



Variance Guide and Checklist

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*This document is a summary of requirements and is an aid. It does not substitute for the municipal code requirements nor for review and knowledge of those requirements

*The most current version of any municipal code sections cited in this document may be accessed on the City's website at www.cogs.us.

OVERVIEW

A variance is essentially relief from a requirement of the municipal code. The decision to approve or deny a variance is a discretionary action made by the Planning and Zoning Commission at a public meeting. The decision depends on whether the application meets certain review criteria. Briefly, these criteria relate to whether there is some unusual aspect of a property which results in a hardship or exceptional difficulty to the property owner not caused by their own actions, and granting the variance does not harm the public's interest. Examples of situations where someone might apply for a variance are:

-A property is so unusually narrow that the owner cannot build a home on it without encroaching into the required setbacks from the side property lines (zoning variance);

-The area next to a road is so steeply sloped that there is no reasonable way to accommodate a required sidewalk along the road (design variance);

-The geologic hazards on a particular property are so extreme that it is necessary to construct a wall exceeding a maximum 6 foot height limit to protect existing structures on the property from possible debris flows hazards (zoning variance); or

-The structural aspects of an existing commercial building make it infeasible to comply with a certain design requirement during an exterior remodel of the building (design variance).

ZONING VS. DESIGN VARIANCES

Zoning variances typically relate to a request for a deviation from the zoning code requirements such as maximum building height, minimum building setbacks, minimum lot size, or maximum fence height. Design variances typically relate to a request to deviate from a set of design standards. Examples of design variances include parking space dimensions, landscaping requirements, architectural requirements for a building façade, or the requirement to terrace a retaining wall. Design variances typically occur in conjunction with a larger development project or subdivision application. The criteria used to evaluate zoning and design variances are attached to the end of this packet. If you contact a planner in the Community Development Department, they will help you to determine which variance type and set of review criteria apply to your variance request.

APPLICATION PROCESS SUMMARY

Following is a brief overview of the steps involved in the variance process:

Step 1 - You will begin by scheduling a pre-application meeting with one of the planners in the Community Development Department to review the details of the application process.

Step 2 - Next, you will submit an application package four weeks in advance of the monthly Planning and Zoning Commission meeting for distribution and review by staff.

Step 3 - Since there is a public hearing involved, you will be responsible to do public noticing between certain dates and in accordance with the municipal code requirements. This process will involve mailing, publishing, and posting a notice regarding your variance request.

Step 4 - Staff will review your request for compliance with the variance criteria, municipal code requirements, and the City's goals, policies, and plans. Planning staff will make a formal recommendation to the Planning and Zoning Commission to approve, deny, or continue your application until a future meeting.

Step 5 - There will be a public hearing regarding your application at the Planning and Zoning Commission meeting. After presentations by staff, the applicant, and any interested members of the public, the Commission will approve your variance request, deny it, or continue the application until a future meeting.

Step 6 - If your application is approved, you will most likely have conditions of approval to satisfy. If it is denied, you have the options to either bring your project into compliance with the municipal code requirements or appeal to City Council. If it is continued, you will need to return to another monthly meeting with additional information for a second public hearing.

IS A VARIANCE NECESSARY?

Variances are intended as relief from a municipal code requirement in the unusual situation where compliance with the requirement causes the property owner an exceptional practical hardship (zoning variances) or exceptional practical difficulties (design variances). The hardship or difficulty must relate to some unusual aspect of the property and may not be financial in nature. The review criteria for a zoning variance are more stringent than those for a design variance.

We suggest that you review the applicable variance criteria to make sure that they apply to your situation prior to pursuing a variance. You may also consider whether there are any creative design solutions that would meet your needs as well as the municipal code requirements. In many cases, a creative design modification will meet the code requirement, the applicant's desires, and eliminate the need to go through the variance process. This may be a preferable alternative, depending on the details of the project. In other situations, the property conditions are so unusual and result in such great hardship or difficulties that compliance is simply infeasible and a variance application is necessary for relief.

