

Variance Applicant Guide



Town of Bennett
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Variance Process

Purpose

This guide contains the basic procedures and requirements for all Variance Applications. Variances may be granted if the Board of Adjustment finds that certain conditions exist. The conditions that the Board of Adjustment will review are: 1) peculiar and exceptional practical difficulties or an unnecessary hardship will be imposed on the property owner if the provisions of Chapter 16 of the Municipal Code are enforced; 2) the circumstances creating the hardship were created through no fault of the applicant; 3) the property possesses exceptional narrowness, shallowness, shape or topography or other exceptional situation or condition which does not occur generally within that zoning district; 4) that the variance will not substantially or permanently injure the appropriate use of adjacent conforming properties; 5) that the variance would not diminish the value or enjoyment of the adjacent properties or change the character of the surrounding properties, open space, air or light; 6) the variance will not alter the essential character of the district; 7) the variance will not weaken the general purpose of Chapter 16 of the Municipal Code; 8) the variance will be in harmony with the spirit of Chapter 16 of the municipal code; and, 9) the variance will not adversely affect the public health, safety or welfare.

Process

The Administrative process for a Variance consists of the following basic steps once the Variance application is submitted and found to be complete. In order for the Variance to be approved, the Board of Adjustment must consider the criteria set forth in Sec. 16-2-370 of the Municipal Code. The Board of Adjustment shall review the Variance Application for consistency Sec. 16-2-370 of the Municipal Code in a Public Hearing. During the hearing(s), the application may be approved, approved with conditions or denied based on certain criteria. If the application is approved, the applicant is responsible for submitting final documents for signature and recordation within 10 days of the final approval. A Variance Approval is valid for (1) year, within that year a building permit application must be received by the Town or the approval is rendered null and void.

Step 1 – Pre-Application

The applicant completes the Pre- Application process, in which the proposed Variance is reviewed by the Town’s Development Review Committee (DRC). The DRC will make recommendations to the applicant on how the formal application might be structured to enhance chances the project will ultimately be approved by the Town Planning Commission and Board of Trustees. The DRC will highlight issues of particular concern and refer the applicant to the applicable Town standards and regulations.

Step 2 – Applicant Submits Formal Application

Applicant submits to the Town the complete application package.

Step 3 – Staff Reviews Application for Completeness (5 Business Days)

Town Staff reviews the application for Completeness.

Step 4 – Referral Agencies

Town Staff will initiate Referral Agency review.

Step 5 – Staff and Referral Agencies Review (21 Business Days + 3 Business days)

Staff and the applicable referral agencies will review the application within 21 business days. A letter compiling all referral comments will be sent with 3 days following the review.

Step 6 – Resubmittal (if required)

The applicant will revise and resubmit the application based upon the comments received by staff.

Step 7- Resubmittal Review

Once staff determines that the application is revised correctly, the application will be set for a Board of Adjustment Hearing

Step 8 – Public Notice

Applicant will complete public note for the public hearing in accordance with Section 16-1-340.

Step 9 – Staff Report

Town Staff will complete a staff report within 5 days prior to the Board of Adjustment Hearing

Step 10– Board of Adjustment Hearing

The Board of Adjustment will conduct a hearing on the Variance request. The Board of Adjustment may continue the case for additional testimony, approve, approve with conditions or deny the request.

Step 11 – Approval

If the Variance Request is approved, the Variance Approval is valid for 1 year. Within that year a building permit must be received by the Town or the approval is rendered null and void.

Variance Submittal Requirements

(Town of Bennett|Revised January 2021)

The following elements constitute an acceptable application for Variance. An application is not considered submitted until all items are included in the application. (Note that depending on the size, scale and complexity of a proposal, some of the requirements below may be waived by Town Staff.)

APPLICATION DOCUMENTS		
Required if Checked Submitted by Applicant	Project Name: _____	
	Case No.: _____	
	Land Use Application Form (must be signed by Property Owner)	
	Application Fees (see below)	
	Cost Agreement	
	Funds Deposit Agreement	
	Title Commitment (current within 30 days of application)	
APPLICATION FEES		
	1. Engineering: \$600	\$
	2. Attorney:	\$
	3. Traffic Engineer: \$250	\$
	4. Other: e.g. Water Engineer Review, Special Utility Review, Landscape Arch. Review: \$215	\$
		Subtotal \$
	5. Administrative Fee: 20% of Project Total	\$
	(Additional fees may be required, depending on the number of resubmittals or changes by applicant, or if a Subdivision Agreement, Development Agreement or Construction Document Review is required.)	Total \$
	Recording fees will also be required when the final documents are recorded with Adams or Arapahoe County. (See below)	
VARIANCE APPLICATION SHALL INCLUDE:		
	1. Letter of Intent. The applicant shall provide a letter of intent addressed to the Board of Adjustment to serve as a cover letter to the formal application, introducing the applicant(s) to the Board of Adjustment, requesting Variance for the property and describing the proposed Variance.	
	2. Variance Application. The Town's Land Use Application Form shall be completed, signed and dated.	
	3. Map and/or Building Elevations. Staff will assist the applicant with map requirements based on the variance being requested. The map shall typically consist of a scale drawing depicting the property affected by the variance request, including, but not limited to, required or existing setbacks and proposed setbacks from adjacent lot lines or structures and any other information that will assist the Board of Adjustment in understanding the request. If the request is for a variance of building height restrictions, a proposed building elevation will be required.	
	4. Agreement for Payment of Development Review Expenses Incurred by the Town. The application shall be accompanied by signed standard Cost Agreement and Funds Deposit Agreement for the payment of development review expenses incurred by the Town.	
	5. Written Consent. This must include signatures by all of the owners of all of the properties that would be affected by the proposed Variance or their duly authorized agents.	
	6. Property Owners. Provide a list of property owners within 300 feet of the proposed Variance.	

	<p>7. Title Commitment. The applicant shall submit proof of ownership in the form of a current title commitment, issued by a title insurance company licensed by the State of Colorado, whose effective date shall be less than (30) thirty days prior to the date of submittal of the Variance Application. Ownership must match the ownership listed in the application. If the legal description of the area subject to the Variance as shown on the Site Plan. If the applicant is not the owner, there shall be provided in addition to the title commitment naming the owner as the insured, a notarized affidavit by the owner stating the applicant is authorized by the owner to make application for Variance. The applicant is to provide a word processing file of the legal description contained in the title commitment.</p>
	<p>8. Vicinity Map. Showing location of property at an appropriate scale.</p>
	<p>9. Property Tax Statement. A copy of the prior year's property tax statement for all properties affected by the Boundary Line Adjustment.</p>
	<p>10. Other Information Requested by the Zoning Administrator. Any other information required by the Zoning Administrator necessary for the review of the proposed Variance</p>