



VARIANCE

General Information

Variations are an exception to rules laid out in a zoning ordinance. They are permitted departures from strict enforcement of the ordinance as applied to a particular piece of property if strict enforcement would cause the owner “practical difficulties.” Variations are generally related to physical standards (such as setbacks or height limits) and may not be used to allow a use that is prohibited in the particular zoning district. Essentially, variations allow the landowner to deviate from the rules that would otherwise apply.

The practical difficulties are:

- The property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.
- The landowner’s situation is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property and economic considerations alone cannot create practical difficulties.

In granting a variance, the city may attach conditions, but the conditions must be directly related and bear a rough proportionality to the impact created by the variance. For example, if the variance reduces side yard setbacks, it may be reasonable to impose a condition of additional screening or landscaping to camouflage the structure built within the normal setbackⁱ.

Application Process

After an initial meeting or contact with city staff, property owners will submit an application before a public hearing is held by the Planning Commission. At the public hearing, the Planning Commission will recommend approval or denial of the variance request to the City Council.

Submittal Requirements

- Completed Variance Application
- Site Plan – (see Site Plan Handout for more information)
- Application Fee – cash or checks accepted
- Acknowledgement of Responsibility form



[City Code Section 154.048](#)

(A) *Purpose.* A variance to the literal provisions of this subchapter may be issued to provide a modification or variation where it is determined that their strict enforcement would cause practical difficulties. No use variances may be issued. No variance will be issued that would allow a lower degree of flood protection than the flood-protection elevation.

(B) *Standards.* Pursuant to M.S. § 462.357, Subd. 6, as it may be amended from time to time, the Planning Commission, acting as a Board of Appeals and Adjustments, may recommend the City Council issue variances from the provisions of this zoning code. A variance is a modification or variation of the literal provisions of the subchapter as applied to a specific piece of property.

(1) Variances shall only be permitted:

- (a) When they are in harmony with the general purposes and intent of the ordinance; and
- (b) When the variances are consistent with the Comprehensive Plan.

(2) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

(C) *Practical difficulties.* As used in connection with the granting of a variance, means that:

(1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(3) The variance, if granted, will not alter the essential character of the locality.

(4) Economic considerations alone do not constitute practical difficulties. A variance will not be permitted for any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The Board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the varianceⁱⁱ.

ⁱ *Land Use Variances*, League of Minnesota Cities (2011)

<https://www.lmc.org/media/document/1/landusevariances.pdf?inline=true>

ⁱⁱ Jordan City Code, the City of Jordan (2017)

[http://library.amlegal.com/nxt/gateway.dll/Minnesota/jordan_mn/cityofjordanminnesotacodeofordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:jordan_mn](http://library.amlegal.com/nxt/gateway.dll/Minnesota/jordan_mn/cityofjordanminnesotacodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:jordan_mn)