APPLICATION PROCESS DETAILS

Step 1 - Schedule a preapplication conference

If you are proposing to apply for a variance, you will need to set up a pre-application conference with the Community Development Director and/or one of the other planners in the Community Development Department prior to submitting an application. In this conference you will discuss review procedures, application requirements, application deadlines, and the City's goals and policies. Please come prepared with the following items:

1. A completed planning application.
2. A sketch plan of the property, including the property boundaries, approximate lot size, the location of structures, adjacent streets, sidewalks, and other physical aspects of the property. This sketch does not need to be professionally drawn, but if you have a survey or improvement location certificate (ILC) for the property, you may use that rather than making a sketch plan.
3. Proof of ownership of the property.

Step 2 - Submit an application package

Required materials. Review the list of submittal requirements contained in this packet for a list of the items that must be submitted.

Submittal timing. A completed application must be submitted at least 4 weeks prior to the monthly Planning and Zoning Commission meeting. Contact planning staff for these dates and deadlines. Incomplete applications may be delayed until the next monthly submittal deadline. Multiple actions for the same project can be reviewed concurrently, for instance a subdivision and variance regarding the same property may be submitted and reviewed as a single application. If you are unsure whether your application is complete, you may want to submit your application in advance of the 4 week deadline to allow yourself time to pull together any missing information.

Required number of application copies. Please submit one set of all the required materials by the submittal deadline. Staff will then review your application for completeness. Once the application is deemed complete, staff will request additional application sets (usually 15) for referrals and reviews.

Pertinent regulations. Staff will review your application for compliance with the variance criteria, municipal code, and the City's goals, policies, and plans. You may review the municipal code at www.cogs.us (click on "municipal code" and then "title 070"). You may download the City's Comprehensive Plan at the same website. (click on "City Departments," "Community Development," and then on the appropriate plan). Additional plans, such as the Downtown Plan and Community Housing Attainability Strategy, may be obtained by contacting the Community Development Department. It is very important that you demonstrate in your application package that your project meets the variance criteria. Staff's recommendation to the Planning and Zoning Commission regarding your project will depend on how well it demonstrates compliance with these criteria as well as the other requirements of the municipal code and the City's goals, plans, and policies.

Step 3 - Complete the public noticing

You will be required to complete public noticing for your zoning variance hearing in front of the Planning and Zoning Commission. The purpose of this noticing is to alert any interested members of the public regarding your application and to notify them as to the date, time, and nature of your public hearing. As this is a time-sensitive process, please make sure that you contact staff within one week of your submittal for a public noticing packet and an explanation of noticing requirements. Errors in your public noticing may result in a one month delay of your hearing.

*If your application involves a design variance rather than a zoning variance, contact planning staff to discuss your public noticing requirements.

Step 4 - Four week application review

Questions from planning staff. During this 4 week period of time, the planner reviewing your application may contact you with questions regarding your application, with a request for additional information, or to convey a question from one of the reviewing agencies. To the extent that you can provide this information quickly, it helps to facilitate the review of your application and resolve outstanding issues.

Application changes. If you find that you need to submit changes to your application, please submit the changes as far in advance of the public meeting as possible. The earlier you submit the changes, the more likely it is that staff will have sufficient time to review and respond to the revised materials. Significant application changes submitted in the few days prior to the hearing or at the Commission meeting often result in a continuance until the next month's meeting to allow sufficient time for review.

Ex parte communications. Once you have submitted a planning application, you may not have any discussions with the Planning and Zoning Commissioners or City Council members regarding your project outside of your public hearing. Initiating these discussions in person,

writing, email, phone, etc. may jeopardize your application for legal reasons. You are, however, encouraged to provide any information that you would like to have considered by the Commission as part of your application or you may present it at the public hearing. You may also contact planning staff at any time to discuss information pertinent to your application.

Staff report. Toward the end of the 4 week administrative review of your application materials, planning staff will prepare a report for the Planning and Zoning Commission meeting that provides an analysis of how your project meets the variance criteria, municipal code, the City's goals, policies, and plans, and any other pertinent information. It will contain a recommendation for approval, denial, or continuance of your application based on this analysis. The report will be available the Friday afternoon prior to the meeting at the latest. The report, along with copies of your application materials, will be delivered to the commissioners for review in advance of the public meeting.

