



CITY OF SAN LEANDRO

Community Development Department · Planning Services

835 East 14th Street · San Leandro, CA 94577

(510) 577 – 3325 · www.sanleandro.org

Hours: Monday – Thursday 8:30 am – 3:00 pm; Friday by appointment

VARIANCE FACT SHEET

Purpose

A Variance is a permit issued by the Board of Zoning Adjustments intended to resolve practical difficulties or unnecessary physical hardships that may result from the size, shape, or dimensions of a site; or from topographic or other physical conditions on the site or in the immediate vicinity of the site. The purpose of the Variance is to have the Board of Zoning Adjustments review these particular physical hardships. A Variance cannot be used to permit uses not allowed by the Zoning Code in a particular zoning district.

The Board of Zoning Adjustments consists of six residents of San Leandro appointed by the City Council by District, with one additional member appointed at large, to serve as a review board for various land use proposals. The Board meets and holds public hearings on the first and third Thursdays of every month at 7:00 p.m. in the City Council Chambers of City Hall. The applicant or a designated representative must be present at the public hearing.

Application Submittal Requirements

Please submit the following application material at the One-Stop Permit Center on the first floor of City Hall:

1. Completed application form, including all signatures.
2. Applicant's supporting statement (optional).
3. Application fee and the completed "Agreement for Payment of Fees for Application Processing" with deposit, if applicable (please refer to the most current fee schedule).
4. Twenty (20) sets of plans including accurate, scaled and dimensioned site plans, floor plans and elevations. If the plans are larger than 8 ½ " by 11", please fold each plan set to 8 ½ " by 11" **AND** include one set of 8 ½ " by 11" photographically reduced drawings (Xerox copies are acceptable if they are clear and legible). Fewer plans may be submitted with consent of staff.
5. Findings required for the Variance (see section "Findings").
6. Color and material board. Exceptions may apply.

****Failure to submit the items indicated above may affect scheduling of the application for a public hearing.**

Notice of Hearing

At least ten (10) days prior to the public hearing, the Planning Services Division will display the hearing notice in the following ways:

- Publish in a local newspaper;
- Mail notices to property owners within 300 feet of the property in question; and
- Posted on and about property in question.

Findings Necessary for Approval

After closing the public hearing, the Board of Zoning Adjustments may grant approval of the variance if it can make ALL of the following findings (Zoning Code Section 1-5-2212 B) based on the application, plans, materials and testimony presented at the meeting:

1. That because of special circumstances or conditions applicable to the subject property – including narrowness and shallowness or shape, exceptional topography, or the extraordinary or exceptional

situation or conditions – strict application of the requirements of this article would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property;

2. That the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources; and without significant detriment or injury to property or improvements in the vicinity of the development site, or to the public health, safety and general welfare; and
3. That granting the application is consistent with the purposes of the Zoning Code and will not constitute a granting of a special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.
4. OS District only. That granting the application is consistent with the requirements of Section 65911 of the Government Code and will not conflict with the General Plan policy governing orderly growth and development, and the preservation and conservation of open-space land.

****Failure to make ALL the required findings shall require denial for a Variance.**

Conditions of Approval

The staff report for each Variance application includes a list of recommended conditions of approval. If the Variance is approved, the conditions must be recorded with the Alameda County Recorder. In order to record the conditions, the Community Development Department will need the following information:

1. The legal name of the property owner and/or applicant.
2. The type of entity the property owner and/or applicant represent, such as an individual, corporation (including the state), joint venture, or partnership (general or limited).
3. The person(s) responsible for signing the agreement to conditions.

Agreement to Conditions

The Conditions of Approval, along with the agreement to conditions, will be mailed to the property owner and/or applicant after the appeal period ends. The property owner must then sign and have notarized the agreement to conditions and return it to the Community Development Department.

Expiration of Conditions

The approval of the Variance shall lapse and become void if not exercised within one year from the date of issuance, except when a longer or shorter term of validity is specified as a condition. Obtaining a building permit and beginning construction, or obtaining a business license and commencing operation are examples of Variance approval.

Appeal Procedure

The action of the Board of Zoning Adjustments is final unless appealed to the City Council within fifteen (15) calendar days from the date of the action. The appeal and appropriate fee must be filed in writing with the City Clerk. Appeal forms are available at the City Clerk's Office on the second floor of City Hall.

Other Required Permits

During the processing of a Variance application, the Planning Services Division routes plans to the Building Division, Fire Department, and Engineering and Transportation Department for review. Based on the information the applicant gives, each Department/Division provides comments to the planner to advise the applicant of other City permit requirements.