planning Director, through an administrative review or the Planning Commission with a Public Hearing may grant a variance from strict compliance with standards contained in this Code in cases where documented evidence proves that it is impossible or impractical to comply with the standard for one or more of the reasons set forth in the following Subsections.
- B. Applicability.** The facts and conclusions relied upon to grant a variance from a particular standard shall clearly be set forth in the FINAL ORDER of the Administrative Review or the review by the Planning Commission.
1. The variance standards are intended to apply to individual platted and recorded lots only, and in the case of signs, the applicant may be the business agent with a written letter of consent from the property owner.
 2. An applicant who proposes to vary a specification standard for lots yet to be created through a subdivision process may only utilize the Type II or Type III variance procedure.
 3. A variance shall not be approved which would vary the permitted uses of a land use district (Chapter 2).
 4. Exceptional or extraordinary conditions applying to the subject property which do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control make strict compliance impossible or impractical; or,
 5. A Variance from the design standard for reasons set forth, will result in equal or greater compatibility with the architectural and/or site planning style and features that exist in adjacent and nearby buildings; or the proposed design is a functional requirement of the proposed use.

5.2.2 – Type II Variances

- A. Type II variances.** Due to their discretionary nature, the following types of variances shall be reviewed using a Type II administrative procedure, in accordance with Chapter 4.1.4 – Type II Procedure (Administrative):
1. Variance to Lot Setbacks, Landscaping, or Sign Standards, including up to a 10 percent change to the setback standard required in the base land use district, up to 10 percent reduction in landscape area (overall area or interior parking lot landscape area), or up to a 10 percent difference in size (wall or cabinet, and height requirements). The Planning Director may grant a variance to the requirements after finding the following:
 - a. The variance is required due to the lot configuration or other conditions of the site;
 - b. The variance does not result in the removal of trees, or it is proposed in order to preserve trees.
 2. Variance to minimum housing density standard (Chapter 2). The Planning Director may approve a variance after finding that the minimum housing density provided in Chapter 2 cannot be achieved due to physical constraint that limits the division of land or site development. "Physical constraint" means steep topography, unusual parcel configuration, or a similar constraint. The variances approved shall be the minimum variance necessary to address the specific physical constraint on the development and division of the site.
 3. Variance to Chapter 3.2 – Access and Circulation. Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the Planning Director may grant a variance to the access requirements after finding the following:
 - a. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
 - b. There are no other alternative access points on the street in question or from another street;
 - c. The access separation requirements cannot be met;
 - d. The request is the minimum adjustment required to provide adequate access;
 - e. The approved access or access approved with conditions will result in a safe access; and
 - f. The visual clearance requirements of Chapter 3.2 will be met.
 4. Variances to Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls. The Planning Director may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 3.3, after finding the following:
 - a. Installation of the tree would interfere with existing utility lines;
 - b. The tree would cause visual clearance problems; or
 - c. There is not adequate space in which to plant a street tree; and
 - d. Replacement landscaping is provided elsewhere on the site (e.g., parking lot area trees).
 5. Variance to Chapter 3.4 – Vehicle and Bicycle Parking
 - a. The Planning Director may approve variances to the minimum or maximum standards for off-street parking in Chapter 3.4.3 – Vehicle Parking Standards upon finding the following:
 - i. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity;

- ii. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and
- iii. All other parking design and building orientation standards are met, in conformance with the standards in Chapter 2 and Chapter 3.
- b. The Planning Director may approve a reduction of required bicycle parking per Chapter 3.4.4 – Bicycle Parking Requirements, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
- c. The Planning Director may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.
- 6. Variance to Maximum or Minimum Yard Setbacks to Reduce Tree Removal or Impacts to Wetlands (Chapter 2 and Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls). The Planning Director may grant a variance to the applicable setback requirements of this Code for the purpose of preserving a tree or trees on the site of proposed development or avoiding wetland impacts. Modification shall not be more than is necessary for the preservation of trees on the site.
- 7. Variance to the required design standards for the proposed structure will result in a better function for the building, i.e. relief from the balcony standard in a multi-unit Alzheimer’s facility.

5.2.3 – Type III Variance

A. Purpose. The purpose of this Section is to provide standards for variances that exceed the Types II variance review procedure.

B. Approvals Process and Criteria

- 1. Type III variances shall be processed using a Planning Commission review procedure, as governed by Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), using the approval criteria in subsection 2, below. In addition to the application requirements contained in Chapter 4.1.5, the applicant shall provide a written narrative or letter describing the proposed variance, from which standards the variance is requested, why it is required, alternatives considered, and findings showing compliance with the criteria in subsection 2.
- 2. The Planning Commission shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
 - b. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
 - c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
 - d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
 - e. The hardship is not self-imposed;
 - f. The variance requested is the minimum variance that would alleviate the hardship.

5.2.4 – Variance Application and Appeals

The variance application shall conform to the requirements for Type II or III applications (Chapters 4.1.4 – Type II Procedure (Administrative) and 4.1.5 – Type III Procedure (Quasi-Judicial)), as applicable. In addition, the applicant shall include findings that provide a narrative or letter explaining the reason for his/her request, alternatives considered, and why the subject standard cannot be met without the variance. Appeals to variance decisions shall be processed in accordance with the provisions of Chapter 4.1 – Types of Applications and Review Procedures.