Review recommended conditions of approval. If the staff report contains a recommendation of approval, that recommendation most likely will include a list of suggested conditions. Please review those conditions carefully. If the Commission approves your application, you will be subject to whatever conditions they include in their motion. Requesting a modification to the conditions after approval at the hearing would require repeating this review process, so please make sure that you contact planning staff and/or speak up at the hearing if you have questions or concerns regarding any proposed conditions.

Agenda. Applications are scheduled for the meeting based on the order they are received. An agenda will be available from planning staff a few days prior to the meeting.

Site visit. Members of the Planning and Zoning Commission will typically visit the property as a group with planning staff prior to the meeting to better understand how it is configured and what is proposed. Discussion between the applicant and commissioners is not allowed during the site visit as it would be considered an ex parte communication (see above).

Step 5 – Planning and Zoning Commission meeting procedures

Either the applicant or a representative for the applicant will need to be present for the hearing in front of the Planning and Zoning Commission. The hearing will follow this procedure:

1. Presentation of the application by planning staff
2. Questions of staff by the Planning and Zoning Commission
3. Presentation of any additional information by the applicant
4. Questions of the applicant by the Commission
5. Public Comment
6. Questions of the public by the Commission
7. Applicant has the opportunity to respond to public comment.
8. Motion for action on the application, discussion amongst the Commissioners, and a decision.

The commissioners will have received a copy of your application materials and the staff report in advance of the meeting and planning staff will present an overview of the information in the staff report at the meeting. In presenting any additional information to the Commission, you may mention points where you disagree with staff, present anything important that you felt that planning staff left out, present any new information that you have obtained, or present any other information directly pertinent to the application. Out of respect for the Commission and other applicants, please keep presentations brief. If you have no additional information that you would like the Commission to consider after hearing staff's presentation, you may state this.

Display of documents at the meeting. If you have photos or plans to show during your presentation, these can be projected up on a screen. Photos show up best if they are at least 8 ½" by 11" in size. Plans show up best if they are 24" by 36." If you would like to project information from a computer, such as in a PowerPoint presentation, please contact staff a couple days in advance for information regarding format.

6. Post-meeting procedures

Continuances. If the Commission continues your application at the meeting, contact planning staff to discuss your next meeting date, your deadline to submit additional information, the Commission's direction to you, and whether any further public noticing will be required for the next meeting.

Action letter and appeals. If the Commission approves or denies your application, you will receive a letter summarizing the decision as a follow up to the meeting. If the application was approved, the letter will list the conditions that you have left to satisfy. If the application was denied, you have the option to appeal for a brief window of time. If you are interested in submitting an appeal, review section 070.010.050 of the municipal code at www.cogs.us for requirements and contact planning staff.

Satisfying conditions of approval. If your variance application is approved, you will likely have conditions that need to be satisfied before you may begin any construction and/or prior to completion of the project. Review any questions regarding conditions of approval with staff.

Post-approval plan modifications. Please make sure that your plans are worked out to your satisfaction before you submit them. If the plans are approved and you want to change them in any significant way post-approval, you may need to go through the planning process, public hearings, and public noticing again to have those modifications approved, which is a time-consuming process. If you do find that post-approval modifications are necessary, contact planning staff to determine if these can be accommodated prior to beginning any construction.

SUBMITTAL REQUIREMENTS

General requirements:

____ Please submit one set of application materials, including one full-sized set of plans, for the initial completeness review. Additional sets will be requested once it has been determined that the application is complete.

____ Site plans must be to a standard engineering scale and all other plans may be to a standard engineering or architectural scale.

____ Please submit all documents in a notebook or report cover with tabs or dividers that label and separate sections. Community Development may have leftover notebooks, report covers, and/or dividers that you may reuse for your application to reduce waste. Large plan sets that do not fit inside the notebook should be attached to the outside with a clip or rubber band.

