



VARIANCE JUSTIFICATION FORM

Variations are limited to those situations where the peculiar physical characteristics of a site make it difficult to develop under standard regulations. A variance is granted in order to bring the **disadvantaged** property up to the level of use enjoyed by nearby properties in the same zone. For instance, where the steep rear portion of a residential lot makes the site otherwise undevelopable, a variance might be approved to reduce the front yard setback and thereby create sufficient room for a home on the lot. Similarly, a parcel's shape might preclude construction of a garage unless side yard setback requirements are reduced by approval of a variance.

Review of a proposed variance must be limited solely to the physical circumstances of the property. "The standard of hardship with regard to applications for variances, relates to the property, not to the person who owns it" (California Zoning Practice, Hagman, et al.). Financial hardship, community benefit, or the worthiness of the project are not considerations in determining whether to approve a variance (Orinda Association v. Board of Supervisors (1986) 182 Cal.App.3d 1145).

There is no basis for granting a variance if the circumstances of the project site cannot be distinguished from those on surrounding lots. For example, all things being equal, in a subdivision where lots are uniformly 40 feet wide, there is no basis for allowing one lot to be developed with reduced side yard setbacks.

When approving a variance, the Applicant must provide "findings of fact" to support the variance. Findings are important. They explain the City's reasons for approving the variance. The purpose for making findings is to bridge the analytical gap between the raw evidence and ultimate decision. Variance findings must describe the special circumstances that physically differentiate the project site from its neighbors. Further, the findings must specify the unnecessary hardship that would result from these circumstances in the event that a variance was not approved.

FILING FEES

See current Fee Schedule (filing fees are generally non-refundable). Additional fees may be required to be submitted PRIOR to scheduling a project for hearing. Check with the Planning Division for current fees.

SUBMITTAL REQUIREMENTS

Refer to **Development Application Information** Handout for information on Submittal Requirements.

Additional submittal items include:

1. Variance Justification Form (attached)

HEIGHT/STORY VARIANCES IN THE RC ZONES

Aside from the filing requirements set forth above, any variance requests for extra building height/stories in the RC-Residential Conservation Zone must be accompanied by:

1. Approved or proposed grading plans for the site.
2. A Composite map clearly indicating the approved grading, including building pad elevations, on adjoining sites, or if no grading has been approved, the natural topography of adjoining property. Additional information on grading for a larger surrounding area may be required.
3. Street sections, where appropriate.
4. Building elevations for proposed dwelling (in addition to required plot plans).
5. Where split pads are proposed, building sections are required.

If more than one lot is involved, the proposed building and height pad elevation for each lot shall be clearly identified. Separate Variance Justification Forms for each lot are required with justifications based on the unique characteristics of each industrial lot. Heights shall be justified based on relationships with surrounding lots and natural topography.

PROPERTY INFORMATION

Site Address: _____ Assessor's Parcel Number(s): _____

Cross Streets: _____

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Variances Requested – State variance(s) requested specifically in detail. Please attach separate sheet(s) as necessary.

REQUIRED FINDINGS

Answer each of the following questions "YES" or "NO" and then explain your answer in detail. Questions 1 & 2 must be answered "YES" and 3 "NO" to justify granting of a variance. Attach written answers to this application. Economic hardship and precedent in the surrounding area are not allowable justifications for a variance.

1. The variance does not grant or authorize a use or activity that is not otherwise allowed in the zone?
2. There are practical difficulties or unnecessary hardships created with the strict application of the code because of the physical circumstances and characteristics of the property that are not shared by other properties in the zone.
3. The variance does not grant special privileges which are not otherwise available to surrounding properties and will not be detrimental to the public welfare or to the property of other persons located adjacent to the subject property and in the vicinity.

Failure to make all of the required findings shall require denial of the variance.