____ Please double-side documents to conserve paper wherever possible.

Items which must be submitted with your application package:

_____ 1. **Planning application**

- Fill out in complete detail, including all contact info.
- All owners of the subject property must sign the application.
- A copy of the application can be obtained online at: www.cogs.us (click on "City Departments," "Community Development," "Most Common Forms," and then "Planning Application")

_____ 2. **Proof of ownership of the subject property**

- Any one of the following will suffice:
 - Warranty deed
 - Title policy
 - Deed of trust
- Please note that a title commitment *will not* suffice

_____ 3. **Project description (a.k.a. "narrative" or "application letter")**

- _____ **Include a written request for the variance** in your project description.

_____ **Address each of the variance criteria** in your project description or attach a completed variance questionnaire. In your defense of the requested variance, you will need to explain how your property uniquely and specifically meets each of the criteria.

-**Zoning variances** must be defended by addressing each of the variance criteria listed in section 070.040.050 of the municipal code. You may either complete the attached zoning variance questionnaire or address each of the criteria in your project description.

-**Design variances** must be defended by addressing the variance criteria in section 070.030.160 of the municipal code. You may either complete the attached design variance questionnaire or address the criteria in your project description.

-Contact staff if additional explanation is required or if you are unclear whether your request is a zoning or design variance.

_____ **Additional information.** This is your opportunity to present your application to staff, reviewing agencies, and the Commission. As such, any descriptive information you can provide regarding your project will help convey greater understanding. Examples of items you will may to include in this narrative are:

- a. An explanation of any unusual pre-existing situations or design issues that affect the variance request.
- b. Lot size
- c. Proposed type and size of uses on each lot (if any)
- d. Explain how your project meets the City's plans (for instance, Comprehensive Plan, Downtown Plan, or Community Housing Attainability Strategy)
- e. Any other information that you believe should be considered with your variance request.

_____ **5. A scaled 24" by 36" site plan depicting the following:**

- _____ **a. North arrow**
- _____ **b. Graphic scale** – use a standard engineering scale
- _____ **c. Date**
- _____ **d. Title**
- _____ **e. Property boundaries** – depict and label all existing and proposed property boundaries
- _____ **f. Existing and proposed structures and uses** – show locations and label sizes in square feet. Also depict any existing or proposed porches, garages, sheds, eave overhangs, stairs, etc.
- _____ **g. Required setbacks** – Depict all required setbacks on plans. Contact planning staff for your setback requirements. If structures are close to setbacks, label the dimensions of all proposed eave overhangs, porches, and other structures that may encroach into the setbacks.
- _____ **h. Dimensions** – label the dimensions of any proposed or existing construction for which you are requesting a variance.
- _____ **i. Easements** - width, location, and type of any existing or proposed easements . Clearly depict on plans and label widths.

_____ **6. Application fee**

- Contact City staff for a calculation of the required application fee.
- You may provide the fee in the form of a check made payable to the "City of Glenwood Springs."
- You also have the option of paying with a credit card.

_____ **7. Other information.** You will need to submit any other information that the Community Development Director finds necessary to determine whether the proposal complies with the municipal code and the City's goals and policies. The type of information that is required will depend on your project and the applicable municipal code requirements. Submit any of the following items that are identified as requirements by planning staff:

- _____ **a. Survey or improvement location certificate (ILC)** – prepared by a qualified professional surveyor or engineer
- _____ **b. Scaled elevations** of the front, sides, and/or rear of the existing or proposed structure. Indicate the scale on the drawing and label each elevation as north, south, east, or west.
- _____ **c. Scaled elevations including the massing of neighboring buildings** – On the front and side scaled elevations of your proposed building, depict sketches of the height and general massing of neighboring homes. Alternatively, you may incorporate photos of the neighboring homes next to the scaled elevation of your project. Make sure you account for differences in topography between the properties.
- _____ **d. Photographs** of the front, sides, and/or rear of the structure
- _____ **e. Photographs of neighboring homes**
- _____ **f. A scaled diagram of all lots and building footprints along the block face** that illustrates

existing setbacks from the property line for all buildings along the block. Alternatively, you may use aerial photography through a public source such as GoogleEarth to satisfy this requirement. The aerial photo must be to scale and you must demonstrate that it is consistent with current on-the-ground conditions.

- _____ **g. Existing and proposed lot coverage calculations for the property** – Take the size of the footprint of existing buildings in square feet and divide by the lot size in square feet to obtain the existing lot coverage. For proposed lot coverage, do the same calculation with the proposed building footprints.
- _____ **h. Floodplain boundaries** – if the property is adjacent to a river or stream, you may be required to have a qualified professional engineer or surveyor depict and label the 100 yr. floodplain boundary on the site plan or survey.
- _____ **i. 30 foot setback from high water mark** – if the property is adjacent to a river or stream, you may be required to have a professional engineer or surveyor depict and label the 30 foot horizontal setback from the high water mark on the site plan or survey.
- _____ **j. Geotechnical report** prepared by a qualified professional geotechnical engineer
- _____ **k. Drainage plan and report** – prepared by a qualified professional engineer
- _____ **l. Parking spaces** – depict existing and proposed on-site parking on the site plan
- _____ **m. Existing and proposed topography** – Provide a grading plan prepared by a qualified professional using two foot contours
- _____ **n. Utility plan** – prepared by a qualified professional and depicting existing utility mains and services affected by the variance request
- _____ **o. Landscaping/vegetation** – depict and label the existing or proposed landscaping on the site plan or on a separate landscape plan
- _____ **p. Stake property corners and building envelopes** one week prior to the public hearing
- _____ **q. Material and color samples** – for exterior finishes of buildings, retaining walls, or fences.
- _____ **r. Neighboring physical features** - Depict adjacent roads, alleys, curbs, sidewalks, buildings, street right-of-way widths, on-street parking, and other physical features on the property adjacent to the variance request.
- _____ **s. Exterior lighting fixtures** – provide cut sheets or photos of any proposed exterior lighting fixtures
- _____ **t. Photometric plan** – depicting proposed light levels in foot-candles on the property and up to 10 ft. beyond the property line
- _____ **u. Completed ADU permit application** – and all required attachments listed on that application
- _____ **v. Scaled floor plans** – of the existing and proposed structure(s)
- _____ **w. Other**

3. Explain how you did not create this hardship by your own actions.

4. Explain how the variance you are requesting does not harm the public and does not impair the intent or purposes of this Code, goals and policies, including the specific regulation in question.

City of Glenwood Springs
DESIGN VARIANCE CRITERIA QUESTIONNAIRE

Instructions

1. This questionnaire should be completed in conjunction with an application for a design variance. Examples of design variances include requests to differ from required parking space dimensions, sidewalk width, Downtown Design Standards, and the Uniform Street Standards. This variance request is most likely in conjunction with a development permit application. Requests to differ from setback, height, light levels, number of required parking spaces, HPOZ requirements, etc., are zoning variances. If you are unsure as to whether your request is a zoning or design variance, contact planning staff.
2. Before you complete this questionnaire you should have already had a pre-application conference with a planner in the Community Development Department to determine what process is required and what other materials must be submitted. Once completed, submit this questionnaire along with the other items on the checklist you were provided. Complete one form for each variance you are requesting. Use a separate sheet if necessary.
3. A variance is a discretionary action and should only be granted where the applicant has demonstrated that all the variance criteria are met. If you are unable to provide justification of how your application meets each of the criteria below, you may want to consider whether a variance is truly warranted in this situation.
4. For the precise wording of the design variance criteria, see section 070.030.160 of the municipal code.

Variance type

Explain what municipal code requirement you are requesting a variance from and what it is that you are proposing that does not meet this requirement.

Variance Criteria

- 1. Explain how your property has an exceptional topographical, soil or other subsurface condition, or other extraordinary condition peculiar to the site, existing buildings, or lot configuration that is causing the need for the variance.**

2. Explain how the exceptional conditions noted above would result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon you if you were required to comply with the code requirement (Note that economic hardship does not satisfy this requirement).

3. Explain how the public good would be better served by the granting of this variance.

4. Explain how the variance you are requesting is not detrimental to the public good and does not impair the intent or purposes of the development code (Title 070).